



Rose Skora

## Laws governing farm workers can be complex.

# Employing Farm Workers

Laws that govern the employment of farm workers in Wisconsin can be complex and confusing. Determining the appropriate agency to contact and verifying whether laws relating to workers are state or federal can be challenging.

This publication provides information about important rules and regulations for hiring workers on Wisconsin farms.

## Recordkeeping

Employers must keep the following information about each employee for at least three years.

- Name and address
- Date of birth
- Dates when employment began and ended
- Time work began and ended each day
- Total hours worked daily and weekly
- Time meal period began and ended each day
- Rate of pay for each pay period
- Wages paid for each pay period
- Amount and reason for each deduction
- Output of employee, if paid on other than a time basis

Examples of output:

- Employee on a dairy farm is paid a percentage of the milk check.
- Employee on a vegetable farm is paid per bushel of cucumbers picked.

## Wages

- Agricultural workers (18 and over) must be paid the agricultural minimum wage of **\$5.15/hour**.
- Agricultural workers (17 and younger) must be paid the agricultural minimum wage of **\$4.25/hour**.
- Agriculture is exempt from paying overtime (in most cases).

Examples when agriculture is not exempt from paying overtime:

- If a farmer sells more than 20 percent of agricultural products at a farmers' market, roadside stand, on-farm store, etc. that were not grown or raised by the farmer.
- If a farmer spends more than 30 days doing work off the farm (for example, doing custom harvest applications for six months of the year).

In both of the above cases, the agricultural enterprises are considered commercial operations and employers are required to pay overtime to employees.

For further information on regulations related to wages, contact the Equal Rights Division of the Wisconsin Department of Workforce Development on the web at <http://www.dwd.state.wi.us> or by calling the Madison office (608-266-6860) or the Milwaukee office (414-227-4384).

## Child labor laws

The Fair Labor Standards Act of 1938 is the federal law that governs child labor as it relates specifically to farming. The following standards apply to hiring youth.

### Youth working on a farm owned and/or operated by their parents:

- May work at **any age**, at **any time** in **any job** on the farm.

### Exception

- Wisconsin state law requires that all youth under the age of 16 receive a state certificate of training through the Wisconsin 24-Hour Safe Operation of Tractor and Machinery Operation Program to **drive tractors or self-propelled implements on public roads**.\*

### Youth employed on farms not owned or operated by their parents:

- Youth over the age of 18 may work **any job** on farms **during school hours**.
- Youth **16–17 years of age** may work **any job** on a farm **outside of school hours**.
- Youth ages 14–15 may work **outside school hours** in **jobs not considered hazardous**.
- Youth 12–13 may work **outside of school hours** in **non-hazardous jobs** on farms that employ their parent(s) or with written parental/guardian consent.\*\*

Generally, 12 is the minimum age for employment for agriculture on farms.

## Exceptions

- Youth under 12 may work **on small farms** outside of schools hours in **non-hazardous jobs** with parental consent. Small farms are defined as those that did not utilize more than 500 man days of agricultural labor in any calendar quarter of the previous calendar year. A **man day** = a day in which an employee performs agricultural work for at least one hour.
- Youth ages 10–11 may hand-harvest short-season crops **outside school hours** for **no more than eight weeks** between **June 1st and October 15th**.

For further information on Child Labor rules, contact the Department of Labor's Wages and Hours Division at 1-866-487-9343.

## Hazardous occupations in agriculture

1. **Operating a tractor of over 20 PTO horsepower, or connecting or disconnecting an implement or any of its parts to or from a tractor.**
2. **Operating or working with a corn picker, grain combine, hay mower, forage harvester, hay baler, potato digger, mobile pea viner, feed grinder, crop dryer, forage blower, auger conveyor, unloading mechanism of a non-gravity type, self-unloading wagon or trailer, power post-hole-digger, power post driver or non-walking type rotary tiller.**
3. Operating or working with a trencher or earthmoving equipment, fork lift, potato combine, or power-driven circular, band or chain saw.
4. Working in a yard, pen or stall with large intact male animals or new mothers with their babies.

5. Working with timber that has a butt diameter of more than 6 inches.
6. Working from a ladder or scaffold at a height of over 20 feet.
7. Driving a vehicle that is transporting people or riding on a tractor as a passenger/helper.
8. Working in an oxygen-deficient or toxic environment. Examples include an upright silo within two weeks of filling the silo, manure pit, etc.
9. Handling toxic chemicals identified by the words danger, poison or warning.
10. Handling or using explosives.
11. Transporting, transferring or applying anhydrous ammonia.

