

# LABOR LAWS AND MICHIGAN AGRICULTURE

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Major Revision of E2966 by V. Bitsch and S. Reed

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## INTRODUCTION

All farm employers and workers need to be aware of and understand the various laws pertaining to labor. This publication attempts to create such awareness and lists references for fuller understanding. A special section covers some variations in the laws as they apply to young people. This information has been compiled from reliable sources. It is a reference for general educational use. It does not constitute legal advice, and the publisher assumes no liability for actions taken on the basis of the information provided. It is the employer's responsibility to keep abreast of current laws and changes.

An important single reference for farmers who employ a number of full-time workers or any seasonal or migrant labor is a subscription to the Regulatory Compliance Assistance Program (RCAP) offered by Michigan Farm Bureau. The program includes a manual that discusses each law in depth, a newsletter that discusses changes in and additions to

the laws, a poster packet and other materials and services. Contact: Michigan Farm Bureau, P.O. Box 30960, Lansing, MI 48909; phone: (517) 323-7000; [www.michfb.com/safety/alss](http://www.michfb.com/safety/alss). A detailed guide to U.S. Department of Labor (DOL) posters is available at: [www.dol.gov/elaws/posters.htm](http://www.dol.gov/elaws/posters.htm).

## FEDERAL WAGE LAW

Fair Labor Standards Act, 29 U.S.C. §§ 201 et seq.

### Who must comply

- Any farmer employing enough workers to have had 500 worker-days of hired work performed on the farm during any quarter of the preceding calendar year must comply. The 500 worker-day test includes any employee who performs work for 1 hour or more on any day.
- Workers in the employer's immediate family and certain local harvest workers are excluded from the 500 worker-day test.

## What the employer must do

- You must pay at least \$7.25 (\$7.40 pursuant to current state minimum wage) per hour to all covered employees, including certain family members. Agricultural workers are exempt from the overtime pay provisions unless they are involved in handling or selling products taken in from other farmers or suppliers.
- You must keep records of hours worked, including hours working for piece rates, and wages paid to each employee and retain the records for three years.
- Under state and federal law, you must maintain and retain for at least three years a complete payroll record (see items under Michigan wage law below) for each employee and provide a written statement (\*items are required by the Migrant and Seasonal Agricultural Worker Protection Act (MSPA), see MSPA section below) for each employee at time of payment including the following:
  1. Employee's full name and Social Security number.\*
  2. Permanent address, including zip code.\*
  3. Birth date, if younger than 19.
  4. Sex and occupation.
  5. Time and day of week when employee's workweek begins.
  6. Hours worked each day.
  7. Total hours worked each workweek.\*
  8. Basis on which employee's wages are paid (i.e., hourly rate or piece rate).\*
  9. Regular hourly pay rate.
  10. Piecework units\* (and hours worked while on piece rate)
  11. Total daily or weekly straight-time earnings.
  12. Total overtime earnings for the workweek.
  13. Total pay period earnings.\*
  14. All additions to or deductions from the employee's wages.\*
  15. Total wages paid each pay period.\*
  16. Net pay.\*

17. Date of payment and the pay period covered by the payment.

18. The employer's name, address and TIN.\*

- You must provide each worker with his/her own wages and wage statement. You must not write one check covering all members of a family.
- You may not treat workers as "independent contractors" if they are employees as defined in the Fair Labor Standards Act, 29 U.S.C. §§ 201 et seq.; the Internal Revenue Code, 26 U.S.C. §§ 1 et seq.; and the Michigan Workers' Disability Compensation Act, MCL 418.101 et seq.
- A number of federal laws, including the Fair Labor Standards Act, require certain postings in the workplace. To obtain posters or get more information about poster requirements or other compliance assistance matters, you may contact the U.S. DOL by telephone at 1-8664USWAGE, or you may visit the DOL Workplace Posters page at [www.dol.gov/compliance/topics/posters.htm](http://www.dol.gov/compliance/topics/posters.htm). Vinyl poster sets are available at [www.michfb.com/safety](http://www.michfb.com/safety).

## What the employer may do

- Agricultural employers who traditionally contract for harvesting on a piecework basis may pay hand-harvest laborers by piece rate but must still pay each worker at least the minimum wage for all hours worked per pay period. Please note disclosure requirements on page 5 of this bulletin under Migrant and Seasonal Agricultural Worker Protection Act.

## What the worker may do

- If you believe your employer must comply with these laws but is failing to do so, you should contact one of the agencies listed below or an employment attorney.
- You should keep your own records of the hours you have worked, pieces you have picked, the pay you received and all deductions made from your wages.

