



Utah

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 UTAH STATE LAWS PERTAINING TO DAIRY FARMS ABOUT:

HIRING

TOPIC	ANSWER	DETAILS
Notice of Payday / Pay Rate ¹	NO	Dairies are exempt from Utah law on payday notices.
Reporting ²	YES	<u>New hires</u> and rehires must be reported to the Department of Workforce Services within 20 days.

WAGES

TOPIC	ANSWER	DETAILS
Payday ³	NO	Utah payday law does not apply to employers and employees in dairy farming.
Final Pay ⁴	YES	If an employee is fired or otherwise terminated by the employer, the employee's wages are due immediately and <u>must be paid within 24 hours</u> . Employees without a written contract for a definite period that quit must be paid by the next regular payday.
Overtime	NO	Utah law does not govern overtime pay; federal rules may apply. Employers are encouraged to review the federal fact sheet.
Minimum Wage ⁵	YES	<u>\$7.25 per hour</u> Utah minimum wage does not apply to employees covered by federal minimum wage law (see federal fact sheet). Utah minimum wage also does not apply to an employee who is a member of the employer's immediate family. There are also exemptions for certain agricultural labor, including seasonal labor, the range production of livestock, and semi-retired persons working part-time or incidental work.
Hours Worked ⁶	YES	For its minimum wage law, Utah defines <u>hours worked as including</u> all time an employee is required: to be working, to be on the employer's premises ready to work, to be on duty, to be at a prescribed worksite, to attend a meeting or training, and time during established rest breaks of less than 30 minutes. On duty means they are working or waiting for work and are not permitted to use the time for their own purposes.



WAGES

(Continued)

TOPIC	ANSWER	DETAILS
Pay Stub ⁷	NO	The Utah pay stub law and rule do not apply to dairies. However, employers may wish to consider pay stubs to help with payroll recordkeeping.
Reporting Time Pay	NO	Utah law does not require reporting time pay, i.e. an employee is only required to be paid for actual hours worked. Employers should review the definition of hours worked described above.
Taxes and Withholding ⁸	YES	Employers are required to <u>withhold Utah income tax</u> . You must also give your employees a statement of taxes withheld, like a federal Form W-2, 1099-MISC or 1099-R. Employers must pay <u>Utah Unemployment Insurance</u> taxes if: <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. 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 Utah in calculating how much you owe for federal unemployment taxes.
Deductions ⁹	NO	Utah rules on wage deductions do not apply to dairy farm employers and employees. Employers should review federal rules on wage deductions in the federal fact sheet.
Bonuses	YES/NO	Bonuses are not explicitly addressed in Utah wage laws. Generally, discretionary bonuses are not considered wages, while nondiscretionary bonuses can be considered wages and protected under wage laws. 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. Employers should follow any written policy they have about paying bonuses as a best practice.

RECORD KEEPING

TOPIC	ANSWER	DETAILS
Payroll ¹⁰	YES/NO	Employers must keep payroll records for all employees covered by Utah minimum wage (see above). The records need to contain employee name, address, DOB, hours worked, and wages paid. Records must be maintained for three years. The Division of Antidiscrimination and Labor must have access to payroll records and other on-site business records as needed to investigate compliance with Utah minimum wage laws.
Personnel File — Employee Access	NO	Utah law does not require employee access to personnel files for private employers.
Workers' Compensation ¹¹	YES/NO	Utah Workers' Compensation law does not specifically require any recordkeeping. However, injuries and illnesses must be recorded according to UOSH requirements. If the employer has them, medical or exposure records relating to worker injury/illnesses must be preserved.
OSHA	YES	See OSHA under 'Health and Safety' near the end of this document.

