



Indiana

Human Resources LEGAL FACT SHEET

Disclaimer: This fact sheet summarizes state laws and regulations on a variety of human resource issues for dairy farms, including wages, paystubs, deductions, child labor, and more. It is not intended to provide legal advice. The fact sheet is simply an overview of select issues with a high-level explanation of key requirements for each one, with links to more information and resources throughout the document. This fact sheet does not include all legal requirements for dairies. It was created in May 2018, and while it will be periodically updated, it may not reflect the current state of the law on every topic covered. Dairies should also review the federal fact sheet because employers—depending on size—may be required to comply with some or all of the applicable federal laws and regulations as well. By using this fact sheet you understand that there is no attorney-client relationship between you and the attorneys who were involved in developing the fact sheet. This fact sheet should not be used as a substitute for competent legal advice from a licensed attorney.

ARE THERE INDIANA STATE LAWS PERTAINING TO DAIRY FARMS ABOUT:

HIRING

TOPIC	ANSWER	DETAILS
Notice of Payday/ Pay Rate	NO	Not required under Indiana law.
Reporting	YES	<u>New hires</u> and rehires must be reported to the Indiana New Hire Reporting Center within 20 days.

WAGES

TOPIC	ANSWER	DETAILS
Payday ¹	NO	Agricultural labor is exempt from state payday law.
Final Pay ²	NO	Agricultural labor is exempt from state final pay law. It is recommended that employers pay former employees on the next regular payday following the employee's employment separation.
Overtime ³	NO	Agricultural labor is exempt from state minimum wage; federal rules may apply. Employers are encouraged to review the federal fact sheet.
Minimum Wage ⁴	NO	Agricultural labor is exempt from state minimum wage; federal rules may apply. Employers are encouraged to review the federal fact sheet.
Hours Worked	NO	Indiana law does not explicitly address the definition of 'hours worked' for the purposes of calculating compensable time. Employers should follow federal laws summarized in the federal fact sheet.
Reporting Time Pay	NO	Indiana law does not require reporting time pay, i.e. an employee is only required to be paid for actual hours worked.
Pay Stub ⁵	NO	Agricultural labor is exempt from state pay stub law; federal rules may apply. Employers are encouraged to review the federal fact sheet.

This fact sheet contains embedded hyperlinks. If you are viewing a printed copy, please refer to the FARM website at www.nationaldairyfarm.com for the online version to access the links.



WAGES

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TOPIC	ANSWER	DETAILS
Taxes and Withholding ⁶	YES	<p>Employers are required to withhold Indiana income tax if they are also required to withhold federal income tax. You must give your employees a statement of taxes withheld, like a federal Form W-2, 1099-MISC or 1099-R.</p> <p>Employers must pay Indiana Unemployment Insurance taxes if:</p> <ul style="list-style-type: none"> You paid cash wages to farm workers of \$20,000 or more in a quarter in the current or preceding calendar year; OR, You employed ten or more farm workers for some part of a day in 20 or more weeks of the current or preceding calendar year. <p>Certain family employment is excluded from coverage requirements (a parent employed by their son/daughter, a person employed by their spouse, or a child under 21 employed by a parent). Unemployment taxes are paid by the employer; they are not taken out of employee pay. You can credit the amount you pay to Indiana in calculating how much you owe for federal unemployment taxes.</p> <p>More information.</p>
Deductions ⁷	YES	<p>Deductions required by law or courts (for ex. tax withholdings) do not require written authorization from the employee. All other deductions (called assignments in Indiana) can only be made where there is a written agreement signed by the employee that is agreed to in writing by the employer. That written agreement must be revocable at any time by the employee upon written notice to the employer. For the deduction to be valid, the employee must give the employer a signed copy of the deduction consent within 10 days of signing it.</p> <p><u>Deductions that are allowed include:</u></p> <ul style="list-style-type: none"> premiums on an insurance policy obtained for the employee by the employer; contributions to a charitable organization; purchasing shares of stock of the employing company; labor union dues; purchase price of merchandise, goods, or food sold by the employer to the employee for the employee's benefit, use or consumption; amount of loan made to the employee by the employer (must have written agreement, and amount cannot exceed 25% of employee's disposable income for that week, OR, the amount by which the employee's wages are above 30x the current federal minimum weekly wage, whichever is smaller); contributions of the employee to a hospital service or medical expense plan; payment to an employee's direct deposit account; payment to any credit union, nonprofit organization, or association of employees organized by the employer; insurance or annuities purchased by the employee on the employee's life; purchase price of shares or fractional interests in mutual funds; judgement owed by an employee if certain conditions are met; reimbursement for education or employee skills training; an advance; or purchase of uniforms/equipment (cannot exceed either \$2,500 per year or 5% of the employee's weekly disposable wages, whichever is smaller). <p>Deductions that are not listed in the law are not allowed. The full list is available in Indiana Code §22-2-6-2.</p>
Bonuses ⁸	YES/NO	<p>Generally, discretionary bonuses would not be considered wages, while non-discretionary bonuses can be considered wages and may fall under Indiana wage laws.</p> <p>A non-discretionary bonus is one where the amount and criteria for getting the bonus are announced in advance. For example, performance goals (like meeting somatic cell count goals) that workers know about in advance. Discretionary bonuses are ones that are not announced in advance, not expected by the employee, and not an incentive for the employee. For example, when the farm reaches a certain financial goal and decides to give all employees a bonus.</p> <p>Employers should follow any written policy they have about paying bonuses as a best practice.</p>

