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**STATUS OF AGRICULTURAL WORKERS**

Under

**STATE AND FEDERAL LABOR LAWS**

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UNDER STATE AND FEDERAL LABOR LAWS

Historically, State labor laws were designed to regulate the working conditions of employees in industry and trade. When first passed, these laws were usually limited to specific types of places of employment or to enumerated industries. Many labor laws are still so limited. Gradually, some of the laws have been extended to cover general employment; however, these usually expressly exclude agricultural employment. Even where no specific exclusion exists and the laws are thus broad enough to include agricultural labor, they often in fact are not applied. While some steps have been taken in the States, as well as at the Federal level, toward granting to agricultural workers the same protection and privileges accorded by law to other workers (as shown in the summaries in Section A), such advances come slowly.

To give impetus to State activity, several laws have been passed recently by the U. S. Congress. These laws (summarized in Section B) provide funds to States for programs to improve working and living conditions of the domestic agricultural workers in their States.

A. LABOR LAWS FOR THE PROTECTION OF AGRICULTURAL WORKERS

The infrequent application of State and Federal labor laws to agricultural work, particularly when the worker is a migrant, becomes most obvious in the following analysis of coverage under such laws.

Regulation of Farm Labor Contractors and Crew Leaders

Eight States and Puerto Rico have laws or regulations applying specifically to farm labor contractors or crew leaders.

Five of these laws--those of California, Nevada, New York, Oregon, and Washington--expressly cover farm labor contractors or crew leaders. All of these laws include provisions for the contractors to obtain an annual license or certificate of registration.



New Jersey requires an annual certificate of registration by law for crew leaders of day-haul laborers, and by regulation for farm labor contractors and crew leaders of migratory farm laborers. Pennsylvania by regulation requires farm labor contractors to obtain an annual license. A Colorado regulation requires the contractor to get a certificate of registration. The Puerto Rico law covers all types of labor agents who recruit workmen and it requires the agent to obtain an annual license.

Most of these laws or regulations authorize the labor commissioner to revoke, suspend, or refuse to renew the license or certificate for various reasons, including the violation of labor or penal laws, and the giving of false information to workers as to terms, conditions, or existence of employment. The laws and regulations also usually include provisions requiring the contractor to keep and submit to the administrative agency (and in some instances to the worker) data on wages, working conditions, housing, and other information; and to refrain from engaging in certain undesirable practices.

A ninth State--Texas--has a law which is primarily designed to control the recruitment activities of emigrant agents, but it also includes requirements for agents who recruit agricultural workers for out-of-State use.

Federal.--The Federal Farm Labor Contractor Registration Act of 1964 is designed, like the State laws mentioned above, to prevent the exploitation of migrant agricultural workers by farm labor contractors. The act requires a farm labor contractor to obtain a certificate of registration from the U. S. Secretary of Labor, if the crew includes 10 or more migrant workers who will be used in interstate agricultural employment. The act prescribes certain duties for the contractor, lists certain undesirable practices which are prohibited, and provides machinery for refusing or revoking a certificate of registration.

Transportation of Farm Workers

A few States, which include California, Colorado, Connecticut, New York, North Carolina, Oregon, Pennsylvania, and West Virginia, have specific laws or regulations setting safety standards for vehicles used in the transportation of farm workers, and for the operation of such vehicles. Illinois has a law regulating the hours of truck drivers carrying seven or more passengers, including certain agricultural workers.



interstate transportation of migratory farm workers by certain motor vehicle carriers. The Interstate Commerce Commission is authorized to establish reasonable requirements with respect to the comfort of passengers, qualifications of operators of the vehicles, and safety of operation and equipment. Such requirements apply to carriers in the case of transportation of migratory workers for a total distance of more than 75 miles, and if such transportation is across the boundary line of any State, the District of Columbia, or Territory of the United States, or a foreign country.

Regulations under this law, issued by the Commission, list qualifications of drivers of vehicles transporting migratory workers, including physical fitness and minimum age of 21, and they place a limitation on the drivers' hours of work. They also require protection of passengers from cold; meal stops at least every 6 hours; and rest stops. In addition, the regulations include requirements as to the vehicles, such as that they must have side walls and ends, seats with back rests, and smooth floors.