*For additional information*

Detroit District Office  
U.S. Department of Labor Wage & Hour Division  
211 W. Fort Street, Room 1317  
Detroit, MI 48226-3237  
Tel.: (313) 226-7448 Español: (313) 226-5649 or

Grand Rapids Area Office  
U.S. Department of Labor ESA  
Wage & Hour Division  
800 Monroe Avenue, NW Suite 315  
Grand Rapids, MI 49503-1451  
Tel.: (616) 456-2004

Or [www.dol.gov/WHD/](http://www.dol.gov/WHD/)

Michigan Department of Licensing and Regulatory  
Affairs Wage & Hour Division, 7150 Harris Drive,  
Box 30476, Lansing, MI 48909-7976.

## **MICHIGAN WAGE LAW**

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### **I. PAYMENT OF WAGES AND FRINGE BENEFITS ACT MCL 408.471**

#### **Who must comply**

- All employers of one or more employees.

#### **What the employer must do**

- You must pay all wage workers on a regular basis and never more than 15 days after the close of the pay period.
- You must pay hand harvesters at least once a week for all wages earned on or before the second day following the workweek, unless another method is agreed upon by written contract.
- You must pay employees (other than hand harvesters) who leave voluntarily all wages due on the regularly scheduled payday. Hand harvesters must be paid no later than three days after they voluntarily terminate employment.
- You must pay discharged employees all wages due as soon as the amount can with due diligence be determined. You must pay discharged hand harvesters within one working day.
- You must have written authorization from the worker for each deduction other than those

authorized by law, such as state or federal taxes withheld. Even with authorization, no deductions that reduce the employee's gross wages below the minimum wage are allowed.

- You must keep records for three years for all employees which indicate the employee's name, address, birth date, occupation or classification in which employed, total basic rate of pay, total hours worked in each pay period, total wages paid each pay period, a separate itemization of deductions and a listing or itemization of fringe benefits.

#### **What the worker may do**

- If you believe your employer is violating any of the rules above, contact the Wage & Hour Division below or an attorney.

*For additional information*

Michigan Department of Licensing and Regulatory  
Affairs Wage & Hour Division, 7150 Harris Drive,  
Box 30476, Lansing, MI 48909-7976.

### **II. MINIMUM WAGE LAW**

MCL 408.381 & 2006 Amendment

#### **Who must comply**

- Any farmer employing two or more employees 16 years of age or older at any one time during the calendar year. The Michigan Minimum Wage Law is broader than the federal law and requires compliance by some employers not required to comply with the federal minimum wage law.
- The Michigan minimum wage law applies to any employer who is subject to the federal minimum wage provisions since application of the federal minimum wage provisions would result in a lower minimum wage than Michigan law.

#### **What the employer must do**

- You must pay at least \$7.40 per hour (supersedes Federal Wage Law) to all hourly employees age 18 and over. Workers under 18 must be paid at least \$7.25 when covered by federal law with some exceptions.

- Agricultural employees are exempt from Michigan overtime provisions. Employers covered by federal law must pay overtime if any non-ag work is done in a work week.
- You must post a copy of the law and rules. Postings are available online from the Department of Licensing and Regulatory Affairs page at [www.michigan.gov/lara](http://www.michigan.gov/lara) website under Wage Hour Division and then Posting Requirements, or by calling the Department of Licensing and Regulatory Affairs Wage and Hour Division at (517) 322-1825.
- You may recover overpayment of wages caused by miscalculation or typographical error in certain circumstances if you follow the procedure detailed in MCL 408.477. The law prohibits making such a deduction of an amount greater than 15 percent of the gross wages earned in the pay period in which the deduction is made.

### What the employee may do

- If you believe your employer must comply with this law but is failing to do so, contact the agency listed below or a labor attorney.
- You should keep your own records of the hours you worked and the number of pieces you picked in each pay period.

#### *For additional information*

Michigan Department of Licensing and Regulatory Affairs Wage & Hour Division  
 7150 Harris Drive, Box 30476  
 Lansing, MI 48909-7976  
 Tel.: (517)322-1825  
[www.michigan.gov/lara/](http://www.michigan.gov/lara/) (Click on Agencies, then Wage Hour Division)

## MICHIGAN NEW HIRE REPORTING

42 U.S.C. § 654b (part of the Federal Welfare Reform Act)

### Who must comply

- All employers.