## Worker's compensation

Worker's compensation is a mandatory state law that provides workers and their dependents with financial and medical benefits in the case of an on-the-job injury or death.

In the case of agriculture, worker's compensation is required when you employ six or more workers (at one or more locations) on the same day for 20 days (does not need to be consecutive) during the year from January to December. The employer must have insurance within ten days of the 20th day of employment.

### Exception

- Some relatives are not counted as employees.

Contact the Worker's Compensation Division at 608-266-1340 for questions or to determine if your family members count as employees in relation to paying worker's compensation insurance.

\* Wisconsin Act 455 requires that youth under the age of 16 hold a certificate of training in order to operate a tractor or self-propelled implement of husbandry on a public road. The Wisconsin Safe Operation of Tractor and Machinery Certification Program ([www.wiscash.uwex.edu/](http://www.wiscash.uwex.edu/)) provides the certificate of training to meet the federal and state laws.

\*\* Youth between the ages of 14–15 who receive a federal certificate of training from the Wisconsin 24-Hour Safe Operation of Tractor and Machinery Operation Program are exempt from items 1 and 2 of the hazardous occupations listed above in bold.

## Migrant and Seasonal Agricultural Workers Protection Act

This federal law requires that agricultural employers who employ migrant/seasonal workers:

- Pay workers the wages owed when due.
- Comply with federal and state safety and health standards if providing housing for workers.
- Ensure that vehicles used to transport workers are properly insured, operated by licensed drivers and meet federal and state safety standards.
- Provide written disclosure of the terms and conditions of employment.

## Worker Protection Standard

Since 1992, agricultural employees who perform hand labor tasks on pesticide-treated fields and those who mix, load or apply pesticides are covered under the Worker Protection Standard (WPS). It also covers pesticides used in forest, greenhouse and nursery settings. This rule requires employers to train employees and then provide safety and medical information and materials when WPS pesticides are used.

The best way to learn about the rule and determine if its provisions apply to you is to contact the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) at 608-224-4500.

## Additional resources

"Agricultural Employer's Pocket Guide on Youth Employment," *Youth Rules*, U.S. Department of Labor, <http://www.youthrules.dol.gov>.

*Consumer's Guide to Worker's Compensation Insurance for Employers*, State of Wisconsin Office of the Commissioner of Insurance, <http://oci.wi.gov>.

*Protect Yourself from Pesticides, Guide for Pesticide Handlers*, Environmental Protection Agency.

Information for this publication was taken from a variety of publications and resources offered through the Wisconsin Department of Workforce Development (<http://www.dwd.state.wi.us/>), the United States Department of Labor (<http://www.dol.gov/>) and the Environmental Protection Agency, Workers Protection Standard (<http://www.epa.gov/pesticides/health/worker.htm>).



© 2007 by the Board of Regents of the University of Wisconsin–Wisconsin. All rights reserved. Send inquiries about copyright permission to: Cooperative Extension Publishing, Room 103, 432 N. Lake St., Madison, WI 53706.

**Author:** Adapted from a publication by John Cottingham, former agricultural marketing specialist and professor of agricultural economics at the University of Wisconsin–Platteville. Updated by Rose Skora, community agriculture educator, Kenosha/Racine Counties, University of Wisconsin–Extension, Cooperative Extension.

**Reviewers:** Roger Springman, Wisconsin Department of Agriculture, Trade and Consumer Protection; Cheryl Skjolaas, University of Wisconsin, Center for Agricultural Safety and Health; Lauren Fox, Kenosha County Division of Workforce Development.

*Direct Marketing in Wisconsin* is a project of the Cooperative Extension Emerging Agricultural Markets Team. For more information on the team's work and Wisconsin's new agricultural markets, visit [uwex.edu/ces/agmarkets/](http://uwex.edu/ces/agmarkets/).

This project is supported in part by a USDA grant (Agricultural Entrepreneurship—Wisconsin) to the UW–Extension Emerging Agricultural Markets (EAM) Team.

An EEO/AA employer, the University of Wisconsin–Extension, Cooperative Extension provides equal opportunities in employment and programming, including Title IX and Americans with Disabilities (ADA) requirements.

Photos: iStockphoto: Glenn Frank (migrant workers)

This publication is available from your Wisconsin county Extension office or from Cooperative Extension Publishing. To order, call toll-free: 1-877-WIS-PUBS (947-7827) or visit our web site:

<http://learningstore.uwex.edu>.

