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Under

STATE AND FEDERAL LABOR LAWS

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STATUS OF AGRICULTURAL WORKERS 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 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.

Regulation of Farm Labor Camps

The following 29 States have mandatory laws or regulations that apply to all labor camps or specifically to camps for migrant agricultural workers:

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

These range from very limited regulation in a few States to comprehensive regulation in others. They usually include requirements as to sanitation, housing, and location and construction of the camp. In addition, Kansas, Nebraska, and Michigan have mandatory regulations for those growers obtaining workers through the State Employment Security Commission, and in North Carolina, mandatory standards have been adopted by five counties. Advisory camp regulations are in effect in Indiana, North Carolina, North Dakota, and Utah.

Nine 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 the growers or processors utilizing their services, to obtain a certificate of registration from the Industrial Commission. Those growers and processors who, without utilizing the services of farm labor contractors, bring 5 or more migrant workers into the State, must also obtain a certificate of registration. 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 that either the contractor, or the grower, or the processor keep records and submit to the Commissioner data on wages, housing, working conditions, and other information. These data must also be given to the workers.

A 1961 New Jersey law requires annual registration of day-haul crew leaders. This State also has a regulation requiring farm labor contractors as well as crew leaders to get annual certificates of registration. Pennsylvania regulations require registration of, and places certain duties and responsibilities upon, crew leaders who "directly or indirectly" recruit migratory workers. In Colorado, a 1960 regulation requires registration of all crew leaders and labor contractors.

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

Transportation of Farm Workers

A few States, those of 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. North Carolina in 1961 authorized its Department of Motor Vehicles to adopt such regulations; these were adopted in 1962.

Federal law.--In addition, a Federal law provides for the regulation of the interstate transportation of migratory farm workers by certain motor vehicle carriers. The Interstate Commerce Commission

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 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.

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 15 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. 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 under certain conditions. In Connecticut, Massachusetts, Missouri, Utah, and the District of Columbia, the minimum is 14, and in Wisconsin it is 12.

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

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, Wisconsin, and Puerto Rico, however, cover farm workers in the same manner as other workers. Eight of these nine 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 Wisconsin law was amended in 1961 to provide compulsory coverage for farmers who employ 6 or more workers for 20 days during a calendar year in one or more locations; these provisions become applicable 10 days after the 20th such day.

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 eight States (Arizona, Kentucky, Louisiana, Minnesota, New York, Oklahoma, South Dakota, 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, and Oklahoma 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

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 $1.15 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 coffe harvesting. 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[1/], 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, two have issued orders applying specifically to agriculture: A 1960 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. Two 1961 California wage orders set a minimum wage of $1.00 an hour for women and minors in packing sheds on farms, and for women and minors 16 and over in other agricultural occupations.

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

1/ 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, while a provision in the Minnesota law applies to certain migratory workers. The Pennsylvania law is interpreted to apply to all 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 employer 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. This has been interpreted by the Attorney General to apply to migratory workers who are employed on any project of a transitory nature.

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, 1960, 1961, and 1962 amendments affecting farm labor contractors, crew leaders, and persons bringing in five 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 17 jurisdictions (Alaska, Arkansas, California, Connecticut, Hawaii, Illinois, Indiana, Michigan, Nevada, New Jersey, New York, Oregon, Pennsylvania, 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 14 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 ten laws specifically exempt agricultural workers from coverage.

Unemployment and Temporary Disability Insurance

Hawaii and Puerto Rico are the only jurisdictions which specifically cover agricultural workers under their unemployment insurance laws. In Hawaii, all 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 unemployment insurance law or under a separate agricultural unemployment compensation law.

In Puerto Rico, agricultural coverage is limited to workers in the sugar industry. For the period between October 1, 1962 and June 30, 1963, eligibility for benefits will be established by employment of 60 days or more in calendar year 1962. For the period between July 1, 1963 and September 30, 1963 the worker must have been paid wages aggregating at least $120 for insured work in at least 2 quarters of the immediately preceding 12 months. After October 1, 1963 the worker must meet the regular qualifying provision for all workers in covered employment.

All the other laws exclude agricultural labor except that of the District of Columbia, which is primarly 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.

Of the four States that have provided for temporary disability benefits, only one, California, covers agricultural workers (under a 1961 law). The other three laws specifically exempt such 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 leader to be an employee of the farmer, in which case the members of the crew are also employees of the farmer while they work on his farm. When the crew leader furnishes and pays the crew members either on his behalf or on behalf of the farmer, the crew member is an