



Maine

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 July 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 MAINE STATE LAWS PERTAINING TO DAIRY FARMS ABOUT:

HIRING

TOPIC	ANSWER	DETAILS
Notice of Payday/ Pay Rate	NO	Employers are not required to give a notice of the date of pay or the pay rate at the time of hire.
Reporting ¹	YES	New hires and rehires must be reported to the Division of Support Enforcement & Recovery within 7 days.

WAGES

TOPIC	ANSWER	DETAILS
Payday ²	YES	Must establish and maintain regular paydays. Changes to the regular payday must be announced 30 days in advance by written notice. Employers must pay in full all wages earned by each employee at regular intervals of no more than 16 days. Each payment must include all wages earned to within 8 days of the payment date. Must give notice of any reduction in the wage rate at least one business day prior to the change.
Final Pay ³	YES	Employees leaving employment (whether voluntary or involuntary) must be paid in full no later than the employee's next established payday. Any loan/advance against future earning may be deducted if there is a signed written statement by the employee. If the employer provides paid vacation as a term of employment, vacation pay has the same status as wages earned. Within 15 days of the employee's written request, an employer must give the employee written reasons for the termination of his or her employment.
Overtime ⁴	NO	Agricultural employees are exempt from Maine overtime compensation (some exception for large egg farms). Federal rules may apply; refer to the federal fact sheet.
Minimum Wage ⁵	NO	Maine minimum wage law does not apply to employees employed in agriculture (some exception for large egg farms).
Hours Worked	NO	Maine law does not explicitly address the definition of 'hours worked' for the purpose of calculating compensable time. Employers should follow federal laws summarized in 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 so that you can access the links.



WAGES

(Continued)

TOPIC	ANSWER	DETAILS
Reporting Time Pay	NO	Maine law does not require reporting time pay, i.e. an employee is only required to be paid for actual hours worked.
Pay Stub	NO	Maine law does not address pay stub requirements, but it is generally good practice to provide employees with a pay statement.
Taxes and Withholding ⁶	YES	<p>Employers must withhold Maine income taxes. Employers 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 <u>Maine Unemployment Insurance</u> 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 prior 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 prior calendar year. <p>Certain family employment is excluded from coverage requirements (children under 18 working for a parent, an individual working for spouse, or parent working for a son or daughter). Unemployment taxes are paid by the employer; they are not taken out of employee pay. You can credit the amount you pay to Maine in calculating how much you owe for federal unemployment taxes. More details.</p>
Deductions and Allowances ⁷	NO	Maine wage law does not explicitly address allowed/prohibited deductions for agricultural employees. Employers should refer to the federal fact sheet.
Bonuses	YES/NO	<p>Maine wage law does not explicitly address whether bonuses are included in the definition of wages. Generally, discretionary bonuses are not considered wages, while nondiscretionary bonuses paid under an agreement are considered wages and protected under wage law.</p> <p>Employers should follow any written policy they have about paying bonuses as a best practice.</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>

RECORD KEEPING

TOPIC	ANSWER	DETAILS
Payroll ⁸	YES	Employers must keep records showing the date and amount paid to each employee. Employers must also keep a daily record of the time worked each day, unless the employee is paid on a salary basis that is not affected by the hours they work.
Personnel Files – Employee Access ⁹	YES	<p>Employers must provide former and current employees with an opportunity to review and copy the employee’s personnel file, if one is maintained by the employer. The review must take place at the location where the files are kept and during normal office hours. A more convenient time and location can be mutually arranged. Once per year and when requested, the employer must provide employees or former employees a copy of their personnel file at no cost.</p> <p>A personnel file include any formal or informal employee evaluations and reports relating to the employee’s character, credit, work habits, compensation and benefits, nonprivileged medical records, and nurse’s station notes.</p>
OSHA	YES	Federal OSHA has jurisdiction over private sector employers in Maine. Refer to the federal fact sheet for reporting and recordkeeping requirements.
Federal	YES	There are numerous federal rules about recordkeeping. Employers should review the federal fact sheet.

RECORD KEEPING

(Continued)

TOPIC	ANSWER	DETAILS
Unemployment Insurance ¹⁰	YES	<p>Employers subject to paying unemployment taxes must submit <u>quarterly wage reports</u>.</p> <p>Whether or not subject to paying Unemployment Insurance taxes, employers must keep employment records.</p> <ul style="list-style-type: none"> For each pay period: <ul style="list-style-type: none"> The beginning and ending dates of such periods, The total wages paid for employment in such pay period, The week during which, on any part of a day, there were one (1) or more workers in employment. For each worker: his or her given name, middle name, surname and social security account number, wages, salary and basis of pay during period, and period of employment. Special payments of any kind, including but not limited to annual bonuses, gifts, prizes, and other awards, should show separately: <ul style="list-style-type: none"> Money payments, Reasonable cash value of other remuneration, The nature of such payments, The calendar quarter during which such services were performed. Each employer shall keep payroll records that detail for each of its workers information including but not limited to the following: <ul style="list-style-type: none"> Wages earned weekly, Wages earned quarterly, Whether any week was, in fact, a week of less than full-time work, Time lost, if any, by each worker due to his or her unavailability for work. <p>The records must be maintained for a period of at least four (4) years.</p>
Workers' Compensation	NO	Maine Worker's Compensation law does not explicitly require employers to keep injury records. However, there are recordkeeping requirements under OSHA.