#### Regulation of Farm Labor Camps

Legislation dealing with the housing facilities offered to migratory agricultural workers is one of the earliest and most significant steps toward the improvement of conditions of these workers. Thirty States, including some of those with the greatest demand for migratory workers, have mandatory laws or regulations that apply to all labor camps or specifically to camps for migrant agricultural workers:

Arizona	Maryland	Ohio
California	Massachusetts	Oklahoma
Colorado	Minnesota	Oregon
Connecticut	Montana	Pennsylvania
Delaware	Nevada	Rhode Island
Florida	New Hampshire	Virginia
Hawaii	New Jersey	Washington
Idaho	New Mexico	West Virginia
Illinois	New York	Wisconsin
Iowa	North Carolina	Wyoming

These mandatory standards range from very limited requirements in a few States to comprehensive provisions in others. They usually include requirements as to sanitation, housing, and location and construction of the camp. In addition, a 1963 California law authorizes the operation of farm labor centers for persons whose principal source of income (regardless of whether or not it is "low income") is from agricultural work.



Federal.--Federal regulations, applying to interstate recruitment by the United States Employment Service, which were issued by the Secretary of Labor in 1959, include specific requirements with respect to housing for migratory workers. These regulations are designed to "make certain, before interstate recruitment of domestic agricultural workers by the USES, that the wages, housing facilities, provisions for transportation, and other terms and conditions of employment accord to prevailing standards of employment."

#### Child Labor

Only 11 States, Puerto Rico, and the District of Columbia provide a minimum age for employment of children in agriculture outside school hours. This age is 14 in Connecticut (applicable to an employer in any week in which he has an average of more than 15 employees), Alaska, Hawaii, Missouri, Texas (applicable **only from September 1 to June 1**), the District of Columbia, and Puerto Rico. In New York the minimum age is 14, except children of 12 may assist in the hand harvest of berries, fruits, and vegetables **under certain conditions when school is not in session**. In Colorado and New Jersey the minimum age is 12, and it is 12 in California during vacations and 14 outside of school hours on school days. In Utah the minimum age is 10. In Wisconsin, an order sets a minimum age of 12 for work in cherry orchards and other specified agricultural employment.

For agricultural work during school hours a minimum age applies in 19 States, Puerto Rico, and the District of Columbia. This age is 16 in the following States: Colorado, Florida, Illinois, Maryland, New Jersey, New York, Ohio, Virginia, and Puerto Rico. Under certain conditions, the 16-year minimum age may be waived in Florida and Puerto Rico. In Hawaii the minimum age is 16 when a child is "required" to attend school, otherwise 14. In California and Pennsylvania the minimum is 15, except 14 under certain conditions. In Connecticut, Indiana, Massachusetts, Minnesota, Missouri, Texas, Utah, and the District of Columbia, the minimum is 14, and in Wisconsin it is 12.

Thirteen other States set a minimum age for employment in "any occupation" or "any business or service," which could be interpreted to include work in agriculture. Of these, only Arkansas sets a minimum age, which is 14, for work both during and outside school hours. In the remaining States the minimum applies to work during school hours only: 14 in Arizona, Idaho, Kansas, Nebraska, Nevada, New Mexico, North Dakota, Oregon, and Vermont; 15 in Maine; and 16 in Montana and Wyoming.



Compulsory school attendance laws supplement the standards set under the child labor laws by requiring boys and girls to attend school to a certain age, usually to 16. In many States, however, these laws permit children under 16, or even under 14, to be excused from school to work in agriculture. The situation as it relates to migratory children is even more serious, since the school laws often do not apply to them, and since they travel from State to State, their opportunities for school attendance are often very meager.

Federal--Two Federal laws affect the employment of children in agriculture. The Fair Labor Standards Act establishes a 16-year minimum age during school hours for agricultural employment in connection with interstate or foreign commerce. Under the Sugar Act, if the producers are to obtain maximum benefits they may not employ children under 14, or permit those of 14 and 15 to work more than 8 hours a day, in the cultivation or harvesting of sugarbeets or sugarcane.

Workmen's Compensation

Although workmen's compensation legislation was the first type of social insurance to be developed extensively in this country, progress has been slow in extending such benefits to agricultural workers. Only 17 States and Puerto Rico have some specific coverage of agricultural workers:

Five jurisdictions cover all farm employment:

- California
- Hawaii
- Massachusetts
- New Jersey
- Puerto Rico

Five States cover all farm employment except:

- Alaska. . . . **part-time workers**
- Connecticut. . . employees of employers having  
fewer than 2 employees
- Ohio. . . . . " " 3 employees
- Vermont . . . . " " 6 employees
- Wisconsin . . . " " 6 employees who  
work less than  
20 days during  
a calendar year



Seven States cover workers engaged in specific farm employments:

		Workers are exempted where employers have fewer than--
Arizona	In the use of machinery	3 employees
Kentucky	In the operation of threshing machines used in threshing or hauling grain or seeds	3 employees
Louisiana	In the operation of harvesting and thresh- ing machinery	Workers are exempted if being trans- ported to or from such work
Minnesota	As commercial thresher- men and commercial balers	- - - - -
New York	In the operation of bal- ing, threshing, and other machines under certain conditions	- - - - -
South Dakota	Commercially, in the operation of threshing machines, grain combines, corn shellers, and seed hullers for profit	- - - - -
Wyoming	In power farming, using such power driven machin- ery as pickup truck, feed grinder, stacking machinery, tractor, mower, baler, or road grader	- - - - -