RECORD KEEPING

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TOPIC	ANSWER	DETAILS
Unemployment Insurance ¹²	YES	<p>Employers subject to contributions must submit <u>quarterly wage reports</u>.</p> <p>Whether or not subject to paying Unemployment Insurance taxes, <u>every employer in Utah</u> must maintain accurate payroll records showing the following for each employee:</p> <ul style="list-style-type: none"> • The name and social security number of each employee. • The date each employee was hired. • The place of employment. • The date and reason each employee was separated from employment. • The beginning and ending date of each pay period and the date wages were paid. • The total amount of wages paid (in each pay period) showing wages separately from other payments such as tips and bonuses. • Daily time cards or time records kept in the regular course of business. • Special payments such as bonuses, commissions, gifts, severance pay or accrued leave pay. • The cash value of living quarters, meals, or anything else paid to an employee as compensation for work done. <p>These records must be kept for four calendar years. The Department of Workforce Services may examine payroll records, business records, accounting records, tax returns, or any other records needed to administer the unemployment insurance program. If records are kept outside of the state, employers may be required to make copies and have those sent to Utah for review.</p>
Federal	YES	There are numerous federal rules about recordkeeping. Employers should review the federal fact sheet.

WORKING CONDITIONS

TOPIC	ANSWER	DETAILS
Bathrooms ¹³	YES	Utah 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. See Child Labor (below) for maximum hours for minors.
Rest and Meal Breaks	NO	Utah law does not <u>require rest or meal breaks for adults</u> . See Child Labor (below) for rules for minors. Employers who choose to provide rest or meal breaks should review federal rules; refer to the federal fact sheet.
Labor Relations	NO	No provision in state law recognizing farm worker rights to organize.
Whistleblower Protection	YES/NO	Utah 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 Utah law. Employers who choose to provide such benefits must follow their written policy/contract.
Breaks for Nursing Mothers ¹⁴	YES	Utah anti-discrimination law requires employers of 15 or more employees to provide <u>reasonable accommodations to employees that are breastfeeding</u> , if requested by the employee and if it would not cause undue hardship. There may also be federal requirements. Refer to the federal fact sheet.
Family and Medical Leave	NO	Utah does not have a state-level family and medical leave law for private sector employees. Federal law requiring unpaid leave may apply depending on the size of the employer. Refer to federal fact sheet.

WORKING CONDITIONS

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TOPIC	ANSWER	DETAILS
Pregnancy Accommodations and Leave ¹⁵	YES	Employers with 15 or more employees cannot refuse to provide reasonable accommodations to an employee related to <u>pregnancy, childbirth, breastfeeding, or related conditions</u> , if: <ul style="list-style-type: none"> • The employee requests a reasonable accommodation • It would not cause undue hardship on the operations of the employer The employer can require a medical certification about the accommodation, except in the case of more frequent restroom, food, or water breaks. Covered employers must include a written notice of employees' rights to reasonable accommodations in an employee handbook or a posted notice.
Military and other Service Leave ¹⁶	YES	Members of a reserved component of the U.S. armed forces are entitled to up to 5 years of unpaid leave and job reinstatement for active duty, training, or state active duty. Federal rules may also apply; refer to the federal fact sheet.
Crime Victim and Witness Leave ¹⁷	YES	Employers cannot discharge, threaten, or otherwise coerce an employee because the employee attends a deposition or hearing in response to a subpoena.
Jury Duty Leave ¹⁸	YES	An employer cannot discharge, threaten, take adverse employment action, or otherwise coerce an employee for <u>responding to a jury summons or serving on a jury</u> . Employees cannot be required or requested to use annual, vacation, or sick leave. Utah law does not require employers to pay employees for time spent responding to a summons or serving on a jury.
Voting Leave ¹⁹	YES	Employees that have less than three hours before/after their work shift when polls are open are entitled to voting leave. Employees can get up to 2 hours to vote and must request the leave at least one day before the election. Employers can decide when the hours are taken during the workday. Leave must be paid.
School Activity Leave	NO	Utah law does not address leave for private sector employees to attend a child's school activity.

