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1977 Revision: The Law and Michigan Agricultural Labor

Michigan State University

Cooperative Extension Service

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1977 Revision: The Law and Michigan Agricultural Labor

Allen E. Shapley, Farm Labor Specialist,
Center for Rural Manpower & Public Affairs

Any agricultural producer that employs any labor should be aware of and understand the various laws pertaining to labor. This publication is an attempt to create awareness, and then lists references where one can go for fuller understanding.

State Occupational Safety and Health Law (MIOSHA)

Who Must Comply

- Any farmer employing any labor any time.
- If the only labor used is in the form of exchange labor with another farmer, the law does not apply.

What Must You Do¹

- Maintain a safe and healthy work environment for your employees.
- Display the relevant poster.
- Report to the Department of Labor Office (see address below) within 48 hours any fatalities or hospitalization of 5 or more employees resulting from the same accident or health hazard.
- If you employ 8 or more persons at one time, you must keep the required records and display the annual summary.
- Comply with standards relative to:
 - SMV signs
 - Anhydrous Ammonia equipment
 - Pulpwood logging
 - Labor camps
 - Roll over protection
 - Machinery guarding

Special Amendments Effective Until September 30, 1977

- No funds appropriated to prescribe, issue, administer, or enforce any standard on farms that employ 10 or fewer employees.

¹OSHA issues are covered in detail in "OSHA for Agriculture: 32 Questions and Answers," MSU Ag Facts #79 and "Guarding Farmstead and Farm Field Equipment" MSU Ag Facts #79 Supplement.

- No citation or fine may be given for any first offense of a nonserious violation unless more than 10 are discovered.

For Additional Information

MIOSHA
Bureau of Safety and Regulation
Michigan Department of Labor
7150 Harris Drive
Lansing, Michigan 48926
Phone: (517) 373-9620

State Worker's Compensation Law

Who Must Comply

- All employers who regularly employ 3 or more employees at one time.
- All employers who regularly employ less than 3 employees if at least one of them has been regularly employed by that same employer for 35 or more hours per week for 13 weeks or longer during the preceding 52 weeks.

What Must You Do²

- Provide Worker's Compensation insurance for all employees who come under the Act.

For Additional Information

Bureau of Worker's Compensation
Michigan Department of Labor
7150 Harris Drive
Lansing, Michigan 48926
Phone: (517) 373-3490

Federal Unemployment Insurance Law

Who Must Comply

- No one until January 1, 1978.
- Starting January 1, 1978 any farmer employing 10 or more workers in 20 weeks or has a \$20,000 or more payroll in a calendar quarter.

²Details concerning the application of this law to agriculture are discussed in a bulletin "Clarification of Worker's Compensation Insurance." Allen E. Shapley, CRMPA Special Paper No. 16 available at your county Extension office or from the author.

What Must You Do

—Provide Unemployment Insurance coverage for your employees.

Special Note: Until January 1, 1978 all farm employees have unemployment benefit coverage under the Special Unemployment Assistant program (SUA). Employers are not required to pay into this program.

For Additional Information

Your nearest Michigan Employment Security Commission (MESCC) office.

State Minimum Wage Law

Who Must Comply

—Any farmer employing 4 or more employees between 18 and 65 at any one time during the calendar year.

What Must You Do

—Pay at least \$2.30 per hour to all employees between the ages of 18 and 65.

—Pay at least the minimum stated piece rate to all piece rate workers between the ages of 18 and 65 for those harvest operations for which piece rates have been established.

—Supply a statement of wages to each employee at each pay period, stating hours worked, wages paid and deductions made. For workers on piece rates the employer must also keep records (in addition to hourly records) showing the piece rate paid and the number of units of each crop harvested during each pay period.

—Post a copy of the law, rules and piece rate scales.³

—Not discriminate between wages paid on the basis of the sex of employees.

What May You Do

—Deduct for meals, lodging or agricultural housing accordance with the general rules.

—Pay a lower wage to physically or mentally handicapped people or to learners upon the approval of the Wage Deviation Board.

³These are available from the Wage and Hour Division (address below).

For Additional Information

Wage and Hour Division
Bureau of Safety and Regulation
Michigan Department of Labor
7150 Harris Drive
Lansing, Michigan 48926
Phone: (517) 373-9627

Federal Minimum Wage Law

Who Must Comply

—Any farmer employing enough workers to have 500 mandays of hired work performed on his farm during any quarter of the preceding year.

—The 500 man-day test includes any employee who performs work for one hour or more during any day.

—Workers included in determining the 500 man-day test but excluded from the minimum wage requirement.

- a) Workers who care for livestock and who must be available at all hours.
- b) Youths 16 or under who are employed with their parents in harvesting crops and traditionally paid on a piece rate basis (such youths must be paid the same piece rate as the adults with whom they are working).
- c) Local workers who commute daily from their permanent residence, are traditionally paid on a piece rate basis, and are employed less than 13 weeks per year.

—Workers in the employer's immediate family are excluded from both the 500 man-day test and the minimum wage requirement.

What Must You Do

—Pay at least \$2.20 per hour to all covered employees. On January 1, 1978, the minimum increases to \$2.30.

—Keep records on hours worked and wages paid for each employee.

—Not employ children under 12 except on the family farm or on farms too small to meet the "500 man-day" test.

—Not employ 12 or 13 year olds unless you have written parental consent or unless their parents are employed on the same farm.

What May You Do

—Deduct for goods and services traditionally supplied by the employer. The U.S. Secretary of Labor must determine the size of the deduction.

—Employ students at 85% of minimum wage if approved by U.S. Department of Labor.