### What the employer must do

- For every newly hired or rehired (more than 90 days) employee, you must submit a report that contains the following information within 20 days or sooner for large operations:
  1. Employee full name.
  2. Employee address.
  3. Employee Social Security number.
  4. Date of hire.
  5. Employer name.
  6. Employer payroll address.
  7. Employer FEIN (Federal Employer Identification Number).
- New hire reporting may be done online, by e-mail, printed list, new hire reporting form or W-4 form.

### What the worker must do

- Provide your employer with the required information.

#### *For additional information*

Michigan New Hires Operation Center  
 P.O. Box 85010 Lansing, MI 48908-5010  
 Tel.: 1-800-524-9846 Fax.: 1-877-318-1659  
<http://mi-newhire.com/MI-Newhire/>

## FEDERAL AND MICHIGAN LAWS ON YOUTH EMPLOYMENT

Many laws protect children in employment. These are discussed below using the categories of age, school, wage and safety.

### Laws pertaining to age

- Subject to limited exceptions, you must not employ children under 12 unless they are your own children and they work outside of school hours in a nonhazardous occupation.

- You must not employ 12- or 13-year-olds unless you obtain their parents' written consent or their parents are employed on your farm and they work outside of school hours in a non-hazardous occupation.
- Fourteen- and 15-year-olds may work outside of school hours in any agricultural occupation not declared hazardous.

### **Laws pertaining to school**

- Youths under 16 may not be employed during school hours unless employed by their parent or a person standing in place of their parent.
- School hours are defined by the official calendar of the public school district in which the youth is living while employed in agriculture. For young migrant workers, this means they may not work during the school hours in the public school district where their migrant housing site is located.

### **Laws pertaining to wage**

- Generally, youth workers 16 and over on farms with two or more employees must be paid at least the Michigan minimum wage (see “Michigan Wage Law”).
- Employers may not discriminate on the basis of age in any employment-related decisions, including hiring and compensation. (See Michigan Civil Rights Law discussion on page 12.)
- Subject to some conditions, certain youth under age 20 may be paid a “youth opportunity wage” of \$4.25 per hour for the first 90 days of employment. Contact the U.S. Department of Labor for more information (address is under “Federal Wage Law”).
- Various minimum wage exceptions may apply to workers with disabilities, full-time students and student learners. For an overview, see [www.youthrules.dol.gov/index.htm](http://www.youthrules.dol.gov/index.htm). A certificate from the Department of Labor is required before applying any of these exceptions.

### **Laws pertaining to safety**

- Federal law includes standards for youths employed on farms. Youths under 16 can perform all tasks except those deemed hazardous by the U.S. Department of Labor.
- Hazardous occupations currently include operating tractors over 20 PTO horsepower; operating or assisting to operate any of the following machines — corn picker, cotton 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 nongravity-type self-unloading wagon or trailer, power posthole digger, power post driver, non-walking-type rotary tiller, trencher or earthmoving equipment, forklift, potato combine, or power-driven circular, band or chainsaw; working on a farm in a yard, pen, or stall occupied by a bull, boar, stud horse, sow with suckling pigs, or cow with newborn calf (with umbilical cord present), using dynamite; working on ladders over 20 feet in the air; and handling chemicals. Some of the hazardous occupations can be performed by youths 14 and over if they undergo a certification process by the local MSU Extension Service or the agriculture science department in the local school. A complete list of the hazardous occupations and certification procedures is available from the U.S. Department of Labor (address is under “Federal Wage Law”), and at the U.S. DOL website [www.dol.gov/dol/topic/youthlabor/hazardousjobs.htm](http://www.dol.gov/dol/topic/youthlabor/hazardousjobs.htm).

## **FEDERAL MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT**

29 U.S.C. §§ 1800 et seq.; 29 C.F.R. Part 500

### **Who must comply**

- All farm labor contractors and agricultural employers and processors who use the services of farm labor contractors.



- Other agricultural employers and agricultural associations, if not exempted under the family business, small business or other exemption. Details at [www.dol.gov/compliance/laws/comp-msawpa.htm](http://www.dol.gov/compliance/laws/comp-msawpa.htm).
- Providers of migrant agricultural worker housing, unless the provider regularly provides housing on a commercial basis to the general public and provides housing to migrant agricultural workers of the same character and on the same or comparable terms and conditions that housing is provided to the general public.

