

Fact sheet – Agricultural workers

Definition of agriculture

Under Minnesota law, “agriculture” means farming in all its branches and includes: dairying; field production, cultivation, growing and harvesting of any agricultural or horticulture commodity; and the raising of livestock, bees, fur-bearing animals and poultry. Agriculture also includes cleaning, processing, preserving, loading and transporting to market or storage of farmers’ agricultural products as well as repair, maintenance and construction work that is connected to or incidental to agriculture operations.

Overtime for agricultural workers

Agricultural employees are entitled to overtime compensation under Minnesota law if they are paid by any means other than a “salary.” Hourly agricultural employees in Minnesota must be paid overtime at the rate of time and a half the employee’s regular rate of pay for all hours worked in excess of 48 hours in a workweek.

Agricultural employees are exempt from the overtime provisions of the federal Fair Labor Standards Act (FLSA). However, federal law does not supersede Minnesota’s requirement to pay overtime.

“Salary” is defined as a guaranteed predetermined wage for each workweek.

Agricultural workers are exempt from state law overtime requirements if they are paid a certain minimum salary.

Provision	Current law	New law
Large-employer salary	\$588.00 a week	\$661.50 a week on Aug. 1, 2015 \$698.25 a week on Aug. 1, 2016
Small-employer salary	\$477.75 a week	\$532.88 a week on Aug. 1, 2015 \$569.63 a week on Aug. 1, 2016
Inflation increase, starting Jan. 1, 2018		Forty-eight hours at the state minimum wage, plus 17 hours at one-and-one-half times the state minimum wage a week

Minimum wage for agricultural workers

All agricultural workers are entitled to either the federal minimum wage or the Minnesota minimum wage, whichever is higher.

Federal minimum wage

Agricultural employers are required to pay the federal minimum wage of \$7.25 an hour, unless they did not use more than 500 “man days” of agricultural labor in any calendar quarter of the preceding calendar-year or they did not gross at least \$500,000 in the past year.

In addition, the following agricultural employees are also exempt from federal minimum wage requirements:

- agricultural employees who are immediate family members of their employer;
- those principally engaged on the range in the production of livestock;
- local hand-harvest laborers who commute daily from their permanent residence, are paid on a piece-rate basis in traditionally piece-rated occupations and were engaged in agriculture less than 13 weeks during the preceding calendar-year; and
- non-local minors, 16 years of age or younger, who are hand-harvesters, paid on a piece-rate basis in traditionally piece-rated occupations, employed on the same farm as their parent and paid the same piece-rate as those older than 16.

Minnesota minimum wage

Agricultural workers are not exempt from the state minimum wage. If the employees are exempt from federal minimum wage, they are still required to be paid the Minnesota minimum wage as follows.

Provision	Current law	New law
Large-employer wage	\$8.00 an hour	\$9.00 an hour on Aug. 1, 2015 \$9.50 an hour on Aug. 1, 2016
Small-employer wage	\$6.50 an hour	\$7.25 an hour on Aug. 1, 2015 \$7.75 an hour on Aug. 1, 2016
Ninety-day training wage (younger than 20 years of age)	\$6.50 an hour	\$7.25 an hour on Aug. 1, 2015 \$7.75 an hour on Aug. 1, 2016
Youth wage (younger than 18 years of age)	\$6.50 an hour*	\$7.25 an hour on Aug. 1, 2015 \$7.75 an hour on Aug. 1, 2016
Inflation increase	No inflation increases	Inflation indexing begins Jan. 1, 2018

*This rate will not apply to minors who are federally covered.

Minors in agriculture

Minors ages 12 to 15 years old

- Minors as young as 12 years old may work in agriculture if they have parental or guardian consent.
- These minors are allowed to work more than eight hours in a day and more than 40 hours in a week only if they have parental or guardian consent.
- These minors may not work during school hours on school days without a child labor exemption permit issued by the state of Minnesota.

Minors ages 16 and 17 years old

- Minors age 16 and 17 years old are allowed to work in agriculture during school hours on school days. No permit is required.

Migrant workers in agriculture

At the time a migrant worker is recruited, an employer must provide a written statement in English and Spanish that shall include the following:

- the date when the statement was completed;
- the name and permanent address of the worker, employers or recruiter of the migrant worker;
- the date of the arrival of the migrant worker;
- the crops and the operation where the worker will be employed;

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- the wage rates, the payment terms and any deductions to be made from wages; and
- whether the housing will be provided.

Agricultural employers shall provide health insurance when they recruit migrant workers and employ five or more people during the period of employment, for any illness or injury incurred while employed.

Agricultural employers are required to pay migrant workers at least every two weeks, except upon termination, when the employer shall pay within three days. Migrant workers are also guaranteed a minimum of 70 hours pay for work in any two successive weeks.

Compliance with both federal and state laws is required for employers engaged in agriculture in the state of Minnesota.

For more information about Minnesota state law requirements, visit www.dli.mn.gov or call the Department of Labor and Industry's Labor Standards unit at (651) 284-5070.

For more information about federal law requirements, visit www.dol.gov/whd/regs/compliance/whdfs12.pdf.

Minnesota employment laws for all workers

Breaks

Minnesota law requires employers to provide time to use the restroom at least once for each four consecutive hours worked. State law also requires employers to give sufficient time to eat a meal once for every eight consecutive hours worked. If a break is less than 20 minutes in duration it must be counted as hours worked.

Child labor

Hazardous occupations

Minors are prohibited from working in hazardous occupations, including operating power-driven machinery, including motor vehicles. A detailed list of prohibited work for minors can be found in Minnesota Rules 5200.0910 and 5200.0920 – www.revisor.mn.gov/rules/?id=5200.0910 and www.revisor.mn.gov/rules/?id=5200.0920, respectively.

Proof of age

A minor's proof of age **must** be maintained as part of the payroll records. Acceptable proof is one of the following: a copy of a birth certificate; a copy of a driver's license or permit; an age certificate issued by the school; or an I-9 form.

Hours – minors younger than 16

Minors younger than 16 may not work:

- state law (all employers) – before 7 a.m. or after 9 p.m. with the exception of a newspaper carrier; and
- federal law (employers with annual sales or revenues of \$500,000 or more), during the school year – later than 7 p.m., more than three hours a day or more than 18 hours a week.

Hours – minors ages 16 and 17

Minors ages 16 and 17 may not work:

- later than 11 p.m. on evenings before school days or before 5 a.m. on school days. With written permission from a parent or guardian, these hours may be expanded to 11:30 p.m. and 4:30 a.m.

Parental leave

Minnesota law requires an employer to provide up to 12 weeks of unpaid parental leave to a mother or father upon the birth or adoption of a child if:

- 1) the company employs 21 or more employees at any one site;
- 2) the employee requesting leave has worked at least half time; and
- 3) the employee requesting the leave has been with the company for at least 12 consecutive months.

Final wages (non-migrant workers)

If an employee is terminated, discharged or fired, all wages and commissions owed at that time are due upon separation or within 24 hours of the employee's demand for the wages.

If an employee leaves employment voluntarily (quits), all wages and commissions owed at the time of separation are due on the next regularly scheduled payday. If the next payday following the employee's last day of work is within five days of the employee's last day of work, then the employer has until the pay period after that to issue all final wages. However, under no circumstances can the wages be paid any later than 20 days from the employee's last day of work

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