The 18th jurisdiction, Florida, exempts agricultural labor on a farm of a bona fide farmer or an association of farmers, and workers of employers with 3 or less employees. All other agricultural workers are covered, including, for example, workers of commercial grove care-taking organizations, fruit pickers for packing house operators who purchase fruit on the trees, fruit or vegetable harvest workers for farm labor contractors, fruit or vegetable packers in packinghouses not on farms.



Five laws have no provision for coverage: Alabama and the District of Columbia expressly prohibit all coverage of farm workers, while the laws of Oklahoma, Tennessee, and Texas are silent on the subject of voluntary coverage.

In the remaining States agricultural workers are exempted from automatic coverage, but the farmers may by voluntary acceptance bring these employees under the law. Three of these States-- Delaware, Idaho, Iowa--specifically authorize employers of farm labor to provide voluntary coverage.

#### Minimum Wages

Of the 32 minimum wage laws in operation, only those of Hawaii and Puerto Rico specifically apply to agricultural workers, both men and women. Hawaii sets \$1.25 an hour and covers agricultural work in any workweek in which the employer has 20 or more employees, except individuals for any week in which they are engaged in coffee harvesting. In Puerto Rico the statutory rates vary from 25 cents an hour to \$5.50 a day for different kinds of agricultural work.

In Michigan a 1964 enactment applies to some nonseasonal agricultural workers if the employer has four or more workers. The law specifies that no employer may employ any employee "for more than 13 weeks in any 4 consecutive 3-month periods" at less than \$1 an hour effective January 1, 1965, \$1.15 January 1, 1966, and \$1.25 January 1, 1967.

Eight other laws are broad enough to cover agriculture: those of California, Colorado, the District of Columbia, Kansas, Oregon, Utah, Washington <sup>1/</sup>, and Wisconsin. They do not set minimum wage rates in the law, but provide for setting such rates by administrative order, and apply to women and minors only. Of these eight, two have issued orders applying specifically to the employment of minors up to 21 years of age and to women in agriculture. A Wisconsin order sets a minimum of \$1.00 an hour for employment of women and minors 16 years of age and over; and a minimum of 75 cents for minors under 16. A California wage order sets a minimum of \$1.30 an hour for women and minors employed in packing sheds on farms and \$1.00 an hour for women and minors 16 and over employed in other agricultural occupations.

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<sup>1/</sup> A second minimum wage law in Washington, passed in 1959, applying to men, women, and minors, and setting a minimum wage



to producers of sugarbeets and sugarcane who comply with certain conditions. One of these conditions is that farm workers must be paid in full for work performed on these crops and at rates not less than those determined by the Secretary of Agriculture to be fair and reasonable.

Farm workers who cultivate the soil or grow or harvest crops, or who raise livestock, bees, fur-bearing animals or poultry, are exempt from the minimum wage and overtime provisions of the Federal Fair Labor Standards Act.

#### Wage Payment and Wage Collection

Six State wage payment laws provide protection for all or some farm workers. The California, Colorado, and Massachusetts laws specifically apply to all farm workers, the Pennsylvania law is interpreted to apply to all, and the New Hampshire law is applicable to farm workers if five or more such workers are employed. The Minnesota law covers "transient" workers, which has been interpreted by the Attorney General to apply to migratory workers who are employed on any project of a transitory nature.

All six of the laws require regular paydays: In Colorado and Massachusetts, at least once a month; in Minnesota, 15-day intervals; in California, semi-monthly, except that employees who are boarded and lodged by the employer may be paid monthly; in New Hampshire, weekly. In Pennsylvania, there is no set time, but the law reads that the workers must be paid on a "regular payday designated in advance."

All six of the laws also require prompt payment in case an employee is discharged or quits. In addition, the New Hampshire act requires employers to maintain payroll records and give statements of deductions to employees, and the Colorado law requires recordkeeping by farm labor contractors.

In some of the other States the general wage payment laws, requiring regular paydays, prompt payment in case of quitting or discharge, and payment in lawful money, are sufficiently broad so that they could be applied to farm employees.

