LAWS-STATE

MINIMUM WAGE LAW

MINIMUM WAGE
WORKERS
COMPENSATION
NEBRASKA MINIMUM WAGE LAW

- Does NOT apply to agriculture
- Agriculture is not defined, caution
  - Office work may
  - Custom work may

Neb. Rev. Stat. § 48-1203

WORKERS COMPENSATION LAW
NEBRASKA WORKERS COMPENSATION LAW

- Exempt from requirement, if:
  - Engaged in agriculture AND
  - Employ only related employees
- Nature of employer's work NOT employee
  - Does NOT include custom work i.e. harvesting, hay grinding, etc.
- May elect to be covered

Neb. Rev. Stat. § 48-106(c)

LAWS-FEDERAL

FAIR LABOR STANDARDS ACT
AGRICULTURE WORKER PROTECTION ACT
AFFORDABLE CARE ACT
H-2A
FAIR LABOR STANDARDS ACT

- Agriculture Requirements:
  - Record keeping
  - Nursing mothers
  - Retaliation

- Major exceptions for agriculture:
  - Overtime
  - Minimum Wage
  - Child Labor
FAIR LABOR STANDARDS ACT

- Minimum Wage-$7.25 per hour
- Exemption for agriculture, only if:
  - Do not meet 500-man day rule
    - 500-man day rule = 7 employees + full time employment + 1 calendar quarter of preceding year
  - Non-seasonal/migrant farm workers
    - Farm is everything except ranching, on an actual range
  - Family is excepted with own rules

FAIR LABOR STANDARDS ACT

- Overtime pay-1.5x pay for everything >40 hours
- Exemption for agriculture, only if:
  - No activity outside of farming and ranching
    - Example: picking kids up from school, mowing your lawn, etc.
  - Rolling basis-look each “work week”
FAIR LABOR STANDARDS ACT

Minimum Age Standards

<table>
<thead>
<tr>
<th>Age</th>
<th>Type of Work</th>
<th>Time of Work</th>
<th>Consent Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>YOUR child</td>
<td>Any</td>
<td>Any</td>
<td>None</td>
</tr>
<tr>
<td>16 and above</td>
<td>Any</td>
<td>Any</td>
<td>None</td>
</tr>
<tr>
<td>14-15</td>
<td>Non-Hazardous</td>
<td>Outside of School Hours</td>
<td>None</td>
</tr>
<tr>
<td>12-13</td>
<td>Non-Hazardous</td>
<td>Outside of School Hours</td>
<td>WRITTEN parental consent</td>
</tr>
<tr>
<td>11 and under</td>
<td>Non-Hazardous</td>
<td>Outside of School Hours</td>
<td>WRITTEN parental consent AND farm exempt from FLSA minimum wage requirements</td>
</tr>
</tbody>
</table>

AGRICULTURE WORKER PROTECTION ACT
AGRICULTURE WORKER PROTECTION ACT

- Extra protections for migrant and seasonal workers
- Migrant and Seasonal Workers
  - Migrant: anyone that stays overnight away from permanent resident AND does temporary or seasonal work
  - Seasonal: anyone employed only for a certain season of crop production (NOT livestock)

AGRICULTURE WORKER PROTECTION ACT

- Extra Protections
  - Wages-$7.25 an hour
  - Housing-Employer and housing provider requirements
  - Transportation-Inspection requirements
  - Recordkeeping/Notices-more records and notices required
  - FLC Registration-MUST have this
AFFORDABLE CARE ACT

- No requirement only a tax penalty if they do not provide
  - $3,860 per employee in 2020
- Only big employers-50 or more full-time employees
- Must provide coverage options for 95% of employees and dependents
H-2A VISA PROGRAM

- Temporary work visas for agriculture workers
  - Temporary-9 months (exceptions for ranchers)
  - Agriculture-farm or ranch, includes custom work crews
  - Work Visa-no path to citizenship
H-2A VISA PROGRAM

- Requirements
  - Adverse Effect Wage Rate-$14.99 per hour (2020)
    - Must pay 75% of contract, with or without the work
  - Transportation-Inbound and Outbound
    - Includes Visa fees and expenses
    - Outbound, only if complete 50%
  - Housing-must meet requirements and be provided
  - Termination-WRITTEN and with cause

PAY
INSURANCE
HIRE TO FIRE
H-2A

BEST PRACTICES
PAY

- Wages
  - What the employee is worth!
  - AWER-$14.99
    - Average of what farmers/ranchers are paying in Nebraska
- For EVERY hour worked
  - Overtime
  - Hourly vs. Salary
PAY

- More than just wages:
  - Housing
  - Transportation
  - Health Insurance
  - Paid Time Off
  - Food: meals and meat
- No income tax on others

INSURANCE
INSURANCE

- **Worker’s Compensation**
  - If no insurance → unlimited liability against employer
  - Could lose the ENTIRE farm

- **Health Insurance**
  - If have 50 employees → yes
  - If less than 50 employees → yes, if want to be a good employer

HIRE TO FIRE
HIRE

- Background Checks
  - Ok if done to EVERYONE
- Requirements
  - Ok if related to employment
  - Example-Driver’s License
    - Yes if going to be driving machinery
    - No if working in a farrowing house

EMPLOYEE HANDBOOK

- Terms of your property
  - Vehicles-where, when, how, etc.
  - Housing-what they pay and how return at end
- Terms of Job
  - Description
  - Requirements i.e. license
  - Discipline Procedure

- Terms of Employment
  - Time
    - Hours and schedule
    - Holidays
  - Pay
    - Raises
    - Frequency
    - Vacation
FIRE

- Can fire for **any reason or no reason**, except harassment and discrimination
  - Best Practice is for *cause* **with** documentation
- Documentation is the ULTIMATE practice
  - Warning System: Verbal → Written → Final
  - Behavior and performance issues

FIRE

- Harassment or Discrimination MUST be:
  - Race, National Origin, or Color
  - Gender
  - Age, if over 40
  - Religion
- CAUTION: not always obvious
- Best Practice DO NOT discriminate for **any reason**!
FIRE

- Process:
  - Last Paycheck-ASAP
  - Take back your property
    - Housing, vehicle, etc.
  - Do NOT say anything else
  - Escort off property
    - Does NOT need to be like the movies

H-2A
H-2A

- Write the contract *realistically*
- Publish appropriately locally
- Housing and transportation
  - CLEAN and FUNCTIONAL
- Workers
  - Want to be here
  - If different language-have a **trusted** translator of some kind