

Laws Affecting Employers of Farm Labor

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If you hire farm labor, you are responsible for complying with state and federal laws concerned with the safety and well-being of employees. These laws include:

- Occupational Safety and Health Act of 1970
- Hazardous Occupations Law
- Missouri Child Labor Law
- Social Security Tax
- Federal Minimum Wage Law
- Missouri Fair Employment Practices Act
- Missouri Worker's Compensation Law

Occupational Safety and Health Act (OSHA)

The purpose of this federal act is "to assure so far as possible every working man and woman in the nation safe and healthful working conditions and to preserve our resources."

OSHA has covered all farm employers since 1971, when specific standards were set for emblems on slow-moving vehicles and for sanitation in temporary labor camps. Since that time, Congress has passed other regulations on the working conditions that farm employers provide employees. These regulations apply to all agriculture employers who employ at least one employee. However, members of the employer's family are not considered employees for purposes of this act.

Each employer has the general duty to furnish each employee a work place free from recognized hazards that cause or are likely to cause death or serious physical harm. Specifically, the employer must comply with the safety and health standards under the new act. Each employee has the duty to comply with these safety and health standards and all rules, regulations, and orders of the act which apply to his or her own actions and conduct.

Specific responsibilities of employers follow:

1. The *slow-moving vehicle (SMV) emblem* is required on any vehicle that an employee drives and that customarily moves at 25 miles per hour or less on public roads.
2. Employers must post a sign provided by the Department of Labor explaining the rights of and responsibilities of employers and employees.
3. Employers must keep special Department of Labor records on work-related accidents other than those requiring minor first aid. A record must be kept if injured employees receive medical treatment by a doctor or nurse or if they suffer loss of consciousness. If there is a fatal accident, the employer must report the details of the accident to the nearest OSHA office within 48 hours. However, employers with fewer than seven employees do not have to keep an accident log, but they must report fatal accidents to OSHA.
4. An employer must make certain that each employee is trained in the safe performance of any assigned task.
5. The employer must rigidly enforce the safety regulations of the act. For example, if an employee removes the

slow-moving vehicle sign from the tractor, the employer is at fault if an accident occurs.

6. A *roll-over protective structure (ROPS)* is required on all tractors manufactured after October 26, 1976, when used by employees. However, this rule does not apply to *low-profile* tractors used in vineyards, orchards, hopyards, barns, or greenhouses. A low-profile tractor is one where the front and rear wheel-spacing are the same, the clearance from the bottom of the tractor chassis to the ground is greater than 18 inches, the highest point on the tractor hood is 60 inches, and the operator straddles the transmission.

In addition, employees must be given training in safe tractor operation at the beginning of their employment and at least once a year thereafter.

Labor Department safety inspectors may enter any establishment covered by OSHA to inspect the premises, conditions, machinery, etc. and to question privately any employer, owner, operator, or employee. However, the inspector must first get a search warrant. This means the Labor Department must have *probable cause* to believe OSHA rules are being violated on the premises to be inspected. A judge will decide whether probable cause exists before issuing a search warrant to the inspector.

Investigators may issue citations if they find violations. The citation will prescribe a reasonable time for elimination of the violation. Recurring violations may mean stiff fines. (See UMC Guide 1961, *Agriculture and the Occupational Safety and Health Act*.)

For additional information and record forms, write to:
Occupational Safety and Health Administration
1906 Federal Office Building, Room 3000
911 Walnut Street,
Kansas City, Missouri 64106

Available pamphlets include the following:

- Safety and Health Standards for Agriculture
- Record-keeping Requirements Under the Act (contains record forms and poster of rules and regulations)
- A Handy Reference Guide to the Act

Hazardous Occupations Law

The Fair Labor Standards Act contains provisions relating especially to child labor. The purpose of these provisions is to protect children from performing tasks that have a high hazard potential. Under the act, persons *under 16* are excluded from employment (except by parents) in activities that are considered hazardous.

In general, jobs classified as hazardous for those under 16 include, among others:

- Driving a tractor, truck, bus, and operating most farm machinery.
- Working around self-unloading wagons or trailers, blowers

or auger-conveyors, gas-tight enclosures, or from ladders or scaffolds over 20 feet off the ground.

- Handling explosives, anhydrous ammonia, and most pesticides and fungicides.
- Working inside a pen or stall of a bull, boar, or stallion.