### What the employer must do

- You must disclose in writing to each migrant worker at the time of recruitment (or to each seasonal worker upon request) the terms and conditions of the job. The disclosures must be written in a language the worker understands. You may use Form WH-516, available at [www.dol.gov/whd/forms/wh516.pdf](http://www.dol.gov/whd/forms/wh516.pdf). Provisions of the law can be found at: [www.dol.gov/compliance/guide/mspa.htm#who](http://www.dol.gov/compliance/guide/mspa.htm#who).
- You must post the MSAWPA and federal OSHA posters, available at [www.dol.gov/compliance/guide/mspa.htm#who](http://www.dol.gov/compliance/guide/mspa.htm#who).
- If you are using the services of a farm labor contractor, you must first verify the registration status of the farm labor contractor. This process includes determining that the contractor is properly authorized for all activities he or she will undertake including housing and transportation. To verify registration status, call 1-866-4USWAGE or visit [www.dol.gov/WHD/regs/statutes/FLCList.htm](http://www.dol.gov/WHD/regs/statutes/FLCList.htm).
- As required under the minimum wage laws, you must keep records for each worker and provide all workers with itemized statements each pay period (detailed above in “Federal Wage Law”). Employers covered by MSAWPA are required to put more information on the statement than other employers. Not all software companies have proper statements.

- Each person employing agricultural workers must pay all wages owed when due.
- Workers may not be required to purchase goods or services solely from a farm labor contractor, employer, agricultural association or anyone working as an agent for such a person or entity.
- Each person who owns or controls migrant housing must ensure that the facility complies with the federal and state safety and health standards covering that housing and a “certificate of housing inspection” has been obtained. This requirement applies regardless of whether such person who owns or controls the housing is an employer of migrant workers.
- Persons who own, control or provide migrant housing must post or present to each occupant a statement of the terms and conditions of occupancy.
- Vehicles used to transport migrant or seasonal agricultural workers must be properly insured and operated by a properly licensed driver. Vehicles must meet federal and state safety standards.

### What the worker may do

- If your employer has failed to comply with the law, you may make a complaint to the Department of Labor Wage and Hour Division (address is under “Federal Wage Law”), or contact a lawyer.

#### *For additional information*

Information under “Federal Wage Law” and [www.dol.gov/compliance/guide/mspa.htm](http://www.dol.gov/compliance/guide/mspa.htm).

## FEDERAL FAMILY AND MEDICAL LEAVE ACT (FMLA)

29 U.S.C. §§ 2601 et seq.

### Who must comply

- Employers with 50 or more employees for each working day during each of 20 or more calendar

workweeks in the current or preceding calendar year.

### **What the employer must do**

- Covered employers must grant eligible employees up to a total of 12 workweeks of unpaid leave during any 12-month period for one or more of the following reasons:
  1. For the birth and care of the newborn child of the employee.
  2. For placement with the employee of a son or daughter for adoption or foster care.
  3. To care for an immediate family member (spouse, child or parent) with a serious health condition.
  4. To take medical leave when the employee is unable to work because of a serious health condition.

### **What the worker must do**

- Eligible employees must comply with the FMLA's notice and certification requirements.

#### *For additional information*

Information available at

<http://www.dol.gov/dol/topic/benefits-leave/fmla.htm>

(USDOL contact information is under “Federal Wage Law”.)

## **MICHIGAN OCCUPATIONAL SAFETY AND HEALTH ACT (MIOSHA)**

Michigan Occupational Safety and Health Act at MCL 408.1001 et seq.; Part 1928.21 — Applicability of Standards in 29 C.F.R.; Part 1910, Part 37 — Accident Prevention Signs & Tags; Part 42/92 or 430 — Right to Know/Hazard Communication/Retention of DOT Markings, Placards & Labels; Part 51 — Agricultural Tractors; Part 51 — Logging; Part 53 — Farm Field Equipment; Part 78 — Storage & Handling of Anhydrous Ammonia; Parts 302-313 — Related to

certain hazardous materials; Part 432 — Hazardous Waste Operations and Emergency Response; Part 470 — Medical Records and Trade Secrets; Part 500 — Agricultural Field Sanitation; Part 501 — Agricultural Operations; Part 511 — Temporary Labor Camps; Part 523 — Abrasive Blasting; Part 591 — Management of Highly Hazardous Chemicals; Part 700 — Agriculture, and the “General Duty Clause” at 29 USC § 654

### **Who must comply**

- All employers.