In California, New Hampshire, New York, and Pennsylvania the wage collection laws authorize the labor departments to use legal procedures to collect back wages for employees, including those in agriculture. The laws of 12 other jurisdictions, (Alaska, Arkansas, Connecticut, the District of Columbia, Hawaii, Illinois, Nevada, New Jersey, Oregon, Puerto Rico, Rhode Island, and Washington) are broad enough so that the collection authority



## State Labor Relations Acts

Of the 14 State labor relations acts which recognize the right of employees to organize and to bargain collectively, three (Kansas, Puerto Rico, and Wisconsin) appear to be broad enough to cover all agricultural workers. One other, that of Hawaii, exempts workers engaged in the feeding and milking of cows, presumably including all other agricultural workers. The remaining ten laws specifically exempt agricultural workers from coverage.

Federal.--The Federal Labor Management Relations Act, known as the Taft-Hartley Act, specifically exempts agricultural laborers.

## Unemployment Insurance

A Federal-State system of insurance has been provided under authorization of the Federal Social Security Act, to protect wage earners and their families against loss of income due to unemployment. However, Hawaii and Puerto Rico are the only jurisdictions which specifically cover agricultural workers under their unemployment insurance laws.

In Hawaii agricultural workers are covered if their services are performed for an employer who has 20 or more employees in 20 weeks in the current or preceding calendar year. However, the employer is given a choice as to whether he will be covered under the general unemployment insurance law or under a separate agricultural unemployment compensation law. In Puerto Rico the law applies to workers in the agricultural phase of the sugar industry. This law provides flat weekly benefits for these workers, which differ from the benefits payable to all other workers in covered employment.

All other laws exclude farm labor, except that of the primarily urban District of Columbia. The laws of all but Alabama, Massachusetts, and New York, permit voluntary coverage, subject to approval by the State agency.

## Temporary Disability Insurance

Temporary disability insurance laws provide benefits to workers because of nonwork-connected illness or accident in California, New Jersey, New York, and Rhode Island. Only the California law, however, covers farm workers.



Federal.--The Social Security Act covers farm employees who are paid by an employer \$150 or more in cash during a calendar year, or who have worked for an employer on 20 or more days during a calendar year for cash-pay on a time basis. The act also covers self-employed farmers who have actual net earnings of \$400 or more a year (or at their option, if gross earnings are \$600 or more a year).

Farm crew workers are employees of the crew leader if the crew leader (a) arranges with the farm operator to furnish workers; (b) pays the workers either on his own behalf or on behalf of the farm operator; and (c) is not designated as the farm operator's employee in a written agreement between himself and the farm operator. The crew leader in this case is considered self-employed and is responsible for the payment of employment taxes and for reporting the workers' for social security purposes. If an agreement has been entered into in writing that the crew leader is the farm operator's employee, all of his crew members are also employees of the farm operator. If the crew leader does not pay the workers or has not entered into a written agreement as above, the common-law test is applied in determining the identity of the employer of the workers and the status of the crew leader.

#### B. FEDERAL LAWS PROVIDING GRANTS-IN-AID FOR PROGRAMS TO BENEFIT AGRICULTURAL WORKERS

Public and private agencies are being encouraged to apply for Federal funds available under various laws for the improvement of the working, living, and health conditions of domestic agricultural workers. Although funds may be available under other recent Federal laws, only those which specifically authorize funds for agricultural workers are summarized below.

##### Economic Opportunity Act

For the benefit of migrant and other seasonally employed agricultural workers and their families, one of the provisions in the 1964 Economic Opportunity Act authorizes the initiation of a program to assist States and subdivisions and public and nonprofit agencies by direct loans to establish programs of housing, sanitation, education, and day care of children. Also among the provisions for urban and rural community action programs, the act authorizes an allotment of funds among the States to develop programs concerned with employment, job training, counseling, health, vocational rehabilitation, housing, home management, welfare and special remedial education to meet the needs of low-income rural families.



### Housing Act

One of the programs authorized under the Housing Act of 1964 provides for grants for the period ending September 30, 1965, to States or political subdivisions, or public or private non-profit organizations, to assist in providing housing and related facilities for domestic farm labor. An applicant would have to agree (a) not to charge rentals exceeding amounts approved by the Secretary of Labor, (b) to maintain the housing in a safe and sanitary condition, and (c) to give domestic farm labor absolute priority for occupancy of the housing.

### Migrant Health Act

The purpose of this act, passed in 1962, is to expand services to improve health care and health conditions for domestic agricultural migratory workers and their families. The act has two main provisions. The first authorizes the Public Health Service, U. S. Department of Health, Education, and Welfare, to make grants to public and other nonprofit agencies to pay part of the cost of establishing and operating family health service clinics, and other special projects to improve health services and conditions of domestic agricultural migratory workers and their families. The second provision authorizes the Public Health Service to encourage and cooperate in programs for the purpose of improving migrant health services and conditions. So far, grants have been awarded for health projects in **over half** of the States.



