
EMPLOYMENT LAW IN AGRICULTURE | BEST PRACTICES



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STATE
FEDERAL

LAWS

LAWS-STATE

MINIMUM WAGE
WORKERS
COMPENSATION

MINIMUM WAGE LAW

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

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

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

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

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

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

PAY

- Wages
 - What the employee is worth!
 - AVER-\$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

- | | |
|--|---|
| <ul style="list-style-type: none">■ Terms of your property<ul style="list-style-type: none">■ Vehicles-where, when, how, etc.■ Housing-what they pay and how return at end■ Terms of Job<ul style="list-style-type: none">■ Description■ Requirements i.e. license■ Discipline Procedure | <ul style="list-style-type: none">■ Terms of Employment<ul style="list-style-type: none">■ Time<ul style="list-style-type: none">■ Hours and schedule■ Holidays■ Pay<ul style="list-style-type: none">■ 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

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