WORKING CONDITIONS

TOPIC	ANSWER	DETAILS
Bathrooms ¹¹	YES	Maine rules governing milk and milk products generally draw from the federal Pasteurized Milk Ordinance (PMO). The PMO and Maine rules specify 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	Maine law does not specify max hour or day requirements for adults.
Rest and Meal Breaks ¹²	YES	Employers with 3 or more employees <u>must give rest breaks</u> of at least 30 minutes to employees that work 6 or more consecutive hours. The break does not need to be paid if completely relieved of duties during that time. Employers should also review federal rules on breaks in the federal fact sheet.
Labor Relations	NO	No provision in state law recognizing farm worker rights to organize.
Whistleblower Protection ¹³	YES	<p><u>Maine's Whistleblower Protection Act</u> prohibits employers from firing, threatening, retaliating, or otherwise discriminating against an employee for:</p> <ul style="list-style-type: none"> Reporting a violation of the law in good faith to the employer or a public body Reporting a condition or practice that puts at risk someone's health or safety in good faith to the employer or a public body Refusing to do something that will endanger the employee's life or someone else's life and asking the employer to correct it Being involved in an investigation or hearing held by the government <p>Employees are protected if they tell their employer about the problem and allow a reasonable amount of time for it to be corrected, or if they have good reason to believe the employer will not correct the problem.</p>

WORKING CONDITIONS

(Continued)

TOPIC	ANSWER	DETAILS
Paid Sick and Vacation Leave	NO	Maine law does not require paid sick or vacation leave. Employers who choose to provide such benefits must follow their written policy/contract. Employers may be covered under Maine's Family Medical Leave law that requires unpaid sick leave (see below).
Breaks for Nursing Mothers ¹⁴	YES	<u>Employers must provide adequate unpaid break time</u> or permit an employee to use paid break time (which may be combined with meal period) each day to express breast milk for her nursing child for up to 3 years following childbirth. The employer shall make reasonable efforts to provide a clean room or other location, other than a bathroom, where an employee may express breast milk in privacy. An employer may not discriminate in any way against an employee who chooses to express breast milk in the workplace.
Pregnancy Accommodations and Leave ¹⁵	YES	Employers must treat women who are unable to work because of a disability or illness resulting from pregnancy or related medical conditions the same as other employees who are not able to work because of other disabilities or illnesses, including with respect to leave benefits. This applies to all employers. For example, if duties would be altered for an employee with back pain, duties should be similarly altered for a pregnant employee with back pain. See 'Family and Medical Leave' below for leave for childbirth.
Family and Medical Leave ¹⁶	YES	If an employer with 25 or more employees provides paid leave, then the employer must allow an employee to use the paid sick leave already offered by the employer for the care of an employee's child, spouse or parent who is ill. <u>Employers with 15 or more employees are covered under Maine's Family Medical Leave law.</u> Employees that have been with the same employer for 12 months are entitled to up to 10 work weeks of family medical leave in any 2 year period. Leave under this law is unpaid. Leave can be used for the serious health condition of the employee; the birth of the employee's child or their domestic partner's child; placement of a child under 16 with the employee or employee's domestic partner in connection with adoption; in connection with a child's, partner's child, domestic partner's, sibling's, or spouse's serious health condition; the donation of an organ; or death or serious condition of a family member in the National Guard or Armed Forces.
Military and other Service Leave ¹⁷	YES	Maine law provides leave and reinstatement benefits for individuals performing service in the National Guard or in the Reserves of the United States Armed Forces. Federal law may provide additional requirements; refer to the federal fact sheet. Employers with 15 or more employees must also provide unpaid leave (up to 15 days) for employees with family being deployed on military leave. Applies to employees that have been with their employer for at least 12 months and have worked at least 1,250 hours in the preceding 12 month period. The employee must give at least 14 days' notice if the leave will consist of 5 or more consecutive days.
Crime Victim and Witness Leave ¹⁸	YES	An employee who is the victim of violence, assault, <u>domestic violence</u> , sexual assault, or stalking are entitled to leave from employment to prepare for and attend court proceedings, receive medical treatment, or obtain other necessary services to remedy a crisis caused by such crimes. The employee also is entitled to such leave where the employee's child, parent or spouse is the victim of violence, assault, domestic violence, sexual assault or stalking. Leave can be unpaid, but an employee must be allowed to use accrued paid leave, if applicable. Where possible, employees should give reasonable notice. Employer can refuse the leave if the employee's absence would cause undue hardship.
Jury Duty Leave ¹⁹	YES	An employer cannot discharge, threaten to discharge, coerce, intimidate, penalize, or deny health insurance coverage to an individual for responding to a jury summons or serving on a jury. Maine law does not require employers to pay employees for time spent responding to a summons or serving on a jury.
Voting Leave ²⁰	NO	Maine does not have a law that addresses voting leave for private sector employees.
School Activity Leave	NO	Maine law does not address leave for private sector employees to attend a child's school activity.

