



Colorado

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 COLORADO STATE LAWS PERTAINING TO DAIRY FARMS ABOUT:

WAGES

TOPIC	ANSWER	DETAILS
Payday ¹	YES	<u>Must designate regular paydays</u> in advance. They can be no more than one month/thirty days apart (whichever is longer), and the payday needs to be within 10 days following the end of the pay period that the employee is being paid for.
Final Pay ²	YES	<u>Employees that are fired or otherwise</u> terminated by an employer must be paid immediately. If the accounting department isn't open, then the pay must be within 6 hours after the start of the accounting department's next regular workday. If the accounting unit is off-site, it can be no later than 24 hours. Employees that quit must be paid by the next regular payday.
Overtime ³	NO	Colorado overtime requirements do not apply to the <u>agricultural industry</u> ; federal rules may apply. Employers are encouraged to review the federal fact sheet.
Minimum Wage ⁴	YES/NO	The Colorado <u>minimum wage law</u> does not apply generally to the <u>agricultural industry</u> . However, if a dairy's employee is entitled to the federal minimum wage, they must be paid the <u>Colorado minimum wage of \$10.20</u> . Refer to the federal fact sheet for information on federal minimum wage coverage.
Hours Worked ⁵	NO	Hours worked, for the purposes of calculating compensable time, is defined in Colorado minimum wage rules which do not apply to the agriculture industry. Employers should follow federal laws summarized in the federal fact sheet.
Reporting Time Pay	NO	Colorado law does not require <u>reporting time pay</u> , i.e. an employee is only required to be paid for actual hours worked.
Pay Stub ⁶	YES	Employees must be given a pay statement when they are paid their wages that contains: <ul style="list-style-type: none"> • Gross wages earned (According to the CO Division of Labor Standards and Statistics, gross wages refers to the gross wages for the specific pay statement, not gross wages for the year-to-date) • All withholdings and deductions • Net wages earned • The inclusive dates of the pay period • The name of the employee or the employee's social security number • The name and address of the employer



WAGES

(Continued)