### **What the employer must do**

- You must maintain a safe and healthy work environment for all workers.
- You must display the MIOSHA poster. Remember, many employers must also post the federal OSHA poster.
- You must report all fatalities and any hospitalization of three or more employees resulting from the same accident or health hazard to MIOSHA within 8 hours.
- Employers with 11 or more employees must keep a log of occupational injuries and illnesses and post a summary of them annually. You may use MIOSHA Form #300A. Employers with 10 or fewer employees during all of the previous calendar year may be requested, in writing, to keep these records.
- Important standards include but are not limited to the following:
  1. SMV (slow-moving vehicle) signs.
  2. Anhydrous ammonia equipment.
  3. Pulpwood logging.
  4. Labor camps (see “Michigan Agricultural Labor Housing Law” below for details).
  5. Roll-over protection and tractor safety.
  6. Machinery guarding.
  7. Field sanitation (see “Field Sanitation Rules” below for details).

8. Employees' right to know about toxic chemicals and hazardous substances and their handling (see "Worker Protection Standard" below for pesticides).
  9. Occupational air contaminants and physical agents.
- Remember, agricultural operations doing non-agricultural work, such as hauling, storage and processing, will need to follow the general industry health and safety standards as applicable.
  - In addition to following the specific health and safety standards, employers have a general duty to furnish a place of employment that is free from recognized hazards that cause or are likely to cause death or serious physical harm.

### **What the worker must do**

- You must follow all safety and health instructions provided by the employer and properly use all safety and health equipment provided.
- If you observe a safety or health hazard, you should report it to your employer. If you anticipate that reporting hazards to the employer will make him or her angry, or if nothing is done to correct a reported hazard, you may submit a written complaint to MIOSHA. You can indicate on the complaint form that you wish to remain anonymous. You may also call MIOSHA with complaints.

#### *For additional information*

Michigan Department of Licensing and Regulatory Affairs (LARA) — Michigan Occupational Safety & Health Administration (MIOSHA)  
7150 Harris Drive  
P.O. Box 30643 Lansing, MI 48909-8143  
Tel.: (517)322-1831  
Toll-free line for complaints: 1-800-866-4674  
Toll-free line for employers reporting accidents:  
1-800-858-0397

## **FIELD SANITATION RULES**

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Federal regulations at 29 C.F.R. 1928.110 et seq. Michigan field sanitation law incorporates and expands the federal regulations and is part of the Michigan Occupational Safety and Health Act at MCL 408.1014n, Part 500

### **Who must comply**

- Farmers who have one or more employees doing hand labor in the field for more than 3 hours per day.

### **What the employer must do**

- Where fewer than 11 workers are employed, you must provide potable water and access to toilet and hand-washing facilities in locations readily accessible to all employees.
- Where 11 or more workers are employed on any day within the past 12 months (including your family members), you must provide toilets, hand-washing facilities and cooled drinking water, in a fountain or with single-use cups, within 1/4 mile of where the workers are working.
- Where there are 11 or more employees, you must notify each worker of the location of the toilet and hand-washing facilities and drinking water and allow each worker reasonable opportunities during the workday to use them. You must also inform employees of good hygiene practices.

### **What the worker may do**

- If toilets, hand-washing facilities and drinking water are not provided as per the rules above, you may call MIOSHA at 1-800-866-4674 to make a complaint.

#### *For additional information*

Address is under "Michigan Occupational Safety and Health Act (MIOSHA)" section.



## MICHIGAN AGRICULTURAL LABOR HOUSING LAW

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Michigan Public Health Code, MCL 333.12401-12434

### Who must comply

- Anyone providing housing for five or more migratory agricultural laborers.

### What the employer must do

- Your camp must be licensed by the Michigan Department of Agriculture & Rural Development (MDARD). Before the license can be issued, the camp must meet MDA standards. (Camps with fewer than 5 workers must be in compliance with MIOSHA Temporary Labor Camp standards Part 523 and/or federal OSHA or ETA standards)
- You must post a copy of the license.
- You must provide camp occupants with a clear explanation of their responsibilities for camp occupancy and care.
- You or your representative must inspect the camp at least once a week to see that it is maintained in a clean and orderly condition and that broken or damaged property is promptly repaired.
- Effective June 16, 2005, the operation of a migrant labor housing site without a license is subject to a fine penalty. The Michigan Department of Agriculture has the authority to impose fines of up to \$1,000 per day (up to a maximum of \$10,000) for operating an agricultural labor camp without a license.

### What the worker must do

- You must maintain the housing in a clean and orderly condition and report needed repairs to the housing provider. A person who willfully damages or destroys any part of a camp may be guilty of a misdemeanor.

### *For additional information*

Michigan Department of Agriculture & Rural Development, Environmental Stewardship Division

P.O. Box 300017 Lansing, MI 48909

Tel.: (517) 241-4063

[www.michigan.gov/mdard](http://www.michigan.gov/mdard) under Licensing, Certification & Registration tab.