RECORD KEEPING

TOPIC	ANSWER	DETAILS
Payroll ⁹	YES	<p>Employers must keep the following records for all employees:</p> <ul style="list-style-type: none"> • Name • Address • Occupation • Daily and Weekly Hours Worked • Wages Paid Each Pay Period <p>A wage investigation can be conducted because an employee filed an application to investigate issues like impermissible deductions of wages or payment of minimum wage. The IN Department of Labor may request access to the following business records:</p> <ul style="list-style-type: none"> • Contracts • Payroll records • Company policies and procedures • Court documentation and police reports if the employer alleges that employee theft is the cause of a wage discrepancy <p>The records must be provided within 10 business days of a written request.</p>
Personnel Files – Employee Access	NO	Indiana law does not require private employers to let employees view their personnel file.
Unemployment Insurance ¹⁰	YES	Employers subject to contributions must submit quarterly wage reports . More information for employers.
Workers’ Compensation ¹¹	YES	Employers must keep a record of all work-related injuries and fatalities. This will be made available to the Workers’ Compensation Board upon request.
OSHA ¹²	YES	The Indiana OSHA recordkeeping requirements is the same as the federal standard. See the federal fact sheet for details.
Federal	YES	There are numerous federal rules about recordkeeping. Employers should review the federal fact sheet.

WORKING CONDITIONS

TOPIC	ANSWER	DETAILS
Bathrooms ¹³	YES	Indiana has incorporated the federal Pasteurized Milk Ordinance (PMO). The PMO specifies that dairy farms have one or more toilets that are conveniently located, properly constructed, properly operated, and maintained in a sanitary manner.
Working Hours	NO	No max hour or day requirements for adults.
Rest and Meal Breaks	NO	Indiana law does not require rest or meal breaks for adults. Employers that choose to provide rest and meal breaks must follow the applicable federal rules. Refer to federal fact sheet. See Child Labor (below) for rules for minors.
Labor Relations	NO	Indiana law does not address farm workers’ right to collective bargaining.
Whistleblower Protection ¹⁴	YES/NO	Indiana whistleblower law for employees of private employers only applies to employers that are under public contract. However, topic-specific laws (like wage discrimination, wage laws, etc.) may protect employees that report unlawful practices. And specific employee disclosures (for example, OSHA-related violations) are protected from retaliation. Additionally, Indiana courts have ruled in favor of employees that were discharged in retaliation for refusing to commit an illegal act for which he/she would be personally liable.
Paid Sick and Vacation Leave	NO	Not required under Indiana law. Employers who choose to provide such benefits must follow their written policy/contract.