HUMAN RIGHTS

TOPIC	ANSWER	DETAILS
Employment Discrimination ²⁰	YES	<p>Maine law <u>prohibits employment discrimination</u> based on race, color, sex, sexual orientation, gender identity, physical or mental disability, religion, age, ancestry, national origin, retaliation, genetic information, pregnancy, breastfeeding, or medical marijuana.</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 ²¹	YES/NO	<p>Harassment is generally considered a type of employment discrimination. 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>Employers in Maine must post a poster about sexual harassment provided by the Maine Human Rights Commission and provide notice annually to employees with the same information. Workplaces with 15 or more employees must conduct education and training for all new employees on sexual harassment.</p> <p>It is illegal to retaliate against employees for filing or otherwise aiding with a complaint.</p>
Forced Labor	YES	<p>Human trafficking is illegal by federal law. Trafficking for labor means: recruiting, luring, enticing, harboring, transporting, provisioning, obtaining, or maintaining, or any attempt to do any of the aforementioned, a person for involuntary servitude by any means, such as forced labor, forced services, debt bondage, or slavery.</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>Agriculture is exempt from most child labor laws in Maine, except if the minor is in direct contact with hazardous machinery or substances. Employer must follow state and federal restrictions and prohibitions for minors in hazardous occupations. <u>More details.</u></p> <p>Work permits required for minors under 16 years old that may be in direct contact with hazardous machinery or substances.</p> <p>A minor can work during school hours in agriculture starting at the age of 16 if they have been excused by the superintendent of school.</p> <p>Minors under 14 years old can work in agriculture, as long as they are not in direct contact with hazardous machinery or substances.</p> <p>Federal rules apply; refer to the federal fact sheet.</p>

HEALTH AND SAFETY

TOPIC	ANSWER	DETAILS
Workers' Compensation ²³	YES	<p><u>Workers' Compensation</u> is required in Maine with some exceptions. Agricultural employers are exempt if:</p> <ul style="list-style-type: none"> • The employer maintains a liability insurance policy with total limits of not less than \$100,000 multiplied by the number of full-time employees (or the equivalent) and medical payment coverage of not less than \$5,000; AND, • The employer has 6 or fewer employees, or, more than 6 employees but the total hours worked by all such employees has not exceeded 240 in any of the 52 weeks preceding an injury. <p>Employers must report work-related injuries that result in loss of a day's work or more to the Workers' Compensation Board within 7 days after the employer receives notice or has knowledge of the injury.</p>
OSHA	YES	Federal OSHA has jurisdiction over private sector employers in Maine. Refer to the federal fact sheet.
Housing	YES/NO	Maine law does not explicitly address standards for farm-provided 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.

References

- | | | | |
|---|-------------------------------------|---|--|
| 1. Me. Stat. tit. 19A, §2154 | 8. Me. Stat. tit. 26, §622 | 16. Me. Stat. tit. 26, §636; Me. Stat. tit. 26, §843 et seq. | 21. See above, and Me. Stat. tit. 26, §806 |
| 2. Me. Stat. tit. 26, §621-A | 9. Me. Stat. tit. 26, §631 | 17. Me. Stat. tit. 26, §811, §812 | 22. Me. Stat. tit. 26, §771, §774, §775 |
| 3. Me. Stat. tit. 26, §626, §630 | 10. 12.172 Me. Code R. 2 §2, §7 | 18. Me. Stat. tit. 26, §850; 12.170 Me. Code R. 10 §1 et seq. | 23. Me. Stat. tit. 39-A, §303, §401 |
| 4. Me. Stat. tit. 26, §663 | 11. 01-001 Me. Code R. 329 §6 | 19. Me. Stat. tit. 14, §1218 | |
| 5. Me. Stat. tit. 26, §663 | 12. Me. Stat. tit. 26, §601 | 20. Me. Stat. tit. 5, §4551, §4571 et seq. | |
| 6. Me. Stat. tit. 36, §5250, Me. Stat. tit. 26, §1043 | 13. Me. Stat. tit. 26, §831 et seq. | | |
| 7. Me. Stat. tit. 26, §629 | 14. Me. Stat. tit. 26, §604 | | |
| | 15. Me. Stat. tit. 5, §4572-A | | |