## FEDERAL WORKER PROTECTION STANDARD (WPS)

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Worker Protection Standard, 40 C.F.R., Part 170

### Who must comply

- Any farmer who uses pesticides to produce or maintain agricultural plants.

### What the employer must do

- Follow all restricted-entry interval (REI) requirements listed on the pesticide container label and notify workers about treated areas.
- Post relevant pesticide application information in a central location and tell workers and handlers where the location is.
- Provide approved decontamination sites and supplies.
- Provide workers with personal protective equipment when required.
- Provide WPS training to all workers and handlers every 5 years. Training must be done by a certified pesticide applicator or by someone who has completed an official WPS train-the-trainer program.
- Keep the required records and maintain them for 2 years (USDA standard).

### What the worker/handler must do

- Stay out of treated areas as per REI requirements.
- Wear personal protective equipment when required.

*For additional information*

Michigan Department of Agriculture &  
Rural Development, Pesticide and Plant Pest  
Management Division

P.O. Box 30017 Lansing, MI 48909

Tel.: (517) 373-4087

[www.michigan.gov/mdard](http://www.michigan.gov/mdard)

[www.epa.gov/oecaagct/twor.html](http://www.epa.gov/oecaagct/twor.html)

Or contact your local MSU Extension office.

## TAXES OVERVIEW

### I. FEDERAL INCOME TAX LAW

#### Who must comply

- All employers.

#### What the employer must do

- Withhold federal income tax on any worker's wages subject to Social Security tax (FICA). See IRS Publication 15 — Circular E, Employer's Tax Guide; IRS Publication 51 — Circular A, Agricultural Employer's Tax Guide; and IRS Publication 225, Farmer's Tax Guide, for details. All are available at [www.irs.gov](http://www.irs.gov).
- Provide each worker with form W-2 at the close of the tax year showing wages paid and taxes withheld. A worker may request a W-2 at the time of termination.
- Provide Form 1099 to all bona fide independent contractors.

#### What the worker must do

- Complete and submit to your employer form W-4 at time of hire. If the worker does not complete and submit form W-4, the employer should withhold taxes as if employee were single with zero withholding allowances.
- Non-resident alien withholding is subject to the special rules outlined on form W-4.

*For additional information*

Contact your local IRS office, [www.irs.gov](http://www.irs.gov), or IRS prerecorded TeleTax Topics at 1-800-829-4477.

### II. MICHIGAN INCOME TAX LAW

#### Who Must Comply

- Every employer in this state who is required to withhold federal income tax under the Internal Revenue Code must be registered for and withhold Michigan income tax. Agricultural employers are not exempted. Employers must obtain form MI-W4 from the worker or follow state withholding rules. See PA 281, Michigan Withholding Exemption Certificate (MI-W4), for details. Available at (517) 636-6925 or <http://michigan.gov/taxes>.

*For additional information*

Michigan Department of Treasury

Lansing, MI 48922

Tel.: (517) 636-6925

<http://michigan.gov/taxes>

### III. FEDERAL SOCIAL SECURITY AND MEDICARE LAW

#### Who must comply

- Any farmer employing labor, including an employed spouse but excluding the employer's children under 18. The wages for the services of a child are subject to income tax withholding and Social Security and Medicare taxes if the child works for a corporation (even if it is controlled by the child's parent), a partnership (even if the child's parent is a partner, unless each partner is a parent of the child) or an estate (even if it is the estate of a deceased parent).

#### What the employer must do

- Withhold Social Security and Medicare tax (FICA) on all qualified employees. Qualified employees include those that are U.S. citizens, permanent residents or temporary resident aliens, and an employer's children if they are over 18 or employed by one of the entities described above.

### **What the worker must do**

- To obtain a Social Security card or to collect retirement, disability or death benefits, you must contact a local Social Security office. You will need to bring documents showing that you are eligible to obtain a number or benefits.

#### *For additional information*

General information for workers and employers is available on the Social Security website at [www.ssa.gov/](http://www.ssa.gov/).

For the employer, essential information about income tax and FICA withholding rules and procedure is summarized in IRS Publication 15 — Circular E, Employer’s Tax Guide, available at [www.irs.gov](http://www.irs.gov), and IRS Publication 51 — Circular A, Agricultural Employer’s Tax Guide, available at [www.irs.gov](http://www.irs.gov). Additional information is available on the employer Web site of the Social Security administration at [www.ssa.gov/employer/](http://www.ssa.gov/employer/).