CHILD LABOR

TOPIC	ANSWER	DETAILS
Child Labor ²⁰	YES	Work permits not required in Utah, but employers may request proof of age. Minimum age: <ul style="list-style-type: none"> • During school hours: 16 • Outside school hours: 12, or any age with parental consent. Max hours: <ul style="list-style-type: none"> • Under 16: <ul style="list-style-type: none"> - Max 4 hours per day before or after school; 8 hours in any 24-hour period. Max 40 hours per week. Cannot work before 5am or after 9:30pm, unless there is no school the next day. • 16 or over: No maximum specified Minors must be given a meal break of at least 30 minutes no later than 5 hours after starting the workday. If the minor is not relieved of all duties during the meal period and allowed to leave the work area, the meal period must be paid time. Minors must also be given a paid rest period of at least 10 minutes for each period of four hours worked. Minors cannot be required to work 3 hours straight without a rest period. Must follow <u>hazardous work restrictions and prohibitions</u> as defined at the federal level. See the federal fact sheet for more details.

HUMAN RIGHTS

TOPIC	ANSWER	DETAILS
Employment Discrimination ²¹	YES	<p>Utah law prohibits employment discrimination based on race, color, sex, pregnancy, childbirth, and related medical conditions, age 40 and above, religion, national origin, disability, retaliation, sexual orientation, and gender identity. Applies to employers with 15 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 ²²	YES	<p>Utah law also prohibits harassment based on the protected classes described above in 'Employment Discrimination'. Applies to employers with 15 or more employees.</p> <p>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 ²³	YES	<p>Human trafficking is illegal in Utah. Trafficking for labor means: recruiting, harboring, transporting, patronizing, obtaining, or soliciting 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>

HEALTH AND SAFETY

TOPIC	ANSWER	DETAILS
Workers' Compensation ²⁴	YES	<p>Utah employers must have workers compensation coverage for most employees. The employer's immediate family (spouse, grandparent, parent, sibling, child, grandchild, nephew, or niece) are excluded. Coverage is not required if the employer has a payroll of less than \$8,000; or, between \$8,000 and \$50,000 if they also have liability insurance of \$300,000 or more and \$5,000 in health care benefits.</p> <p>Employers must report any work-related injury or illness requiring more than first aid within 7 days. The report should be sent to the insurance carrier, or, if self-insured, to the Utah Division of Industrial Accidents. Note: fatalities and other serious injuries must be reported within 8 hours as described in 'OSHA' below.</p>
Housing	YES/NO	<p>Utah 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>

