

# Labor Law and Management Tipsheets

## Wage and Hour Laws



The rules and regulations surrounding wages, overtime, and breaks vary from state to state, and often state law is not aligned with federal law. This guide is designed to help farmers ensure that they are adhering to applicable laws, but it is not a legal document and is not exhaustive.

### Minimum Wage:

Federal minimum wage is \$7.25 per hour. Massachusetts minimum wage is \$8 per hour. Generally speaking, when state and federal law don't agree, the law that is more protective of the worker applies, so the Massachusetts state minimum wage applies in this state.

### State Exemption for Agricultural Work:

- Massachusetts has an exemption for Agricultural and Farm work. If an employee is doing work that can be clearly classified as agricultural in nature (field work), it may be acceptable to pay them as little as \$1.60 per hour.
- This exemption does not apply to workers doing retail work or office work – only to workers engaged in strictly agricultural work.
- The exemption requires that the employer be exempt from the federal Fair Labor Standards Act (FLSA) and the Migrant and Seasonal Agricultural Workers Protection Act (MSPA). If your farm clocks fewer than 500 “man days” in every calendar quarter (Quarter One is January 1 through March 31st, and the rest follow from there) of the previous year, you may be exempt. A “man day” is any day where



an employee who is not in the immediate family of the farm owner reports for work for one hour or more. So if you have five employees working six days a week, that counts as 30 man days per week. Man days are counted per quarter, so it is not an annual average.

- There are some overlapping requirements that may continue to apply to employers that are exempt from FLSA and MSPA. For example, MSPA has regulations about on-farm housing which do not apply to exempt farms. However, OSHA (Occupational Safety and Health Administration) rules still apply to any farm that houses workers. So even an exemption from the particular rules in FLSA and MSPA may not mean that your farm is exempt from all related regulation.

### Overtime and breaks:

- The state definition of “working time” is any time that employees are required to be on site or on duty, regardless of whether you have assigned them a task or not. If they are on site at your request, you must pay them for that time.
- Massachusetts and federal law agree that any hourly workers working over 40 hours per week must be paid 1.5 times their regular hourly rate. Farms that are exempt from the FLSA /MSPA are not required to pay agricultural workers an overtime rate.
- State law requires that employees be given a half-hour break for every six hours they work, during which time they must be permitted to leave the work site and may not be required to do any work. This break may be unpaid.
- Most employers must allow for a day of rest after six consecutive days of work, which employees can voluntarily cede. This rest requirement does not apply to farms that are exempt from FLSA/ MSPA.

### Pay and Deductions

- State law has a requirement called “reporting



pay,” which requires that an employee must be paid for three hours of work at minimum wage if they are scheduled to work at least three hours, show up for work on time, and are not provided with the expected hours of work. This does not apply to farms that are exempt from FLSA/MSPA.

- Travel time between home and work is not paid, but if employees are required to travel during a work day or for work, that time must be paid.
- Pay period: Workers must be paid within 6 days of the end of a pay period. Hourly employees may be paid biweekly, but piecework employees must be paid weekly.
- If an employee is fired or laid off, they must be paid in full on their last day of work. If an employee quits, they must be paid in full (including earned vacation time) on the next regular payday.
- Deductions: Any deductions that are not required by law (such as taxes) or employee-authorized (such as health insurance), including deductions for uniforms, lodging, or meals, are complex. It is recommended that you visit the website of the Executive Office of Labor and Workforce Development for details on deductions.

## Record-Keeping, Payment, and Disclosures

- Employers are required to disclose employment conditions to workers covered under MSPA. “Migrant” workers must receive written disclosure in their native language at their time of recruitment, and “seasonal” workers must receive verbal disclosure at their time of hire.
- Massachusetts state law requires that employers keep payroll records for a minimum of two years. Farms that fall under the MSPA must keep payroll records for three years.
- Employers must tell employees within 10 days if something goes into their personnel file that may negatively affect future employment.
- Pay period: Workers must be paid within 6 days of the end of a pay period. Hourly employees may be paid biweekly, but piecework employees must be paid weekly.
- Employers must provide a pay slip with: employer’s name, employee’s name, date and number of hours worked, hourly rate of pay, and deduction amounts.

*The information on this sheet is based on a workshop series on Farm Labor, organized by CISA in 2010-2011. Speakers included Adam Prizio of Law For Food and representatives from the Office of the Massachusetts Attorney General, the US Department of Labor Wage and Hour Division, and the Massachusetts Department of Workforce Development.*

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