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STATUS OF AGRICULTURAL WORKERS

under

STATE AND FEDERAL LABOR LAWS

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James P. Mitchell, Secretary

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A. W. Motley, Director

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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 or 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 there is no specific exclusion and the laws are thus broad enough to include agricultural labor, they may, in fact, not be applied to farm workers. While some steps have been taken toward granting to agricultural workers the same protection and privileges accorded by law to other workers, such advances come slowly.

The lack of protection of agricultural workers under labor laws is clearly evident in the following summary of the status of the agricultural worker under the various labor laws.

Child Labor

Only nine States, Puerto Rico, and the District of Columbia expressly 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, the District of Columbia, and Puerto Rico. In New York the minimum age is 14, except that children of 12 may assist in the hand harvest of berries, fruits, and vegetables when school is not in session under certain conditions. In New Jersey the minimum age is 12, and in California it is 12 during vacations and 14 outside school hours on school days. In Utah the minimum age is 10. In Wisconsin, an Industrial Commission order effective June 1, 1960, 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 expressly applies in 14 States, Puerto Rico, and the District of Columbia. This age is 16 in Florida, Illinois, Maryland, New Jersey, New York, Ohio, Virginia, 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, Massachusetts, Missouri, Utah, and the District of Columbia, the minimum is 14.

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 travelling from State to State as they do, opportunities for school attendance are often very meager.

In addition to State laws, two Federal laws affect the employment of children in agriculture. The Fair Labor Standards Act establishes a 16-year minimum age for agricultural employment during school hours. 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 sugar beets or sugarcane.

#### Workmen's Compensation

Although workmen's compensation legislation was the first type of social insurance to be developed extensively in this country, little progress has been made in extending such benefits to agricultural workers.

Seventeen States and Puerto Rico have some specific coverage of agricultural workers. Only Alaska, California, Connecticut, Hawaii, Massachusetts, Ohio, Vermont, and Puerto Rico, however, cover farm workers in the same manner as other workers. Seven of these eight laws are compulsory, while the Vermont law is elective, under which workers are covered unless the employer "elects" not to come under the act.

The New Jersey workmen's compensation law, which is elective, is sufficiently broad to apply to farm workers, but it expressly provides that farmers are not required to carry insurance.

In the other nine States (Arizona, Kentucky, Louisiana, Minnesota, New York, Oklahoma, South Dakota, Wisconsin, and Wyoming) agricultural workers engaged in specific farm occupations, usually those operating certain machinery, are covered. Of these, the laws of Arizona, Minnesota, New York, Oklahoma, and Wisconsin are compulsory; and those of Kentucky, Louisiana, South Dakota, and Wyoming are elective. In Kentucky and Wyoming the employer must elect by filing a written notice; in Louisiana and South Dakota the law applies unless the employer specifically rejects it. The Louisiana law excludes from coverage agricultural employees while they are being transported to or from work regardless of the means of conveyance, and members of crews in airplanes in dusting or spraying operations.

All but four of the laws that do not specify either compulsory or elective coverage permit farmers, if they wish, to insure voluntarily, but comparatively few appear to avail themselves of this opportunity. Such "voluntary" coverage is distinguished from "elective" coverage in that the employer does not lose his common law defenses if he does not choose the voluntary coverage. The laws of Alabama and the District of Columbia expressly prohibit voluntary coverage of farm workers, while the Tennessee and Texas laws are silent on this subject. Delaware formerly prohibited such coverage, but under a 1960 law specifically authorized employers of farm labor to accept the act by carrying insurance to cover any necessary benefits. Iowa, which formerly permitted voluntary coverage of agricultural workers only in certain cases, provided in 1959 for such coverage of all farm workers.

#### Minimum Wages

The minimum-wage laws of only Hawaii and Puerto Rico specifically apply to agricultural workers. In these two jurisdictions specific wage rates are set for farm workers, and these apply to men, women, and minors. Hawaii sets \$1.00 an hour and covers agricultural work in any workweek in which the employer has 20 or more employees. In Puerto Rico the statutory rates vary from 25 cents an hour to \$5.50 a day for different kinds of agricultural work.

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. These laws apply to women and minors only. They do not set minimum-wage rates in the law, but provide for setting such rates by administrative order. Of these eight, only one has issued orders applying specifically to agriculture: A Wisconsin order sets a minimum of 75 cents an hour for employment of women and minors 16 years of age and over employed in agriculture; minors under 16 may not be paid less than 65 cents an hour. The order also sets specified rates if board and lodging are furnished.

The wage and hour provisions of the Federal Fair Labor Standards Act do not cover agriculture.

<sup>1/</sup> A second minimum-wage law in Washington, passed in 1959, applying to men, women, and minors, and setting a minimum-wage rate of \$1.00 an hour, excludes agriculture from coverage.

### Wage Payment and Wage Collection

In California and Massachusetts the wage payment laws expressly apply to farm workers. The California law requires the payment of wages to be at least semi-monthly, except that agricultural employees who are boarded and lodged by employers may be paid monthly. In Massachusetts agricultural workers must be paid at least monthly.