TOPIC	ANSWER	DETAILS
Taxes and Withholding ⁷	YES	<p>You are required to withhold Colorado income tax if you 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>You must pay Colorado 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 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 (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 Colorado in calculating how much you owe for federal unemployment taxes. More details.</p>
Deductions ⁸	YES	<p>Permissible Deductions</p> <ul style="list-style-type: none"> Deductions required by local, state, or federal law. Examples include, but are not limited to, deductions for taxes, FICA requirements, garnishments, or any other court-ordered deductions. Deductions by written agreement between the employer and employee. The agreement may be for loans, pay advances, goods or services, and equipment or property. The agreement must be in writing, enforceable, and not in violation of law. Deductions necessary to cover the replacement cost of a shortage due to theft by an employee. However, must file a report with law enforcement, and subject to penalties for wrongfully withholding. See details. Deductions that are authorized by the employee and that can be revoked. Examples include, but are not limited to, deductions for insurance benefits, savings plans, union dues, stock purchases, voluntary pension plans, charities, and deposits to financial institutions. Must be in writing between the employer and employee. Deductions for the amount of money or the value of property that the employee failed to properly pay or return to the employer. Specific rules apply. <p>Deductions cannot bring an employee below the federal minimum wage.</p> <p>Impermissible Deductions</p> <ul style="list-style-type: none"> Deductions for property damage. In general, absent a written agreement to the contrary, employers may not deduct from an employee's wages or compensation for the cost of damage or depreciation to the employer's property. For example, an employer may not typically deduct the cost of damage to a company car from an employee's wages, unless an enforceable written agreement existed between the employer and employee that is not in violation of the law. Deductions as fines for employee behavior or actions. In general, employers may not apply fines to an employee's earned wages or compensation based upon employee behavior or performance. For example, an employer may not typically deduct from the wages of a restaurant waitperson for the cost of a meal in the event that the customer does not pay the bill. <p>Wage Allowances</p> <p>The Colorado Minimum Wage Order that contains specific guidance around meals/lodging provided as part of wages does not cover the agriculture industry. Farms are encouraged to review the federal rules around the provision of meals, lodging, and other facilities as a form of wages.</p>
Bonuses ⁹	YES	<p>Under Colorado wage law, the definition of wages includes bonuses earned for labor or services performed as part of any agreement between an employer and employee. So discretionary bonuses would not be considered wages, while nondiscretionary bonuses can be considered wages and protected under wage law.</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
Unemployment Insurance ¹⁰	YES	<p>Employers subject to contributions must submit quarterly wage reports.</p> <p>Whether or not subject to paying Unemployment Insurance taxes, every employer in Colorado must maintain accurate business records for at least five years, including:</p> <p>Payroll Information. For each payroll period, the employing unit's records must show:</p> <ul style="list-style-type: none"> • <i>Beginning and ending dates.</i> • <i>Total wages payable for employment during such period and the date on which such wages were paid.</i> • <i>The date in each calendar week on which the largest number of workers was employed and the number of such workers.</i> • <i>A reporting pay period of not to exceed one month, if any established payroll period be longer than one month.</i> <p>Employee Information. For each worker, the employing unit's records must show:</p> <ul style="list-style-type: none"> • <i>Name.</i> • <i>State of residence.</i> • <i>Social security account number. If a worker has no account number, the employer shall require the worker to produce a receipt of application therefor within seven days of entering upon employment.</i> • <i>Date of hire, rehire, or return to work after temporary layoff.</i> • <i>Date and reason separated from employment.</i> • <i>State or states where services are performed.</i> • <i>If services are performed outside of Colorado, the worker's base of operations, and, if there is no base of operations, then the place from which such services are directed or controlled.</i> • <i>If such worker is paid:</i> <ul style="list-style-type: none"> - <i>On a salary basis, the wage rate and period covered.</i> - <i>On a fixed hourly basis, the hourly rate and the customary scheduled days per week prevailing in the establishment for the occupation.</i> - <i>On a fixed daily basis, the daily rate and the customary scheduled days per week in the establishment for the occupation.</i> - <i>On a piece rate or other variable pay basis, the method by which the wages are computed.</i> - <i>By tips, gratuities, or service charges as defined in regulation 3.2, whether in whole or in part.</i> • <i>If, during any payroll period, such worker shall work less than his or her customary fulltime hours:</i> <ul style="list-style-type: none"> - <i>The specific amount of time lost; and</i> - <i>The specific reason or reasons, including his or her nonavailability for work, and, if there be more than one reason, the amount of time attributable to each.</i> • <i>Wages paid during each payroll period and the date of payment thereof, with separate entries for:</i> <ul style="list-style-type: none"> - <i>Money wages;</i> - <i>The reasonable cash value of wages paid in any medium other than money;</i> - <i>Amounts paid to a worker that exceed travel and other business expenses actually incurred or accounted for; and</i> - <i>Tips, gratuities, and service charges.</i> <p><u>Auditors from the Division of Unemployment Insurance</u> may come to your place of business to examine your books and account records. A complete payroll audit involves an inspection of subsidiary records, including the examination of cash-disbursement records of money paid to workers for services performed that you did not classify as employment or wages.</p>
Workers' Compensation ¹¹	YES	<p>Employers must keep a record of all injuries that result in fatality, permanent physical impairment, lost time of three days/shifts or more, or contraction of an occupational illness.</p> <p>For covered employers, all books, records, and payrolls showing or referring to the amount of wage paid must be open for inspection by the Colorado Department of Labor and Employment for the purpose of administering Workers' Compensation.</p>

RECORD KEEPING

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TOPIC	ANSWER	DETAILS
Payroll ¹²	YES	Must keep records that reflect the information included in an employee's pay statement (described above in 'Pay Stub') for at least three years after the wages or compensation were due. The records must be available for inspection by the Division of Labor and Employment. The employer must provide copies of the records upon request by the division or the employee.
Personnel Files – Employee Access ¹³	YES	Workers may inspect their personnel files at least once per year. Upon request by a current employee, a business must make the personnel file available at the employer's office at a mutually convenient time. Former employees may make one inspection after termination. "Personnel file" means the personnel records of an employee that are used or have been used to determine the employee's qualifications for employment, promotion, additional compensation, or employment termination or other disciplinary action. It does not include documents or records required to be placed or maintained in a separate file from the regular personnel file by federal or state law or rule; documents or records pertaining to confidential reports from previous employers of the employee; or an active criminal investigation, an active disciplinary investigation by the employer, or an active investigation by a regulatory agency.
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.

HIRING

TOPIC	ANSWER	DETAILS
Notice of Payday/ Pay Rate ¹⁴	YES	<u>Every employer must post a notice</u> specifying regular paydays and the time and place of payment. The employer must also include any changes in paydays or time and place of payment as they may occur from time to time.
Reporting ¹⁵	YES	<u>New hires</u> and rehires must be reported to the Colorado Directory of New Hires within 20 days.

CHILD LABOR

TOPIC	ANSWER	DETAILS
Child Labor ¹⁶	YES	<u>Colorado child labor laws</u> do not apply to minors employed by a parent or guardian. Work permits not required in Colorado. Minimum age: <ul style="list-style-type: none"> • <i>During school hours: 16</i> • <i>Outside school hours: 12</i> Max hours: <ul style="list-style-type: none"> • <i>Under 16: No more than 6 hours on any schoolday or day before a schoolday. No more than 40 hours per week and no more than 8 hours in any 24-hour period. No work between 9:30pm and 5am. Exceptions apply for seasonal employment paid on a piece basis.</i> • <i>16 or over: No maximum specified</i> There are <u>restricted and prohibited occupations</u> for workers under 18. Additionally, must follow <u>federal restrictions/prohibited</u> occupations for agricultural work.