WORKING CONDITIONS

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TOPIC	ANSWER	DETAILS
Breaks for Nursing Mothers ¹⁵	YES	Employers with 25 employees or more must, to the extent reasonably possible provide a location, other than a toilet stall, for an employee to express breast milk in privacy during any period away from their assigned duties. The employer must also provide a refrigerator or other cold storage or allow the employee to provide her own cold storage device to store the expressed milk until the end of the employee's work day.
Pregnancy Accommodations	NO	No state law on providing workplace accommodations for pregnant employees, but there may be requirements under federal law. Employers should refer to the federal fact sheet. Generally, pregnancy disability must be treated the same way as other temporary disabilities.
Family, Parental and Pregnancy Leave	NO	Indiana doesn't have a pregnancy disability leave that applies to private sector employees but certain employers are covered by applicable federal law. Federal law requiring unpaid family or medical leave for may also apply depending on the size of the employer. Refer to federal fact sheet.
Crime Victim and Witness Leave ¹⁶	YES	Employers cannot retaliate against an employee for responding to a subpoena in a criminal proceeding. Interfering with witness service is a Class B misdemeanor.
Jury Duty Leave ¹⁷	YES	Employers may not discharge an employee, deprive employment benefits, or threaten to do so because the employee: (a) receives a summons; (b) serves as a juror; (c) attends court for prospective jury service; (d) responds to a subpoena in a criminal proceeding. Jury duty leave can be unpaid.
Voting Leave	NO	Indiana does not have a statutory voting leave law covering private employers.
Military Leave ¹⁸	YES	The Indiana Military Family Leave Act applies to employers with 50 or more employees for each working day during at least 20 calendar work weeks. It provides leave for family members of individuals on active duty. Details on how much leave must be provided and how it must be requested are <u>found in the text of the law</u> . Employers are also encouraged to refer to the federal fact sheet for additional rules around military leave. Employers must allow member(s) of the Indiana National Guard to attend any mandatory assembly/drill.
School Activity Leave	NO	Indiana law does not address leave for private sector employees to attend a child's school activity.

HUMAN RIGHTS

TOPIC	ANSWER	DETAILS
Employment Discrimination ¹⁹	YES	<p>Indiana law prohibits employment discrimination based on race, religion, color, sex, disability, national origin, ancestry, and veteran status. Applies to employers with 6 or more employees.</p> <p>Employment discrimination means bias in hiring (including during interviews), promotion, job assignments, firing, pay, and other terms of employment.</p> <p>It is illegal to retaliate against employees for filing or otherwise aiding with a complaint.</p>
Harassment/ Sexual Harassment ²⁰	YES	<p>Indiana law does not explicitly address sexual harassment, but it is typically considered a form of workplace discrimination based on sex. Sexual harassment is unwelcome conduct. It becomes illegal when (1) employees have no choice but to tolerate the harassment if they want to keep their job; (2) it is so severe that a regular person would see it as intimidating, hostile, or abusive.</p> <p>Sexual harassment includes unwelcome sexual advances, requests for sexual favors and verbal or physical conduct of a sexual nature when:</p> <ul style="list-style-type: none"> • <i>Engaging in such conduct is made an implicit or explicit term or condition of employment. Example: A newly hired milker is told that sexual jokes, touching and nude posters are just part of farm life and she should try to ignore it.</i> • <i>Acceptance or rejection of such conduct is used as the basis for an employment decision affecting an employee. Example: A manager tells a worker applying for a promotion that the job would be his if he just “treated her right.”</i> • <i>The conduct interferes with an employee’s work or creates an intimidating, hostile or offensive work environment. Example: One worker experiences repeated advances from another asking her for dates or “just to go out for drinks after work.” The worker says she isn’t interested, but the co-worker won’t take ‘no’ for an answer.</i> <p>It is illegal to retaliate against employees for filing or otherwise aiding with a complaint.</p>
Forced Labor ²¹	YES	<p>Human trafficking is illegal in Indiana. Trafficking for labor means: recruiting, harboring, transporting, provisioning, or obtaining of a person by any means for subjection to forced labor, forced services, debt bondage, or slavery. More details.</p> <p>Employers should ensure they are carefully following all visa requirements or work agreements to avoid any inadvertent violations.</p>