For Additional Information

U.S. Department of Labor
Employment Standards Adm.
Wage and Hour Division
134 Federal Building and
U.S. Courthouse
110 Michigan Street, N.W.
Grand Rapids, Michigan 49502
Phone: (616) 456-2338

Or

U.S. Department of Labor
Employment Standards Adm.
Wage and Hour Division
U.S. Courthouse and Federal Bldg.
Room 647
231 W. Lafayette Street
Detroit, Michigan 48226
Phone: (313) 226-7447

Federal Hazardous Occupations Law

Who Must Comply

—Any agricultural employer employing children below the age of 16.

What Must You do

—Not allow anyone under 16 to perform tasks identified as "hazardous"⁴ under the law unless:

- a) He is 14 years old or older and has met the requirements of one or more of the training schools conducted by the Federal Extension Service or departments of vocational agriculture,

OR

- b) He is employed by his parent on a farm owned or operated by that parent.

—Not employ anyone under 16 during the hours schools are in session in the area.

For Additional Information

See addresses under the "Federal Minimum Wage Law.

⁴These tasks are identified along with other relevant information concerning employment of youth in "Employing Youth in Farm Occupations" CRMPA Special Paper #26 available at your county Extension office or from: Center for Rural Manpower & Public Affairs, Ag Hall, Michigan State University, East Lansing, Michigan 48824.

State Child Labor Law

Who Must Comply

—No farm employer. This law requires non-farm employers employing youth under 18 to register with the State and the youth employees must have working permits. The law restricts the activities of such employees. **Farm work is exempt from this law.**

For Additional Information

Minor Approval Section
Wage and Hour Division
Michigan Department of Labor
7150 Harris Drive
Lansing, Michigan 48926
Phone: (517) 373-9631

Federal Farm Labor Contractor Registration Law

Who Must Comply

—All farm labor contractors

A farm labor contractor (also called "crew leader") is any person who, for a fee for oneself or on behalf of another person, recruits, hires, furnishes or transports migrant workers (regardless of numbers) for agricultural employment, whether within a state or across state lines. The term applies to individuals, partnerships, associations, joint stock companies, trusts and corporations.

—Any person engaging the services of any farm labor contractor to obtain farm laborers must determine that the contractor possesses a valid certificate from the U.S. Department of Labor.

What Must You Do (the farmer)⁵

—Keep labor records required under Federal Minimum Wage Law.

—Keep duplicates of individual worker records which the contractor is required under the law to provide.

What Must You Do (The labor contractor)

—Register with the U.S. Department of Labor.

⁵On engaging the services of a labor contractor, you should send to one of the above addresses for the leaflet "Farm Labor Contractor Registration Act as amended, Dec. 1974. W. H. Publication 1365.

For Additional Information: See addresses under the "Federal Minimum Wage Law" or contact your nearest Michigan Employment Security Commission (MESCC) office.

State Agricultural Labor Camps Law

Who Must Comply

—Anyone providing housing for 5 or more agricultural workers.

What Must You Do⁶

—Have the camp licensed by the Michigan Department of Public Health. Before the license can be issued, the camp must meet the standards set up by the Department of Public Health.

—Clearly explain to camp occupants their responsibilities as to camp occupancy and care.

—Inspect the camp at least once a week to see that it is maintained in a clean and orderly condition and that broken or damaged property is promptly repaired.

For Additional Information

Michigan Department of Public Health
3500 North Logan
Lansing, Michigan 48906
Phone: (517) 373-1373

Federal Social Security Law

Who Must Comply

—The Social Security tax applies if an employer pays an employee \$150 or more cash wages in the year for agricultural work,

OR

If the employee performs agricultural labor for an employer on 20 or more days during the year.

What Must You Do⁷

—Withhold 5.85 percent of the employee's cash wages plus pay an equal amount from your own income. (The taxes apply to the first \$16,500 of each employee's wages.)

—Deposit employer and employee tax within 15 days

⁶There are two relevant publications available at the Michigan Department of Public Health Office—"The Act" and "The Rules."

⁷There is a helpful publication available at the Lansing office entitled "Circular A—Agricultural Employer's Social Security Tax Guide."

after the close of each month, except December, in which more than \$200 but less than \$2,000 of such taxes accumulate. Use Federal Tax Deposit Form 511.

—If at the end of any "quarter-monthly" period (a quarter-monthly period ends on the 7th, 15th, 22nd, and the last day of the month) the cumulative amount of undeposited taxes for the year is \$2,000 or more, the employer must deposit the taxes within 3 banking days after the end of that period.

—Prepare for each employee by January 31 a W-2 form showing wages paid and tax withheld.

—By January 31, file Form 943, service copy of W-2's and Form W-3.

For Additional Information

U.S. Department of Treasury
Bureau of Internal Revenue
Federal Building
Lansing, Michigan 48933

OR

Your local Internal Revenue Service office.

State Civil Rights Law

Who Must Comply

—Anyone employing any labor any time.

What Must You Do

—Not discriminate on the basis of race, color, religion, national origin, age or sex of any individual with respect to hire, tenure, terms, conditions or privileges of employment.

—Prior to employment you must not:

- a) Elicit any information concerning the race, color, religion, national origin, or ancestry of an applicant;
- b) Keep a record of these characteristics;

OR

- c) Publish advertisements indicating any preference, specification, or discrimination based upon any of these characteristics or upon age or sex.

—Display the relevant poster.⁸

For Additional Information

Michigan Civil Rights Commission
703 East Michigan Avenue
Lansing, Michigan 48913
Phone: (517) 373-3590

⁸The relevant poster and informative material are available at the Lansing Office.