WORKING CONDITIONS

TOPIC	ANSWER	DETAILS
Bathrooms ¹⁷	YES	Colorado 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 (above) for maximum hours for minors.
Rest and Meal Breaks ¹⁸	NO	Colorado rest and meal break rules do not apply to the agriculture industry. Employers that choose to provide rest and meal breaks must follow the applicable federal rules. Refer to federal fact sheet.
Labor Relations ¹⁹	NO	Colorado law does not address the rights of farm workers to organize/collective bargaining.
Whistleblower Protection ²⁰	YES/NO	Colorado 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 Colorado law. Employers who choose to provide such benefits must follow their written policy/contract.
Breaks for Nursing Mothers ²¹	YES	Employers must make reasonable efforts to accommodate employees choosing to express milk at work. Employers must provide reasonable unpaid break time, or allow an employee to use existing paid break time, meal time, or both, each day to express milk for a child for up to two years after its birth. The employer must make reasonable effort to provide a room or other private location close to the work area that is not a toilet stall.
Pregnancy Accommodations ²²	YES	<p>Disabilities caused by pregnancy, miscarriage, abortion and childbirth are considered temporary disabilities for all job-related purposes. Employers must treat pregnancy-related disabilities the same as other temporary disabilities with respect to such matters as leave duration, leave extensions, job reinstatement and health insurance coverage.</p> <p><u>If requested by an employee, an employer must provide reasonable accommodations</u> to allow a pregnant employee or applicant to perform the functions of the job, unless it would impose undue hardship. "Reasonable accommodations" may include, but is not limited to, the provision of more frequent or longer break periods; more frequent restroom, food, and water breaks; acquisition or modification of equipment or seating; limitations on lifting; temporary transfer to a less strenuous or hazardous position if available, with return to the current position after pregnancy; job restructuring; light duty, if available; assistance with manual labor; or modified work schedules as long as the employer is not required to do any of the following:</p> <ul style="list-style-type: none"> • Hire new employees that the employer would not otherwise have hired; • Discharge an employee, transfer another employee with more seniority, or promote another employee who is not qualified to perform the new job; • Create a new position, including a light duty position for the employee, unless a light duty position would be provided for another equivalent employee; or • Provide the employee paid leave beyond that which is provided to similarly situated employees.
Voting Leave ²³	YES	Colorado law requires employers to provide employees with up to two (2) hours of paid leave to vote, unless: 1) an employee has not requested the leave at least one day prior to the vote date, or 2) the employee has three (3) or more hours after the opening or before the closing of the polls during which the voter is not required to be on the job. An employer may specify the hours an employee may take leave to vote, but the period must fall at the beginning or end of the work period if the employee so requests.



WORKING CONDITIONS

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TOPIC	ANSWER	DETAILS
School Activity Leave	NO	Colorado law does not address leave for private sector employees to attend a child's school activity.
Family and Medical Leave ²⁴	YES/NO	<p>Colorado has not enacted a medical leave or pregnancy leave law that applies to employees in the private sector. However, if an employer allows time off for biological parents after the birth of a child, the employer must make the same time off available for adoptive parents, as requested. This includes additional leave for adopted children with disabilities or illnesses, if comparable leave is given to biological children born with such complications. Any other benefits provided by the employer, such as job guarantee or pay, shall be available to both adoptive and biological parents on an equal basis.</p> <p>Federal law requiring unpaid leave may apply depending on the size of the employer. Employers should refer to the federal fact sheet.</p>
Jury Duty Leave ²⁵	YES	<u>An employer must pay an employee</u> regular wages up to \$50 per day for first three (3) days of juror service, unless the employer and employee have agreed otherwise. An employer may not discharge, penalize, harass, threaten, or coerce an employee for responding to a jury summons or serving on a jury.
Crime Victim and Witness Leave ²⁶	YES	<u>Employees can request or take up to three working days</u> of leave from work in any twelve-month period, with or without pay, if the employee is the victim of domestic abuse, stalking, sexual assault, or any other crime related to domestic abuse. This leave law applies only to employers who employ 50 or more employees and to employees who have been employed with the employer for 12+ months.
Military Leave ²⁷	YES	Colorado law prohibits employers from discriminating against employees because they are members of the state National Guard and from preventing a National Guard member from performing a required military duty. Permanent employees who belong to the state National Guard or the U.S. reserves are entitled to up to 15 days of unpaid leave per calendar year for training with the U.S. Armed Forces without loss of vacation, sick leave, bonus, advancement, or other advantages of employment. Employers should also refer to the federal fact sheet.

