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Workmen's Compensation and Minnesota Farmers

Many Minnesota farmers and farm workers will be affected by a 1973 change in the state workmen's compensation law. This change extends workmen's compensation coverage to hired farm workers, except those employed on "family farms," effective January 1, 1974.¹ Under the workmen's compensation law, a farm worker is entitled to receive benefits for injuries or illnesses caused by or related to his job. Benefits also are provided in the event of the job-related death of a hired worker.

Beginning January 1, 1974, a farmer who employs farm laborers and whose operation does not qualify as a family farm is required to insure his liability under the workmen's compensation law. He also must report the claimed work-related injuries of his employees to the Department of Labor and Industry. Any farmer who does not comply with this law could suffer severe financial loss in the event of the job-related injury or death of an employee.

Coverage

The workmen's compensation law applies to all farm laborers, except those employed on family farms. Whether a farm is considered a "family farm" under the workmen's compensation law depends on the amount of wages paid to hired workers other than immediate family members. The law defines a family farm as "any farm operation which pays or is obligated to pay less than \$2,000 in cash wages, exclusive of machine hire, to farm laborers for services rendered during the preceding calendar year." Thus, the law applies in 1974 to any farmer who paid, or was obligated to pay, a total of \$2,000 or more in wages to hired farm laborers in 1973. The total amount of cash wages for the year, not the number of employees or the amount paid to each individual worker, determines whether a farm operation is subject to this law.

All employees on farms that do not qualify as family farms are eligible for workmen's compensation benefits. This includes farm laborers who work only part-time or during only part of the year. A farmer who paid a total of \$2,000 or more in cash wages in 1973 must have workmen's compensation insurance in 1974 even if he expects to pay less than \$2,000 in cash wages in 1974.

Operators of family farms are not required to have workmen's compensation insurance. However, they may elect to assume liability for workmen's compensation. (See "Insurance Optional for Family Farms.")

Workmen's compensation insurance

If a farmer hires outside labor and his farm does not qualify as a family farm, he must insure his liability for workmen's compensation benefits by January 1, 1974. This liability may be insured by either:

1. Purchasing a workmen's compensation insurance policy, or
2. Qualifying for self-insurance.

Almost all farm employers will find it necessary to purchase workmen's compensation insurance. Few will be able to qualify for self-insurance. To qualify as self-insured, an employer must obtain a written order from the Commissioner of the Department of Labor and Industry. The employer will be required to show his financial ability to pay workmen's compensation benefits and may be required to post security in the form of a surety bond, personal guaranty, currency, etc. Qualifying for self-insurance is difficult because workmen's compensation benefits may be very costly. For example, if a young person were to become permanently and totally unemployable in a farm accident, a claim of more than \$500,000 could easily be assessed against his employer.

Workmen's compensation insurance policies may be written only by state-authorized insurers. The cost of an insurance policy is based on rates established annually by the Minnesota Compensation Rating Bureau. The current insurance rate is \$4.82 per \$100 of annual payroll, with a minimum premium of \$136 per year. Both cash wages and wages in the form of housing, food, etc., that may be provided to the worker are counted in determining the annual payroll. The insurance rate is the same for all types of farm work and for all insurance carriers. However, the insurance rate for an employer paying annual insurance premiums of \$750 or more is based on past claims against that employer.

Insurance premiums must be paid by the employer. Employers are not permitted to make any charges against the wages of their employees for this insurance. Any agreement between an employer and an employee under which the employee would contribute to the cost of workmen's compensation insurance is illegal. In such a case, the employer would be guilty of a misdemeanor.

Failure to insure

An employer who does not insure his liability under this law is subject to a penalty. The penalty for noncompliance is \$50 if fewer than five persons are employed and \$200 if five or more persons are employed. Continued noncompliance leads to more severe penalties and possible court action to stop the employer from hiring anyone while in violation of the insurance provisions of the law.

In the event of work-related illness, injury, or death, the employee or his dependents can elect to:

1. Claim compensation under the workmen's compensation law, or
2. Bring court action against the uninsured employer for damages.

An employee (or his dependents) entitled to workmen's compensation will be paid by the Special Compensation Fund.

¹Session Laws of the State of Minnesota, 1973, Chapter 657.

Much of the information presented here was provided by the Chief Attorney for the Workmen's Compensation Division of the Department of Labor and Industry.



The Special Compensation Fund then has cause for action against the uninsured employer for reimbursement of all money paid out, or to be paid out, plus punitive damages. The court establishes the amount of punitive damages, which may be up to 50 percent of the compensation claim.

If an employee or his dependents bring court action against the uninsured employer for damages, the employee need not prove his freedom from contributory negligence. The employer may argue that the injury resulted from willful negligence on the part of the employee, but the burden of proof in establishing willful negligence is on the employer. Moreover, the employer cannot argue (1) that the injury or death was caused by another employee, (2) that the employee assumed the risk of his employment, or (3) that the injury was due to contributory negligence of the employee, unless he can prove that such negligence was willful.

Workmen's compensation benefits

Under the workmen's compensation law, an injured worker is entitled to:

1. Benefits for temporary disability of up to two-thirds of his wage loss, but not to exceed \$100 per week;
2. Unlimited medical care and treatment necessary to cure and relieve the effects of any work-connected injury;
3. Benefits for any permanent disability resulting from a work-connected injury or occupational disease; and
4. In certain cases, retraining for a new occupation and additional benefits of up to \$100 per week, not to exceed 104 weeks.

In the event of a work-related death, dependents are entitled to receive up to \$40,000 in dependency benefits plus up to \$1,000 for funeral expenses.

Reports by employers

Where death or serious injury occurs to an employee while working, the employer must notify the Minnesota Department of Labor and Industry within 48 hours. An insurance agent may make this report for the employer by telephone or in person. The employer then has 7 days from the time of the accident (or longer if the Commissioner so designates) to file a written report. In cases where an injury is reported, but death occurs later, the employer must report the death within 48 hours after he is notified.

Where a less serious injury occurs, which wholly or partially incapacitates an employee and prevents him from working for 3 days or longer, the employer must report the injury to the Department of Labor and Industry within 15 days.

Forms required for these written reports are available from the employer's insurance agent. Failure to file any required report properly and within the time specified will lead to a penalty of \$50 for each such failure.

Court suits by employees

Effective January 1, 1974, a farm laborer who is covered by the workmen's compensation law and whose employer has the required insurance will no longer be able to sue his employer under common law for personal injury, disease, or death resulting from his job. His exclusive remedy will be under the terms of the workmen's compensation law.

Where the employer does not have the required insurance, an employee may elect to either sue his employer for damages or claim benefits under the workmen's compensation law, as described above.

Insurance optional for family farms

The law does not require operators of family farms to have workmen's compensation insurance. However, employers of workers on family farms may assume liability for workmen's compensation. A farmer who chooses to purchase workmen's compensation insurance assumes liability for workmen's compensation benefits, and he must comply with the provisions of the workmen's compensation law. This liability takes effect from the effective date of the policy and remains in effect only as long as the policy remains in force.

If at any time during the life of such a policy, a worker on a family farm suffers personal injury or death in connection with his job, the exclusive remedy for the employee (or his dependents) is under the workmen's compensation law. An injured employee may not bring court action against a family farm employer who has elected to be covered by a workmen's compensation insurance policy. An injured worker who is employed on a family farm where the farm operator does not have workmen's compensation insurance may sue his employer for damages.

For more information

Laws relating to workmen's compensation are administered by the Commissioner of the Department of Labor and Industry. Any farmer who has questions about his liability under the workmen's compensation law is advised to consult his attorney or insurance agent.

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