For the worker, an online office locator and more information about Social Security eligibility is available from the Social Security Administration at [www.ssa.gov/](http://www.ssa.gov/) and in Spanish at [www.ssa.gov/espanol/](http://www.ssa.gov/espanol/) or by calling 1-800-772-1213.

## **IV. MICHIGAN UNEMPLOYMENT INSURANCE LAW**

Michigan Employment Security Act, MCL 421.1

### **Who must comply**

- Any farmer employing 10 or more workers in each of 20 weeks during the current or preceding calendar year, or having a cash payroll of \$20,000 or more in any calendar quarter of the current or preceding calendar year. For non-farm enterprises (such as packing other farmers’ produce), you must comply when the total annual payroll for that enterprise reaches \$1,000.

### **What the employer must do**

- You must provide unemployment insurance coverage for your employees. The Michigan Unemployment Insurance Agency (UIA) is the carrier. It is your responsibility to determine and report eligibility.
- You must submit to the state quarterly a Quarterly Wage Detail Report (UC 1017). This form can be submitted electronically at [www.michigan.gov/uia](http://www.michigan.gov/uia).
- You must post the UIA Unemployment Claim (UC) poster. The poster is available as a free download at [www.michigan.gov/documents/uia\\_UC1710\\_76109\\_7.pdf](http://www.michigan.gov/documents/uia_UC1710_76109_7.pdf).
- Seasonal employers may apply to the UIA for a “seasonal employer” designation, which may limit off-season claims if the employer complies with all posting and notice requirements.

### **What the worker must do**

- To obtain unemployment benefits after being laid off, you may apply by telephone (1-866-500-0017) or online at [www.michigan.gov/uia](http://www.michigan.gov/uia).
- Workers who work for designated seasonal employers may lose eligibility for some unemployment benefits. However, workers who have been employed by designated seasonal employers should still apply for unemployment benefits. They might be eligible for some benefits. Also, an employer must follow all of the rules of the seasonal employer program to claim the designation. If the employer has not followed all of the rules or does not rehire the worker the following season, the worker might be entitled to benefits.
- Some applicants may be able to file for benefits via the internet at [www.michigan.gov/uia](http://www.michigan.gov/uia).

#### *For additional information*

Employers may call UIA Office of Employer Ombudsman at 1-855-484-2636 for more information. Employees may call UIA claims line at 1-866-500-0017. More information is also available at [www.michigan.gov/uia](http://www.michigan.gov/uia).

## **MICHIGAN WORKERS’ DISABILITY COMPENSATION LAW**

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Workers’ Disability Compensation Act, MCL 418.101 et seq.

### **Who must comply**

- All agricultural employers of three or more regular employees paid hourly wages or salaries and not paid on a piecework basis, who were employed 35 or more hours per week by that same employer for 13 or more consecutive weeks during the preceding 52 weeks. Coverage shall apply only to such regularly employed employees.
- All agricultural employers of one or more employees who are employed 35 or more hours per week by that same employer for 5 or more consecutive weeks shall provide for such employees medical and hospital coverage for all personal injuries arising out of and in the course of employment suffered by such employees not otherwise covered by the act.

NOTE: Such employees have the right to sue for recovery of lost wages.

- Workers’ compensation is an exclusive remedy. A farmer may voluntarily choose to purchase workers’ compensation insurance even if the farmer is not required to do so by law. Doing so may preclude other liability for personal injury. An employer that does not insure may be liable for personal injuries sustained at work by employees. Such employees have the right to sue for recovery of lost wages, medical and hospital coverage and other damages.

### **What the employer must do**

- You must provide workers’ disability compensation insurance for all regular employees who come under the law.
- You may buy a policy that provides full coverage to all workers.

### **What the worker must do**

- You must report any work-related injury or illness to the employer or your supervisor at the time it happens, if possible.
- If the employer does not have workers’ compensation insurance coverage, report the injury or illness to the Workers’ Compensation Agency to determine eligibility for benefits.

*For additional information*

Workers’ Compensation Agency  
P.O. Box 30016 Lansing, MI 48909  
Tel.: 1-888-396-5041  
E-mail: [wcinfo@michigan.gov](mailto:wcinfo@michigan.gov)  
<http://michigan.gov/wca>

## **MICHIGAN CIVIL RIGHTS LAW**

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Elliott-Larsen Civil Rights Act, MCL 37.2101 et seq.

### **Who must comply**

- All employers.

