



# Kansas

## 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 KANSAS STATE LAWS PERTAINING TO DAIRY FARMS ABOUT:

### HIRING

TOPIC	ANSWER	DETAILS
Notice of Payday/ Pay Rate <sup>1</sup>	YES/NO	Employees can request to be notified in writing of their rate of pay, the date of pay, and place of payment. Upon request of an employee, employers must also either post a notice or specify in writing any changes to wage rates, regular paydays or place of payment prior to any changes; as well as practices and policies on vacation pay, sick leave, or other benefits.
Reporting <sup>2</sup>	YES	<u>Newly hired</u> and rehired employees must be reported to the Kansas New Hire Directory within 20 days of the hire.

### WAGES

TOPIC	ANSWER	DETAILS
Payday <sup>3</sup>	YES	<u>Must designate regular paydays</u> in advance that are at least once per month. The payday needs to be within 15 days following the end of the pay period that the employee is being paid for.
Final Pay <sup>4</sup>	YES	Employees that are fired, quit, or are otherwise terminated must be paid by the next regular payday.
Overtime <sup>5</sup>	NO	Kansas overtime requirements do not apply to employees in agriculture; federal rules may apply. Employers are encouraged to review the federal fact sheet.
Minimum Wage <sup>6</sup>	NO	Kansas minimum wage law excludes employees in agriculture; federal rules may apply. Employers are encouraged to review the federal fact sheet.
Hours Worked	NO	The definition of 'hours worked' as provided in Kansas law for the purposes of calculating compensable time does not apply to individuals employed in agriculture. Employers should follow federal laws summarized in the federal fact sheet as applicable.
Reporting Time Pay	NO	Kansas law does not require reporting time pay does not apply to individuals employed in agriculture, i.e. an employee is only required to be paid for actual hours worked.

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Kansas

# WAGES

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TOPIC	ANSWER	DETAILS
Pay Stub <sup>7</sup>	YES/NO	No requirements on a regular paystub. However, if an employee requests it, you must provide an itemized statement of deductions for each pay period.
Taxes and Withholding <sup>8</sup>	YES	<p>Employers are required to <u>withhold Kansas income tax</u> 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. <a href="#">More details.</a></p> <p>Employers must pay <u>Kansas Unemployment Insurance</u> taxes if:</p> <ul style="list-style-type: none"> <li>You paid cash wages to farm workers of \$20,000 or more in a quarter in the current or preceding calendar year; OR,</li> <li>You employed ten or more workers for some part of a day in 20 or more weeks of the current or preceding calendar year.</li> </ul> <p>Certain family employment is excluded from coverage requirements (a person employed by their child, 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 Kansas in calculating how much you owe for federal unemployment taxes.</p>
Deductions <sup>9</sup>	YES	<p>Deductions required by state/federal law or courts (for ex. tax withholdings) do not require written authorization from the employee. Certain other deductions do not require written authorization: contributions to a retirement plan; medical care without financial benefit to the employer; payroll overpayment as long as it was because of employer error and the deduction amount is not more than the overpayment amount; and cash advances requested in writing by an employee.</p> <p>With a signed authorization from the employee, an employer can deduct for lawful purposes for the benefit of the employee (for ex, thrift saving plans, charitable contributions, union dues, meals/lodging if they are not considered part of wages). The following are NOT considered for the benefit of the employee: breakages or equipment losses, losses from theft or negligence, special tools or equipment customarily supplied by the employer and not necessary to performing duties.</p> <p>Other deductions are allowed with the signed authorization of the employee:</p> <ul style="list-style-type: none"> <li>Repayment of a loan</li> <li>Recovery of payroll overpayment from employer error when the deduction rate is going to be more than the overpayment rate</li> <li>Compensation to the employer for the replacement cost/unpaid balance of the employer's merchandise or uniforms purchased by the employee</li> </ul> <p>In addition, an employer can deduct the following on the final paycheck with written notice and explanation:</p> <ul style="list-style-type: none"> <li>To recover for employer's property provided during employment, like tools or phones. When the property is returned to the employer, the employer must pay the withheld wages to the employee.</li> <li>Repayment of a loan made during the course and within the scope of employment</li> <li>Recovery of payroll overpayment</li> <li>Compensation to the employer for the replacement cost/unpaid balance of the employer's merchandise or uniforms purchased by the employee</li> </ul> <p>Deductions cannot reduce the employee below the federal minimum wage, as applicable.</p>
Bonuses <sup>10</sup>	YES/NO	<p>Bonuses are included under the definition of wages in Kansas minimum wage and hour laws, which do not apply to employees in agriculture. Generally, however, discretionary bonuses would not be considered wages, while nondiscretionary bonuses would be considered wages and protected under wage laws.</p> <p>A nondiscretionary 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 <sup>11</sup>	YES/NO	Kansas law only addresses explicit payroll recordkeeping requirements for employees covered under Kansas minimum wage law. However, payroll records are required as part of other laws (for example, Unemployment Insurance below).
Personnel Files – Employee Access	NO	Kansas law does not require private employers to allow employees to view their personnel file.
Unemployment Insurance <sup>12</sup>	YES	<p>Employers subject to contributions must submit <u>quarterly wage reports</u>. Whether or not subject to paying Unemployment Insurance taxes, every employer in Kansas must maintain accurate employment records for at least five years. For example, records for the first quarter 2015 (due April 2015) must be kept until April 2020. Employment records, as well as all other business records, must be available for inspection upon request by the Division of Employment Security. Employment records must include for each worker:</p> <ul style="list-style-type: none"> <li>• <i>Name and Social Security number</i></li> <li>• <i>State or states in which services were performed</i></li> <li>• <i>Dates hired/rehired and terminated</i></li> <li>• <i>The amount of wages paid and the period for which paid, showing separately:</i> <ul style="list-style-type: none"> <li>- <i>Cash wages, including special payments</i></li> <li>- <i>Reasonable cash value or remuneration in any medium other than cash</i></li> </ul> </li> <li>• <i>Amounts paid as allowances or reimbursement for business expenses</i></li> <li>• <i>If the worker performs both employment and non-subject work: the hours spent in employment; hours spent in non-subject work.</i></li> </ul> <p>Employers must also maintain records showing: (1) beginning and end dates for each pay period; (2) total amount of wages paid in any quarter.</p> <p>The records must also contain enough information to be able to determine any time lost due to reasons other than lack of work; weeks of less than full-time work; calendar days worked by each employee.</p>
Workers' Compensation	NO	Recordkeeping is not explicitly required for employers under workers compensation law in Kansas.
OSHA	YES	Employers must comply with the federal OSHA recordkeeping 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 <sup>13</sup>	YES	Kansas 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	Kansas law has no max hour or day requirements for adults.
Rest and Meal Breaks	NO	Not required under Kansas law. Employers that choose to provide rest and meal breaks must follow the applicable federal rules. Refer to federal fact sheet.
Labor Relations <sup>14</sup>	YES	<p>Kansas law provides the right of agricultural workers to form, join, and participate in employee organizations of their own choosing to meet and confer with employers/representatives about grievances and conditions of employment. Employees cannot be required to join as a condition of employment; and they also have the right to refuse to join/participate.</p> <p>Kansas law excludes certain types of workers (such as supervisors) and regulates strikes during critical production periods.</p>