HEALTH AND SAFETY

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TOPIC	ANSWER	DETAILS
OSHA ²⁵	YES	<p>Utah has an approved OSHA ‘state-plan’, which means it is at least as effective as federal OSHA. Similar to federal OSHA, UOSH 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>UOSH does not have guidance for farm operations other than consulting services. Employers are encouraged to review the full text of the UOSH administrative rules to ensure compliance. Below is a selection and summary of rules:</p> <ul style="list-style-type: none"> • Reporting [See C. Reporting Requirements] – All employers must report all work-related fatalities and any disabling, serious, or significant work-related injuries, and any occupational disease incident within 8 hours by phone to UOSH. Employers must file a report with UOSH within 7 days of the occurrence of a workplace injury or occupational disease – or within 7 days of first finding out about the occurrence/after an employee’s notification. This is in addition to the reporting discussed under Workers’ Compensation. • Recordkeeping – Employers with 11 or more employees need to keep records of work-related injury or illnesses if they result in death, days away from work, restricted work, transfer to another job, medical treatment beyond first aid, loss of consciousness, significant injury/illness diagnosed by a doctor or other healthcare professional. Federal OSHA Form 300 or any private equivalent can be used. Generally, the log must be kept at the workplace. The log and summary of injuries can only be kept offsite if: there is a copy at each worksite that is current within 45 days; and, wherever the log is kept, there is enough information to be able to enter in new injuries/illnesses within 6 working days. Must be kept for five years following the end of the calendar year covered by the records. Records must be available for inspection by authorized government representatives within 4 business hours. Utah has adopted and enforces Federal OSHA’s Recordkeeping Standard, 29 C.F.R. § 1904, and contain certain additional state requirements under O.A.C. § r614-3-8. Please review the Federal Fact Sheet for additional information. • PPE – Must provide personal protective equipment required for an employee’s job assignment and must be kept in good, sanitary working condition at all times. • Various Farm Equipment Rules: <ul style="list-style-type: none"> - Machine-guarding rules; Power Takeoffs – Equipment manufactured after 1976, must train employees on safe operating practices (keeping guards in place, no other riders, stop engine completely/lock out power before servicing). - Lock-out tag-out (LO/TO) [See R614-1-5(E)(10). Lockouts and Tagouts] – Where there is risk of machinery being started or circuits being energized during repairs or maintenance, must have and follow LO/TO procedures. - Roll over protection (ROPS) – ROPS to be provided by the employer for each tractor operated by employees, with some exceptions for low-profile tractors and others. Employees must be informed/trained in how to operate. • Confined space – Cannot enter a confined space unless: protected by a self-contained respiratory PPE device; there is an approved ventilation system; there have been tests that confirm the absence of harmful substances/the presence of enough oxygen; OR, in the case of flammable or explosive gases, they have been ventilated/purged. Safety harnesses are required when an employee enters a confined space where there is (or could be) a harmful atmosphere. If it is fully ventilated and a harmful atmosphere cannot develop, the employee must have a way to communicate with a person outside or be visually checked on regularly. • First-aid – First-aid supplies need to be readily accessible at the worksite. If there is not ready access to medical personnel (i.e. emergency services are very far), a person with a first aid certificate needs to be available at the worksite. If eyes or body may be exposed to substances that can cause injury, there needs to be suitable facilities to flush the eyes and body for immediate use at the worksite. • Hazardous materials - Employers are required to have a safety data sheet for each hazardous chemical they use and ensure that each container of hazardous chemicals in the workplace is properly labeled. Employers are also required to develop, implement, and maintain at the workplace a written hazard communication program and provide training for their employees. • Respiratory Protection – If employees may be exposed to harmful concentrations of gases, vapors, smoke, fumes, mists, or dusts, even if just temporarily, they must be provided with respiratory PPE and trained in proper use.

References

- Utah Code §34-28-1
- Utah Code §35A-7-104
- Utah Code §34-28-1
- Utah Code §34-28-1; §34-28-5
- Utah Code §34-40-104
- Utah Admin. Code r. 610-1-2
- Utah Admin. Code r. 610-3-3; r. 610-3-20; Utah Code §34-28-1
- Utah Code §59-10-402; §35A-4-206; §35A-4-205
- Utah Code §34-28-1; Utah Admin. Code r. 610-3-3
- Utah Code §34-28-1; §34-28-10; §34-40-201; §34-40-203
- Utah Admin. Code r. 614-1-8
- Utah Code §35A-4-305(8); Utah Admin. Code r. 994-312-101; r. 994-312-102
- Utah Admin. Code r. 70-310-2
- Utah Code §34A-5-106(1)(g)
- Utah Code §34A-5-106(1)(g), §34A-5-106(7)
- Utah Code §39-1-36
- Utah Code §78B-1-132
- Utah Code §78B-1-116
- Utah Code §20A-3-103
- Utah Code §34-23-202; §34-23-205; §34-23-207; §34-23-103(4); Utah Admin. Code r. 610-2-3
- Utah Code §34A-5-106
- See above
- Utah Code §76-5-308
- Utah Code §34A-2-103; §34A-2-201; Utah Admin. Code r. 612-200-1
- Utah Code §34A-6-201; Utah Admin. Code r. 614-3-1 et seq.; r. 614-1 et seq.

