

## Workers' compensation insurance coverage and liability: Farmer-employer exception

This document contains general information. It is not legal advice. Every situation is different and other laws might apply to your situation. If you have any questions, contact an attorney, visit the Department of Labor and Industry website at [www.dli.mn.gov/WorkComp.asp](http://www.dli.mn.gov/WorkComp.asp) or call the Workers' Compensation Hotline at 1-800-342-5354 and press 3.

Employers are required under Minnesota law to provide workers' compensation coverage for their employees.<sup>1</sup> However, there are certain employments that are exempt from this requirement.

### A farmer-employer is not required to carry workers' compensation insurance on the following:

1. a person employed by a "family farm" as defined by the law;<sup>2</sup>
2. any spouse, parent or child, regardless of age, of a farmer-employer who is working for the farmer-employer;<sup>3</sup>
3. a partner engaged in a farm operation and any spouse, parent or child regardless of age, of a partner in the farm operation;<sup>4</sup>
4. an executive officer of a "family farm corporation;"<sup>5</sup>
5. any spouse, parent or child, regardless of age, of an executive officer of a "family farm corporation" and employed by that family farm corporation;<sup>6</sup> or
6. another farmer or a member of the other farmer's family exchanging work with the farmer-employer or family farm corporation in the same community.<sup>7</sup>

### Definitions

A "**farmer-employer**" is an employer engaged in farming.

"**Farming**" is the production of: 1) agricultural products; 2) livestock or livestock products; 3) milk or milk products; and 4) fruit or other horticultural products. Raising horses and other equines is an agricultural production and an agricultural pursuit that specifically includes a horse breeding farm, a horse training farm, a horse boarding farm or a farm combining any of those purposes.<sup>8</sup> Farming does *not* include: 1) the processing, refining or packaging of these products; 2) the production of timber or forest products; 3) the production of poultry or poultry products; or 4) the feeding and caring for livestock that are delivered to a corporation for slaughter or processing for up to 20 days before slaughter or processing.<sup>9</sup>

"**Family farm**" means any farm operation that pays cash wages (not including machine hire) to "farm laborers" for services in the prior calendar year in an amount:

1. less than \$8,000; or
2. less than the statewide average annual wage if the farm operation carries total liability insurance coverage of \$300,000 and medical payment coverage of \$5,000 under a farm liability insurance policy that covers injuries to farm laborers.<sup>10</sup> A table showing the statewide average annual wage for purposes of this law is online at [www.dli.mn.gov/WC/Pdf/annladj.pdf](http://www.dli.mn.gov/WC/Pdf/annladj.pdf).

In determining the amount of cash wages paid on a family farm, “farm laborers” do not include the following:

- a) any farmer’s spouse, parent or child, regardless of age, who is employed by the farmer;
- b) any executive officer of a family farm corporation;
- c) any spouse, parent or child, regardless of age, of an executive officer of a family farm corporation;
- d) other farmers and their family members in the same community who exchange work with the farmer-employer; and
- e) an employee of a commercial baler or commercial thresher.<sup>11</sup>

“**Family farm corporation**” is a corporation created for the purpose of farming and the ownership of agricultural land in which the majority of the stock is held by stockholders who are persons or the spouses of persons related to each other within the third degree of kindred<sup>12</sup> and at least one of whom is residing on or actively operating the farm. None of the stockholders can be a corporation.<sup>13</sup> For example:

- the definition of “family farm corporation” *is not met* if two siblings, their two uncles and six persons unrelated to anyone else own stock in a farm corporation, because a majority of stockholders (six out of 10) are not related within the third degree of kindred; and
- the definition of “family farm corporation” *is met* (assuming the other parts of the definition are met) if the spouses of the siblings and their uncles are also stockholders, because a majority of stockholders (eight out of 14) are related within the third degree of kindred or are the spouses of persons related within the third degree of kindred.

### Insurance notes

A farmer-employer may choose to provide workers’ compensation insurance coverage to farm workers who would otherwise be excluded from coverage by one of the laws described above. If an farmer-employer buys a workers’ compensation insurance policy when the law does not require one, it is *assumed* the farmer-employer intended to cover farm workers. The assumption runs for the length of the policy coverage. If this coverage is not intended, the farmer-employer must state in writing that there is no intent to have those persons covered and the policy must specifically state the election.

