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Agricultural Workers Under State
General Labor Laws

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 30 States 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 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, Michigan, and Nebraska have mandatory regulations for those growers obtaining workers through the State Employment Security Commission. Advisory camp regulations are in effect in Indiana, North Dakota, and Utah.

In addition, a 1963 California law declaring that there is a need for farm labor centers to help assure a supply of agricultural workers when they are needed, gives local housing authorities the power to acquire and operate farm labor centers for housing persons engaged in agricultural work. Workers are eligible to rent housing in the centers when the principal source of their income (regardless of whether or not it is "low income") is from agricultural work.

Regulation of Farm Labor Contractors and Crew Leaders

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

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 certain 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 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 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, North Carolina, 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 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 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.

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 almost half of the States.

Child Labor

Only 10 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 Colorado and New Jersey the minimum age is 12, and in California it is 12 during vacations and 14 outside of school hours on school days. In Utah the minimum age is 10. In Wisconsin, a 1960 Industrial Commission order set 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 17 States, Puerto Rico, and the District of Columbia. This age is 16 in 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, 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 apply to them, and since they travel from State to State, their 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 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 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, progress has been slow in extending such benefits to agricultural workers. Only 16 States and Puerto Rico have some specific coverage of agricultural workers. Four States (California, Hawaii, Massachusetts, New Jersey) and Puerto Rico cover all farm employment. Five other States cover all farm employment, but exempt the following:

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

The other seven States cover agricultural workers engaged in specific farm employments:

<u>State</u>	<u>Coverage--workers engaged:</u>	<u>Exempted</u>
Arizona	In the use of machinery	if fewer than 3 employees
Kentucky	In the operation of threshing machines used in threshing or hulling grain or seeds	if fewer than 3 employees
Louisiana	In the operation of harvesting and threshing machinery	Workers being transported to or from such work

<u>State</u>	<u>Coverage--workers engaged:</u>	<u>Exempted</u>
Minnesota	As commercial threshermen and commercial balers	- - - - -
New York	In the operation of baling, 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 machinery as pickup truck, feed grinder, stacking machinery, tractor, mower, baler, or road grader.	- - - - -

In the remaining States agricultural workers are exempted from automatic coverage, but, except for a few States, the farmers may by voluntary acceptance bring these employees under the law.

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 \$1.25 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.

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 1963 Wisconsin order sets a minimum of 85 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 Sugar Act provides for payment of benefits 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 5 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.

^{1/} A second minimum wage law in Washington, passed in 1959, applying to men, women, and minors, and setting a minimum wage rate

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 to 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 that they could be applied to farm employees.

As to wage collection, the laws of 15 jurisdictions (Alaska, Arkansas, California, Connecticut, District of Columbia, Hawaii, Illinois, Nevada, New Hampshire, New York, Oregon, Pennsylvania, Puerto Rico, Rhode Island, and Washington) authorizing the labor department to use legal procedures to collect back wages for workers, are also broad enough so that they could 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.

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

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, a law enacted in 1962 limited agricultural coverage to workers in the sugar industry. This law provides that qualifying wage requirements for the receipt of unemployment benefits differ for these workers than for other covered workers until October 1, 1963; as of that date, agricultural workers must meet the same qualifying requirements as all other workers in covered 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.

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 employee of the crew leader.

