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1978 Revision: The Law and Michigan Agricultural Labor
Michigan State University
Cooperative Extension Service
Allen E. Shapley, Farm Labor Specialist, Center for Rural Manpower and Public Affairs
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1978 Revision: The Law and Michigan Agricultural Labor

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

Any agricultural producer who 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. There is a special section on page 4 on the laws as they apply to youth.

Federal Minimum Wage Law

Who Must Comply

Any farmer employing enough workers to have 500 man-days of hired work performed on his farm during any quarter of the preceding year must comply.

—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 range 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 \$2.65 per hour to all covered employees. On January 1, 1979 the minimum increases to \$2.90.

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

—Employ 10 and 11 year old local residents for hand harvesting if approved by the U.S. Dept. of Labor. Conditions for approval are very restrictive.

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

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 \$2.65 per hour to all employees between the ages of 18 and 65. On January 1, 1979, the minimum will be increased to \$2.90.

—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.

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

What May You Do

—Deduct for meals, lodging or agricultural housing in 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.

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

State Unemployment Insurance Law¹

Who Must Comply

Any farmer employing 10 or more workers in 20 weeks or has a \$20,000 or more cash payroll in a calendar quarter.

¹The U.I. law is covered in detail in "The Extension of Unemployment Insurance to Michigan Agricultural Workers" Ag Fact #144, E-1198, available at your County Cooperative Extension office.

What Must You Do

—Provide Unemployment Insurance coverage for your employees. The State of Michigan is the insurance carrier.

For Additional Information

Your nearest Michigan Employment Security Commission (MESC) office, Employer Audit Section.

State Worker's Compensation Law²

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 Do

—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 Farm Labor Contractor Registration Law (FLCRA)

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

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.

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)

—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.

For Additional Information: See addresses under the "Federal Minimum Wage Law."

State Occupational Safety and Health Law (MIOsha)³

Who Must Comply

—Any farmer employing any labor any time.

What Must You Do

—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:

- a. SMV signs
- b. Anhydrous Ammonia equipment
- c. Pulpwood logging
- d. Labor camps
- e. Roll over protection
- f. Machinery guarding

—Be open to inspection if you have 11 or more workers, if there is a fatality on the farm or if a complaint has been filed.

³OSHA 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.

For Additional Information

MIOsha
Michigan Department of Labor
7150 Harris Drive
Lansing, Michigan 48926
Phone: (517) 373-9620

State Agricultural Labor Camps Law

Who Must Comply

—Anyone providing housing for 5 or more agricultural workers.

What Must You Do

—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 Do

—Withhold 6.05 percent of the employee's cash wages plus pay an equal amount from your own income. (The taxes apply to the first \$17,700 of each employee's wages.)

—Deposit employer and employee tax within 15 days 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.

—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.

Employing Youth on Farms

Local youth are an excellent source of seasonal or part-time labor on many Michigan farms. They are usually available, energetic, willing to learn, and responsive. Also, they are usually less expensive than adults. For example, on large farms where unemployment insurance is required, the employer **is not required to pay the tax** on a high school student working seasonally or part-time. Also, on all farms with less than 500 man-days of labor per quarter, all workers under 18 are **exempt from any minimum wage**.

Certain laws pertain specifically to the protection of youth. Most farmers who regularly employ youth do not find these laws restrictive or difficult to comply with, once they understand them. These laws are highlighted below, but a fuller coverage can be found in the publication "Employing Youth in Farm Occupations," CRMPA Special Paper 26, available at your county Cooperative Extension office.

Laws Pertaining to AGE

10 and 11 year-olds who are local residents can harvest certain fruit and vegetables with approval of U.S. Dept. of Labor.

12 and 13 year-olds can be employed with parents' written permission or on the same farm with parents.

Laws Pertaining to SCHOOL

Youth 16 or over or on a school co-op assignment can work anytime.

Youth under 16 can work any hours that the local school is not in session.

Laws Pertaining to WAGE

On farms with less than 500 man-days of labor in a quarter, youth under 18 are exempt from state and federal minimum wage.

On farms with 500 or more man-days of labor in a quarter, full-time high school students may be paid 85% of the minimum wage with the approval of the U.S. Department of Labor.

On farms with 500 or more man-days of labor in a quarter, youth 16 or under employed with their parents in harvesting crops and paid on a piece-rate basis must be paid the same piece rate as their parents but need not be guaranteed the minimum wage.

Laws Pertaining to UNEMPLOYMENT

Youth under 18 attending school can be employed part-time during the school year or full-time during the summer without paying the unemployment tax on their wages. Also, their time or wages are excluded when calculating the "10 in 20 weeks or \$20,000" test.

Laws Pertaining to SAFETY

Youth doing farm work are exempt from the State Child Labor Law (requiring youth to have work permits).

Worker's Compensation insurance rates are the same for youth as adults. However, if youth are injured while **illegally employed**, they receive double compensation, half of which is paid by the employer.

Youth under 16 can perform all tasks except those labeled as "hazardous" by the U.S. Department of Labor. The hazardous occupations include such things as operating large equipment, using dynamite, working on ladders over 20 ft. in the air or handling chemicals. Many of the hazardous occupations **can be performed** by youth 14 and over through a certification process by the County Cooperative Extension Service or Vocational Agriculture department in the local school (a complete list of the hazardous occupations and certification procedures are outlined in the publication mentioned above).