# WORKING CONDITIONS

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TOPIC	ANSWER	DETAILS
Whistleblower Protection	YES/NO	Kansas law does not provide a general protection for private sector employees in whistleblower cases. 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.
Paid Sick and Vacation Leave	NO	Not required under Kansas law. Employers who choose to provide such benefits must follow their written policy/contract.
Breaks for Nursing Mothers <sup>15</sup>	NO	Kansas law does not address workplace accommodations for nursing mothers. But, Kansas law does state that the public policy of Kansas is that a mother's choice to breastfeed should be supported and encouraged to the greatest extent possible. There may be requirements under federal law; employers should refer to the federal fact sheet.
Pregnancy Accommodations and Leave <sup>16</sup>	YES	Employers with 4 or more employees must accept childbearing as a justification for an unpaid leave of absence for a female employee for a reasonable period of time. Upon return from leave, the employee must be returned to her original position or a position of like status and pay.
Family and Medical Leave	NO	Kansas has not enacted a family and medical leave law that applies to employees in the private sector. Federal law requiring unpaid leave may apply depending on the size of the employer. Employers should refer to the federal fact sheet.
Jury Duty Leave <sup>17</sup>	YES	Employers are required to give employees time off for jury service or for attendance in connection with jury service.
Crime Victim and Witness Leave <sup>18</sup>	YES	For victims of domestic violence or sexual assault, employers are required to provide leave to obtain relief to ensure the safety of the employee, such as a restraining order, seek medical attention for injuries, obtain services, such as a domestic violence shelter or program, or to make an appearance in the aftermath of domestic violence or sexual assault. Eligible employees are entitled to up to 8 days of leave per year.
Military and National Guard Leave <sup>19</sup>	YES	Employers must grant a leave of absence to an eligible employee who is called or ordered to active military duty by the state of Kansas or any other state. Employers must also grant a leave of absence to eligible employees to perform annual muster and camp of instruction. While performing this military duty, the employee is deemed to be on a temporary leave of absence.
Voting Leave <sup>20</sup>	YES	Employers are required to provide leave of two consecutive hours on the day of an election conducted by a county election officer in Kansas if the polls are not open for two consecutive hours both before an employee's work begins or after it ends. Employers can decide when to grant the time off, but the time off cannot include the regular lunch period.
School Activity Leave	NO	Kansas law does not address leave for private sector employees to attend a child's school activity.