HEALTH AND SAFETY

TOPIC	ANSWER	DETAILS
OSHA	YES	Colorado falls under federal OSHA jurisdiction. See the federal fact sheet for more information.
Workers' Compensation ²⁸	YES	<p>Colorado employers must have <u>workers compensation coverage</u>.</p> <p>The law <u>requires an employer to notify the insurance company</u> of a work-related injury/illness within 10 days of receiving notice from the employee or learning about the injury, no matter how minor the injury. This is done by filing an Employer's First Report of Injury form. In addition to the FROI form, employers must notify the Division within 24 hours of any fatality or an accident in which three or more employees are injured.</p>
Housing ²⁹	YES/NO	<p>Colorado 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> <p>There is a Colorado law governing employer housing provided under a license agreement. In such situations, employers may require a former employee to vacate the premises according to certain conditions. (<u>See 'Lodging' in the Advisory Bulletin.</u>)</p>



HUMAN RIGHTS

TOPIC	ANSWER	DETAILS
Employment Discrimination ³⁰	YES	<p>Colorado law prohibits employment discrimination based on disability, race, creed, color, sex, pregnancy, childbirth and related conditions, sexual orientation (including transgender status), physical or mental disability, marriage to a co-worker, religion, age, national origin, or ancestry. People who engage in protected activity (opposing a discriminatory practice or participating in an employment discrimination proceeding) are also protected.</p> <p>Employment discrimination means bias in hiring (including during interviews), promotion, job assignments, firing, pay, and other terms of employment. In Colorado, it also includes harassment (see below).</p> <p>Employers cannot pay men and women different wages for comparable work on jobs that have virtually the same requirements in terms of skills, effort, and responsibility. Wage differences based on seniority, merit, quantity or quality of production or other factors other than sex are permitted.</p> <p>It is illegal to retaliate against employees for filing or otherwise aiding with a complaint.</p>
Harassment/ Sexual Harassment ³¹	YES	<p>Colorado employment discrimination law includes protections against harassment in the workplace for the same classes described above (race, creed, color, etc.). “Harass” means to create a hostile work environment based upon an individual’s race, national origin, sex, sexual orientation, disability, age, or religion. Harassment is not an illegal act in Colorado unless a complaint is filed with the appropriate person/authority at the workplace and such authority fails to initiate a reasonable investigation of a complaint and take prompt remedial action if appropriate.</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 ³²	YES	<p>Human trafficking is illegal in Colorado. 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>

References

1. Col. Rev. Stat. §8-4-103
2. Col. Rev. Stat. §8-4-109
3. 7 Code of Col. Reg. 1103-1
4. 7 Code of Col. Reg. 1103-1,
5. Const. of Colorado, Article VIII, §5
6. 7 Code of Col. Reg. 1103-1(2)
7. Col. Rev. Stat. §8-4-103
8. Col. Rev. Stat. §39-22-604; §8-70-120; §8-70-129
9. Col. Rev. Stat. §8-4-105;
10. Col. Rev. Stat. §8-4-101
11. 7 Code of Col. Reg. 1101-2-7.1.3; 1101-2-7.1.4; 1101-2-7.2.4;
12. Col. Rev. Stat. §8-72-107
13. Col. Rev. Code. §8-43-101;
14. §8-47-208
15. 12. Col. Rev. Stat. §8-4-103
16. 13. Col. Rev. Stat. §8-2-129
17. 14. Col. Rev. Stat. §8-4-107
18. 15. Col. Rev. Stat. §26-13-125
19. 16. Col. Rev. Code §8-12-104; §8-12-105; §8-12-107
20. 17. 6 Code of Col. Reg. 1010-4-4.3
21. 18. 7 Code of Col. Reg. 1103-1
22. 19. Col. Rev. Stat. §8-3-104
23. 20. Col. Rev. Stat. §24-114-102
24. 21. Col. Rev. Stat. §8-135-104
25. 22. 3 Code of Col. Reg. 708-1:80;
26. Col. Rev. Stat. §24-34-402.3
27. 23. Col. Rev. Stat. §1-7-102
28. 24. Col. Rev. Stat. §19-5-211(1.5)
29. 25. Col. Rev. Stat. §13-71-126 and §13-71-134
30. 26. Col. Rev. Stat. §24-34-402.7
31. 27. Col. Rev. Stat. §28-3-609
32. 28. 7 Code of Col. Reg. 1101-3-5-2
29. Col. Rev. Code 8-4-123
30. Col. Rev. Stat. §24-34-402;
31. §24-34-402.3
32. See above; and 3 Code of Col. Reg. 708-1-80.8
33. Col. Rev. Code §18-3-503