Missouri Child Labor Law

In addition to the federal provisions regarding child labor, Missouri has a child labor law prohibiting employment of a child under 14 (except for work performed for parents or occasional work with the knowledge and consent of parents). Children between 14 and 16 may be employed subject to the following restrictions:

1. During the regular school term, the child must obtain from the superintendent of schools a work certificate which permits employment during non-school hours.

2. No child under 16 may be employed to work more than eight hours in any day or more than six days or 40 hours in one week.

3. No child under 16 may be employed to work before the hour of 7 a.m. or after the hour of 10 p.m. When school is in session, no child under 16 is allowed to work after 7 p.m. on days immediately preceding school days.

4. A child under 16 may not work at certain occupations, including work with power-driven machinery; in the oiling, cleaning and washing of machinery; on any scaffolding; or in any other occupation dangerous to life, health, or limb or injurious to health or morals.

Social Security Tax

An employer must make reports and pay social security taxes on employees who meet *either* of the following two wage tests in the year:

- An employee receives cash wages of at least \$150 during the calendar year for agricultural work.
- An employee works for any one farm employer 20 or more days for cash.

In 1980, the tax applies to the first \$25,900 of each employee's wages. The employer must withhold 6.65 percent of the employee's wages, plus contribute another 6.65 percent. The maximum wage base and tax rate are scheduled to rise each year until 1987. In 1987, the tax will apply to the first \$42,600 of each employee's wages and the employer will have to withhold 7.13 percent of the employee's wages and contribute another 7.13 percent.

As soon as taxes withheld total \$200 or more at the end of a calendar quarter, the employer must deposit the entire amount on or before the last day of the next month in an authorized commercial bank or a Federal Reserve Bank (use Federal Tax Deposit Form 511). Should cumulated undeposited taxes at the end of any month (except the last month of a quarter) be more than \$200 and less than \$2,000, the employer must deposit the taxes within 15 days after the end of the month. Visit your social security representative for more detailed information.

Federal Minimum Wage Law

The Fair Labor Standards Act sets minimum wage standards for employment. Farmers who employ enough workers to have more than 500 man-days of hired work on their farms during any calendar quarter of the preceding calendar year must pay minimum wages. Farmers who have to pay minimum wages must pay the minimum wage to *all* employees

who work for one hour or more during any day.

The 1980 minimum wage rate for agricultural and non-agricultural labor is \$3.10 per hour. On January 1, 1981, the minimum rate rises to \$3.35 per hour.

Generally, employers must pay time-and-a-half for all hours worked over 40 hours per week. *However, the law specifically exempts agricultural employers.* Thus, a farm labor employer pays merely the minimum wage and *not* time-and-a-half for all hours worked over 40 hours per week.

The employer is not *required* to pay the following employees the minimum wage:

- The employer's immediate family;
- Hand harvest laborers who are paid on a piece rate basis and commute daily from their permanent residence and whose agricultural employment, if any, during the preceding calendar year was for less than 13 weeks;
- Hand harvest laborers under 17 years old who are employed at a piece rate on the same farm as their parents; (Such youths must be paid at the same piece rate as the adults working with them.)
- Workers principally engaged in the range production of livestock, such as cowboys and shepherds.

In general, youths must be paid at the minimum hourly wage rate, except on piece work as noted above. Farm employers, however, may employ youths at less than the minimum rate (85 percent of the statutory minimum) if they obtained a certificate from the Wage-Hour Administrator for "students in agriculture." Contact the U.S. Labor Department for more detailed information.

Missouri Fair Employment Practices Act

This law prohibits discrimination because of race, creed, color, religion, national origin, sex, or ancestry. The Missouri act exempts employers of fewer than six persons. The similar federal act exempts those employing fewer than 15 persons.

Missouri Worker's Compensation Insurance

Missouri law formerly required all employers of farm labor to carry worker's compensation insurance for their employees whenever they had more than five regularly employed employees and an annual payroll of more than \$2,500. Since 1978, worker's compensation insurance is optional for *all* employers of farm labor. No requirements for worker's compensation for farm labor currently exist in Missouri.

Worker's compensation is insurance to compensate employees for injuries or death resulting from work-related accidents. It makes up for the employee's loss of earning capacity during the disability. (For more information, see Guide 460, *Worker's Compensation Insurance*.)

For More Information

Information in this guide is only a general statement of law. Discuss specific questions with your attorney.

For more information on federal legislation, write:

U. S. Department of Labor
Wage and Hour and Public Contracts Divisions
Room 2900
911 Walnut
Kansas City, MO 64108

For information on Missouri labor laws, contact:

Missouri Department of Labor and Industrial Relations
Jefferson City, Missouri 65101

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