# HUMAN RIGHTS

TOPIC	ANSWER	DETAILS
Employment Discrimination <sup>21</sup>	YES	<p>Kansas law prohibits employment discrimination based on race, religion, color, sex, pregnancy and childbirth (including related conditions), national origin, ancestry, physical or mental disability, age (40+), military status, or genetic information. Applies to employers with 4 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 a complaint of discrimination or otherwise aiding with a complaint.</p>



# HUMAN RIGHTS

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TOPIC	ANSWER	DETAILS
Harassment/ Sexual Harassment <sup>22</sup>	YES	<p>Harassment based on a protected category, including sexual harassment, is generally considered a form of employment discrimination based on gender (though not explicitly stated in Kansas law) and prohibited under state and federal law.</p> <p>Harassment is unwelcome conduct. It is unlawful 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"> <li>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.</li> <li>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.”</li> <li>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.</li> </ul> <p>It is illegal to retaliate against employees for filing a complaint of harassment or otherwise aiding with a complaint.</p>
Forced Labor <sup>23</sup>	YES	<p>Human trafficking is illegal in Kansas. 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. <a href="#">More details.</a></p> <p>Employers should ensure they are carefully following all visa requirements or work agreements to avoid any inadvertent violations.</p>

# HEALTH AND SAFETY

TOPIC	ANSWER	DETAILS
OSHA	YES	Kansas falls under federal OSHA jurisdiction. See the federal fact sheet for more information.
Workers’ Compensation <sup>24</sup>	NO	<p>Agricultural employers are not required to have workers’ compensation coverage under Kansas law. <a href="#">Detailed guidance for employers.</a></p> <p>However, an agricultural employer may choose to have coverage by following certain statutory steps. Employers with workers’ compensation coverage must notify their insurance carrier promptly of any work-related accident that results in an injury causing the employee to miss the rest of the day or more of work. Promptly means sufficient time that the insurance company can comply with their requirement to notify the Division of Workers Compensation within 28 days.</p>
Housing	YES/NO	<p>Kansas 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>

# CHILD LABOR

TOPIC	ANSWER	DETAILS
Child Labor <sup>25</sup>	NO	<a href="#">Kansas child labor laws</a> do not apply to minors employed in agriculture. Refer to federal laws found in the federal fact sheet.

## References

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| 1. Kan. Stat. Ann. §44-320  | 703(j)(4)(C)  | 16. Kan. Stat. Ann. § 21-32-6                           | 23. Kan. Stat. Ann. §21-5426  |
| 2. Kan. Stat. Ann. §75-5742   | 9. Kan. Stat. Ann. §44-319; Kan. Admin. Regs. §49-20-1; | 17. Kan. Stat. Ann. §43-173                             | 24. Kan. Stat. Ann. §44-505; Kan. Stat. Ann. §44-557; Kan. Stat. Ann. §44-557 |
| 3. Kan. Stat. Ann. §44-314  | 10. Kan. Admin. Regs. §49-30-1                          | 18. Kan. Stat. Ann. §44-1131 to 44-1133                 | 25. Kan. Stat. Ann. §38-614   |
| 4. Kan. Stat. Ann. §44-315  | 11. Kan. Stat. Ann. §44-1202(e); §44-1209               | 19. Kan. Stat. Ann. §48-517, 48-222, 44-1125 to 44-1128 |   |
| 5. Kan. Stat. Ann. §44-1202(e)  | 12. Kan. Admin. Regs. §50-2-2; §50-2-5                  | 20. Kan. Stat. Ann. §25-418                             |   |
| 6. Kan. Stat. Ann. §44-1202(e)  | 13. Kan. Stat. Ann. §4-7-716                            | 21. Kan. Stat. Ann. §44-1001, et seq                    |   |
| 7. Kan. Stat. Ann. §44-320  | 14. Kan. Stat. Ann. §44-821                             | 22. See above; Kan. Admin. Regs. §21-32-6               |   |
| 8. Kan. Stat. Ann. §79-3296; Kan. Stat. Ann. §44-703(h); Kan. Stat. Ann. §44- | 15. Kan. Stat. Ann. §65-1248                            |   |   |