The Minnesota wage payment law requires regular paydays--at intervals of not more than 15 days for "transient" workers.

A 1960 amendment to the Colorado wage payment law requires migratory field labor contractors and crew leaders to keep records of wages and hours of the workers and to give each worker a statement of wages and withholdings at the time of payment. New York has a similar provision in its law, as a result of 1958 and 1960 amendments, affecting farm labor contractors, crew leaders, and persons bringing in 10 or more migratory workers.

In some of the other States the general wage payment laws are sufficiently broad to apply to farm employees.

As to wage collection, the laws of 16 jurisdictions (Alaska, Arkansas, California, Connecticut, Hawaii, Illinois, Indiana, Michigan, Nevada, New Jersey, New York, Oregon, Puerto Rico, Rhode Island, Washington, and Wisconsin) authorizing the labor department to use legal procedures to collect back wages for workers, are broad enough to cover the claims of farm workers.

### State Labor Relations Acts

Of the 13 State labor relations acts in effect, which recognize the right of employees to organize and to bargain collectively, three appear to be broad enough to cover all agricultural workers: those of Kansas, Puerto Rico, and Wisconsin. One other, that of Hawaii, exempts workers engaged in the feeding and milking of cows, presumably including all other agricultural workers in the coverage of the act. The remaining nine laws specifically exempt agricultural workers from coverage.

The Federal Labor Management Relations (Taft-Hartley) Act specifically exempts agricultural laborers.

### Regulation of Farm Labor Contractors and Crew Leaders

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

Six of these laws--those of California, Nevada, Oregon, Puerto Rico, Texas, and Washington--expressly cover labor contractors who for a fee recruit farm workers. Under these laws the contractors are required to obtain licenses, to comply with certain requirements as to records, to refrain from engaging in certain undesirable practices, and, usually, to file a bond.

New York does not require farm labor contractors to obtain licenses, but does require them, as well as crew leaders and all persons bringing ten or more migrant workers into the State, to register with the Industrial Commission. Employers are prohibited from using the services of labor contractors or crew leaders who are not registered. The Commissioner may revoke, suspend, or refuse to renew the registration for various reasons, including violation of the labor or penal laws, or the giving of false information to workers as to terms, conditions, or existence of employment. The law also requires all those registering to keep records and to submit to the Commissioner data on wages, housing, working conditions, and other information. This data must also be given to the worker.

Regulations relating to New Jersey migratory camps include provisions requiring farm labor contractors and crew leaders to get annual certificates of registration, while Pennsylvania regulations require registration of, and place certain duties and responsibilities upon, crew leaders who "directly or indirectly" recruit migratory workers.

In some other States the law regulating private employment agencies appears to be sufficiently comprehensive to be applied to labor contractors.

#### Regulation of Farm Labor Camps

About half the States, including Arizona, California, Connecticut, Delaware, Florida, Hawaii, Idaho, Iowa, Maryland, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, Ohio, Oregon, Pennsylvania, Washington, Wisconsin, and Wyoming, have laws or regulations that apply to all labor camps or specifically to camps for migrant agricultural workers. These range from very limited regulation in some States to comprehensive regulation in others. They usually include requirements as to sanitation, housing, and location and construction of the camp.

#### Transportation of Farm Workers

A few States, including California, Colorado, Connecticut, New York, Oregon, Pennsylvania, and West Virginia, have laws or regulations setting safety standards for vehicles used in the transportation of farm workers, and for the operation of such vehicles.

Federal law.--In addition, a Federal law provides for the regulation of the interstate transportation of migrants. The Interstate Commerce Commission is authorized to establish for certain carriers of migrant farm workers by motor vehicle 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 migrant 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 migrants, 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 six 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.

#### Unemployment and Temporary Disability Insurance

Of the State unemployment insurance laws, only that of Hawaii provides coverage for agricultural labor--if performed for an employer who has 20 or more employees for 20 weeks in the current or preceding calendar year. Puerto Rico also has in operation a program which covers agricultural workers in the sugar industry; this is separate from the program for nonagricultural employment. All the other laws exclude agricultural labor except that of the District of Columbia, which is primarily an urban community. The laws of all but three States, Alabama, Massachusetts, and New York, permit voluntary coverage of excluded occupations, subject to approval by the State agency, but agricultural employers have made little use of this option except in North Dakota. A significant number of North Dakota farmers have elected coverage even though the law contains a unique provision requiring a much higher contribution rate for services covered by election.

The four States that have provided for temporary disability benefits--California, New Jersey, New York, and Rhode Island--exempt agricultural workers.

Social Security Law--Old Age and Survivors' Insurance

The Social Security Act covers farm employees who are paid by an employer \$150 or more in cash during the year, or who have worked for an employer on 20 or more days during a year for cash pay figured on a time basis. It also covers self-employed farmers who make a net profit of \$400 or more a year. Farm workers are considered as employees of the crew leader who furnishes and pays them, unless the crew leader and the farmer have entered into a written agreement showing the crew members to be employees of the farmer.