CHILD LABOR

TOPIC	ANSWER	DETAILS
Child Labor ²²	YES	<p>Indiana child labor laws below do not apply to minors employed by a parent or guardian.</p> <p>Minimum age:</p> <ul style="list-style-type: none"> • <i>During school hours: 18, or 16 if not enrolled in a regular school term or has completed an approved career/technical education program</i> • <i>Outside school hours: 12</i> <p>Max hours:</p> <ul style="list-style-type: none"> • <i>Not specified for farm labor.</i> <p>Work permits not required for minors working as farm laborers 14 years or older outside of school hours. Otherwise, a work permit is required (i.e. if under 14, or, if over 14 working during school hours).</p> <p>Minors who work six or more hours in a shift must be given one or two breaks totaling at least 30 minutes. These breaks may be taken at any point during the minor’s shift.²³</p> <p>Follow federal rules on restricted and prohibited occupations for minors.</p>

HEALTH AND SAFETY

TOPIC	ANSWER	DETAILS
Workers' Compensation ²³	YES	<p>Agricultural employees are exempt from Indiana workers' compensation coverage requirements; but farms can elect to provide coverage.</p> <p>Covered employers <u>must report any work-related injury</u>, illness, or fatalities that result in the employee missing more than one day of work. The report must be made within seven days to either the insurance carrier or, if self-insured, to the Worker's Compensation Board.</p> <p>More details.</p>
OSHA ²⁴	YES	<p><u>Indiana has an approved OSHA 'state-plan'</u>, which means it is at least as effective as federal OSHA. Similar to federal OSHA, IOSHA has a general duty clause that requires employers to provide employees a workplace free from recognized hazards that can cause death or serious physical harm.</p> <p>IOSHA has adopted the federal OSHA Standards for Agriculture, the General Industry Standards that apply to agriculture, and the reporting/recordkeeping requirements. See the federal fact sheet for details on requirements.</p>
Housing	YES/NO	<p>Indiana law does not explicitly address standards for permanent agricultural housing, though general landlord/tenant or public health laws may apply. Employers should follow best practices when providing housing – which includes, at minimum, a written housing agreement and properly maintaining the facilities. The FARM HR Manual has guidance around best practices for agricultural worker housing.</p>

References

1. Indiana Code §22-2-5-3; §22-2-5-1
2. Indiana Code §22-2-5-3; §22-2-5-1
3. Indiana Code §22-2-2-3(m)
4. Indiana Code §22-2-2-3(m)
5. Indiana Code §22-2-2-3(m); 22-2-2-8
6. Indiana Code §6-3-4-8; §22-4-8-2; §22-4-8-3
7. Indiana Code §22-2-6-2
8. Indiana Code §22-2-9-1
9. Indiana Code §22-1-1-15; 610 Ind. Admin. Code 6-2-1; 6-2-2; 6-2-3
10. 646 Ind. Admin. Code 5-2-1
11. Indiana Code. §22-3-4-13
12. 620 Ind. Admin. Code 1-1-1
13. 345 Ind. Admin Code 8-3-1
14. Indiana Code §22-5-3-3
15. Indiana Code §22-2-14-2
16. Indiana Code §35-44.1-2-12
17. Indiana Code §33-28-5-24.3
18. Indiana Code §22-2-13; §10-16-7-4
19. Indiana Code §22-9-1-1 et seq; §22-9-2-10
20. See above
21. Indiana Code §35-42-3.5-1
22. Indiana Code §20-33-3-1; §20-33-3-6; §20-33-3-30
23. Indiana Code §22-3-2-9; §22-3-4-13
24. Indiana Code §22-8-1.1-2; 620 Ind. Admin. Code 1-1-7; 1-1-1