### **What the employer must do**

- You must not discriminate against any individual because of religion, race, color, national origin, age, sex, height, weight or marital status in any employment-related decisions, such as advertising, recruiting, hiring, compensating, training or discharging.
- You must not discriminate against handicapped persons unless their handicap makes it impossible for the person to perform the job. (See ADA discussion below for federal law covering employees with disabilities.)
- Post Discrimination Prohibited poster (Michigan-specific).
- Post EEO poster (federal).

### **What the employer may do**

- You may advertise, recruit, hire, compensate, etc., on the basis of the requirements of the job and the ability of an individual to perform those requirements.

### **What the worker may do**

- If you feel you have been unlawfully discriminated against, you may file a complaint with the Michigan Department of Civil Rights or the U.S. Equal Employment Opportunity Commission (EEOC). Contact info for EEOC is listed under ADA section on page 13.

Michigan Department of Civil Rights Capitol Tower Building  
Suite 800 Lansing, MI 48933  
Tel.: 1-800-482-3604

Or

Detroit Executive Office  
Cadillac Place  
3054 West Grand Boulevard, Suite 3-600  
Detroit, MI 48202  
Phone: (313) 456-3700  
Fax: (313) 456-3791

[www.michigan.gov/mdcr/](http://www.michigan.gov/mdcr/)

Federal EEO poster available at  
Equal Employment Opportunity Office of Federal Contract Compliance Programs  
U.S. Department of Labor Employment Standards Administration  
200 Constitution Avenue  
N.W. Washington, DC 20210

## **FEDERAL AMERICANS WITH DISABILITIES ACT (ADA)**

Americans with Disabilities Act of 1990, pertinent parts codified at 42 U.S.C. §§ 12111 et seq.

### **Who must comply**

- Employers with 15 or more employees.

### **What the employer must do**

- You must not discriminate against qualified individuals with disabilities in any employment-related decisions, such as selecting, hiring, promoting or providing benefits.
- Upon request, you must make reasonable accommodations to enable disabled employees to perform their job tasks unless that accommodation poses an undue hardship on the company.
- Post ADA poster.

### **What the employer may do**

- You are allowed to hire the most qualified applicant for a specific job.
- You may require that all applicants be able to perform the essential functions of the job with or without reasonable accommodations.
- You may require an applicant to take a medical examination after a job offer is made and before the applicant begins work, so long as all employees in the job category are required to take the same examination and the medical information obtained remains confidential.

### **What the worker may do**

- If you feel you have been discriminated against, contact the source below.

*For additional information*

Equal Employment Opportunity Commission (EEOC)  
Room 865 477 Michigan Ave.  
Detroit, MI 48226-9704  
Tel.: (800) 669-4000

ADA poster available at  
U.S. Equal Employment Opportunity Commission  
P.O. Box 12549  
Cincinnati, OH 45212-0549



## FEDERAL IMMIGRATION REFORM AND CONTROL ACT (IRCA)

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Immigration Reform and Control Act (IRCA) of 1986, Pub. L. 99-603, pertinent parts codified at 8 U.S.C. § 1324a-1324b

### Who must comply

- All employers.

### What the employer must do

- You must employ only U.S. citizens or aliens authorized to work in the United States.
- You must examine documentation presented by new employees, record information on the verification form (USCIS Form I-9). Sign the form and have all new employees complete and sign it. Do not have the I-9 form filled out before the decision to hire. You must retain the I-9 forms for 3 years or for 1 year past the end of employment of the individual, whichever is longer.

### What the worker must do

- You must complete Section 1 and present documentation after employment is offered that verifies your identity and eligibility to work. Lists of acceptable documentation are included with the instructions for the I-9 form.

- If you feel that you have been discriminated against in the hiring process based on your citizenship or national origin, or you have been asked to provide specific documents showing your identity and work authorization that you cannot provide, call the OSC Worker Hotline, toll-free below.

### *For additional information*

U.S. Department of Homeland Security  
Citizenship and Immigration Services National  
Customer Service Center

<http://www.uscis.gov/portal/site/uscis>  
or 1-800-375-5283

Information on the I-9 form and the form itself are available at <http://uscis.gov> (Look for “I-9 Central” link) Questions may be directed to the Office of Business Liaison, 1-800-375-5283.

Information on the misuse of I-9 forms is available at:

U.S. Department of Justice Civil Rights  
Division Office of Special Counsel for  
Immigration-Related Unfair Employment  
Practices (OSC)

950 Pennsylvania Avenue,  
N.W. Washington, DC 20530

Tel.: (202) 616-5594

Fax.: (202) 616-5509

Worker Hotline: 1-800-255-7688

Employer Hotline: 1-800-255-8155

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