However, it is *not assumed* the farmer-employer intended to cover spouses, parents or children of a farmer, a partner, an officer of a family farm corporation or other farmers in the community or their families exchanging work with the farmer-employer.<sup>14</sup>

### References and other information sheets

- Workers’ compensation insurance coverage – general information, available online at [www.dli.mn.gov/WC/Pdf/infosheet\\_coverage\\_general.pdf](http://www.dli.mn.gov/WC/Pdf/infosheet_coverage_general.pdf)
- Workers’ compensation insurance coverage – corporations and limited liability companies, available online at [www.dli.mn.gov/WC/Pdf/infosheet\\_coverage\\_corps\\_lics.pdf](http://www.dli.mn.gov/WC/Pdf/infosheet_coverage_corps_lics.pdf)
- Minnesota workers’ compensation *COMPACT* editions releasing the statewide average annual wage, available online at [www.dli.mn.gov/WC/Compact.asp](http://www.dli.mn.gov/WC/Compact.asp)
- Minnesota Statutes, Chapter 176, The Workers’ Compensation Act and related rules, available online at [www.revisor.mn.gov](http://www.revisor.mn.gov) or [www.dli.mn.gov/StatRule.asp](http://www.dli.mn.gov/StatRule.asp); paper copies available from Minnesota’s Bookstore at 660 Olive Street, St. Paul, MN 55155, (651) 297-3000, 1-800-657-3757 or [www.minnesotasbookstore.com](http://www.minnesotasbookstore.com).

### Relevant Minnesota Statutes

- Minnesota Statutes § 176.011, subd. 1b – Definition of annual weekly wage and average annual wage, available online at [www.revisor.mn.gov/statutes/?id=176.011](http://www.revisor.mn.gov/statutes/?id=176.011)
- Minnesota Statutes § 176.011, subd. 11a(a) – Definition of “family farm” (see above link)
- Minnesota Statutes § 176.011 subd. 11 a(b) – Who is not a “farm laborer” (see above link)

- Minnesota Statutes § 176.041, subd. 1(2-3), (5-6), (8) and (10) – Farming categories excluded from mandatory workers’ compensation coverage, available online at [www.revisor.mn.gov/statutes/?id=176.041](http://www.revisor.mn.gov/statutes/?id=176.041)
- Minnesota Statutes § 176.051, subd. 1 – Assumption of liability for farm and household workers by procuring a workers’ compensation insurance policy, available online at [www.revisor.mn.gov/statutes/?id=176.051](http://www.revisor.mn.gov/statutes/?id=176.051)
- Minnesota Statutes § 500.24, subd. 2 – Definition of “farming,” “family farm” and “family farm corporation,” available online at [www.revisor.mn.gov/statutes/?id=500.24](http://www.revisor.mn.gov/statutes/?id=500.24)
- Minnesota Statutes § 17.459 – Horse farming that qualifies as an agricultural operation, available online at [www.revisor.state.mn.us/statutes/?id=17.459](http://www.revisor.state.mn.us/statutes/?id=17.459)

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<sup>1</sup>Minnesota Statutes §§ 176.021 and 176.181

<sup>2</sup>Minnesota Statutes § 176.041, subd. 1(2)

<sup>3</sup>Minnesota Statutes § 176.041, subd. 1(3)

<sup>4</sup>Minnesota Statutes § 176.041, subd. 1(5)

<sup>5</sup>Minnesota Statutes § 176.041, subd. 1(6)

<sup>6</sup>Minnesota Statutes § 176.041, subd. 1(8)

<sup>7</sup>Minnesota Statutes § 176.041, subd. 1(10)

<sup>8</sup>Minnesota Statutes §§ 500.24, subd. 2(a) and 17.459

<sup>9</sup>Minnesota Statutes § 500.24, subd. 2(a)

<sup>10</sup>Minnesota Statutes § 176.011, subd. 11a(a)

<sup>11</sup>Minnesota Statutes § 176.011, subds. 11a(b) and 12

<sup>12</sup>Relatives within the “third degree of kindred” include the stockholder’s parent(s), child(ren), grandparent(s), great grandparent(s), brother(s), sister(s), aunt(s), uncles(s), niece(s), nephew(s), grandchild(ren) and great grandchild(ren). A chart showing people who are related within the third degree of kindred is online at [www.dli.mn.gov/WC/Pdf/infosheet\\_3rd\\_degree\\_kindred.pdf](http://www.dli.mn.gov/WC/Pdf/infosheet_3rd_degree_kindred.pdf). Note that the exclusions from coverage discussed in that chart do not apply to farmer-employers, but only to closely held corporations and limited liability companies.

<sup>13</sup>Minnesota Statutes § 500.24, subd. 2(c)

<sup>14</sup>Minnesota Statutes § 176.051, subd. 1