



Pennsylvania

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 PENNSYLVANIA STATE LAWS PERTAINING TO DAIRY FARMS ABOUT:

HIRING

TOPIC	ANSWER	DETAILS
Notice of Payday / Pay Rate ¹	YES	The employer must notify each employee at the time of hiring of the following: (1) time and place of payment; (2) rate of pay; and (3) amount of any fringe benefits or wage supplements to be paid to the employee, a third party, or a fund for the benefit of the employee. You must also give employees a notice if there is a change to any of the above items. Employers can give such notification by posting the aforementioned facts and keeping them posted conspicuously at the employer's place of business.
Reporting ²	YES	<u>New hires</u> and rehires must be reported to the Pennsylvania New Hire Reporting Program within 20 days.

WAGES

TOPIC	ANSWER	DETAILS
Paydays ³	YES	Regular paydays need to be designated in advance. The time between the end of a pay period and payday must not exceed: (a) the time specified in a written contract between employer and employee, or (b) the standard time lapse customary in the dairy industry, or (c) 15 days. Overtime can be included in wages for the following pay period.
Final Pay ⁴	YES	If an employee quits, is fired, or otherwise terminated, wages are due no later than the next regular payday. Seasonal labor must be paid by the end of the next business day after the end of the season of employment.
Overtime ⁵	NO	Agricultural labor (seasonal or permanent) is exempt from state overtime law; follow federal requirements found in the federal fact sheet.
Minimum Wage ⁶	YES/NO	Permanent agricultural labor is exempt from state minimum wage law; follow federal requirements. Seasonal farm labor must be paid the Pennsylvania minimum wage of <u>\$7.25 per hour</u> .
Reporting Time Pay	NO	Pennsylvania does not have reporting time pay requirements, i.e. an employee is only required to be paid for actual hours worked.

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WAGES

(Continued)

TOPIC	ANSWER	DETAILS
Hours Worked ⁷	YES	<p>Pennsylvania law defines hours worked as including time when an employer requires an employee to be on premises, to be on duty, or to be at the workplace. Hours worked also includes time spent traveling as part of work duties during normal working hours as well as anytime an employee is required or permitted to work.</p> <p>Does not include meal times if they are completely relieved of duties. And does not include time the employee is at the workplace for the employee's own convenience.</p>
Pay Stub ⁸	YES	<p>For each payday, <u>employers must give a paystub</u> that includes:</p> <ul style="list-style-type: none"> • <i>hours worked</i> • <i>rates paid</i> • <i>gross wages</i> • <i>allowances, if any, claimed as part of the minimum wage</i> • <i>deductions</i> • <i>net wages</i>
Taxes and Withholding ⁹	YES	<p>You are required to <u>withhold Pennsylvania income tax</u>. 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 Pennsylvania <u>Unemployment Compensation</u> taxes if:</p> <ul style="list-style-type: none"> • <i>You paid cash wages to farm workers of \$20,000 or more in a quarter in the current or prior calendar year; OR,</i> • <i>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.</i> <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 18 employed by a parent). In Pennsylvania, The Unemployment Compensation program is funded both through employer and employee taxes. You can credit the amount you pay to Pennsylvania in calculating how much you owe for federal unemployment taxes. <u>More details.</u></p>
Deductions ¹⁰	YES	<p><u>Deductions required by law or courts</u> (for ex. tax withholdings) do not require written authorization from the employee. However, other deductions must be agreed to in writing by the employee and be for the convenience of the employee as authorized by the Department of Labor and Industry. A full list of authorized deductions can be found <u>here</u>.</p> <p>Deductions cannot reduce gross pay below minimum wage, and the deductions must be for the employee's benefit.</p> <p>Meals/lodging/other facilities provided at a reasonable rate (not to exceed the cost of providing it) and are customarily provided by the employer can be counted as wages toward minimum wage requirements. But any lodging would need to provide reasonable space, privacy, sanitation, heat, light, and ventilation; and it would need to be open to inspection by the Department of Labor and Industries.</p> <p>There are specific wage deduction rules for <u>seasonal farm workers</u>.</p>
Bonuses ¹¹	YES	<p>Generally, discretionary bonuses would not be considered wages, while nondiscretionary bonuses can 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.</p> <p>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. In Pennsylvania, sums paid as gifts as a reward for service which are not dependent on the number of hours worked, production, or efficiency are not considered part of the regular rate when calculating overtime pay.</p>

RECORD KEEPING

TOPIC	ANSWER	DETAILS
Payroll ¹²	YES	<p>Keep employee payroll records for a minimum of three years:</p> <ul style="list-style-type: none"> • Full name, and on the same record, the identifying symbol of the employee or number, if such is used in place of name on time, work or payroll records • home address including zip code. • regular hourly rate of pay. • occupation. • time and day that the workweek begins. • the number of hours worked daily and weekly. • total daily or weekly straight time wages • total overtime excess compensation for the workweek • total additions to or deductions from wages paid each pay period. Every employer making additions to or deductions from wages shall also maintain, in individual employee accounts, a record of the dates, amounts and nature of the items which make up the total additions and deductions. • allowances, if any, claimed as part of the minimum wage. • total wages paid each pay period. • Date of payment and the pay period covered by payment. <p>Payroll records of an employer shall be open to inspection by an authorized representative of the Department of Labor and Industry at a reasonable time. An authorized representative of the Department of Labor and Industry is allowed to interrogate an employee at the workplace during work hours about wages paid and hours worked by the employee or other employees.</p> <p>If records are maintained at a central off-site location, the records must be made available for inspection at the place of employment within 7 calendar days following verbal or written notice from the Department of Labor and Industry.</p>
Personnel File – Employee Access ¹³	YES	<p>Employees may request to inspect the personnel files used to determine their qualifications for employment, promotion, additional compensation, termination or disciplinary action. The files should be accessible during regular business hours at the workplace's office. An employer can require a worker to view the file during free time, rather than work time.</p> <p>If maintained by the employer, any application for employment, wage or salary information, notices of commendations, warning or discipline, authorization for a deduction or withholding of pay, fringe benefit information, leave records, employment history with the employer, including salary information, job title, dates of changes, retirement record, attendance records and performance evaluations.</p> <p>Files that employees do not have the right by law to inspect include: records of an employee relating to the investigation of a possible criminal offense, letters of reference, documents which are being developed or prepared for use in civil, criminal or grievance procedures, medical records or materials which are used by the employer to plan for future operations or information available to the employee under the Fair Credit Reporting Act.</p>
OSHA	YES	<p>Pennsylvania has incorporated federal OSHA recordkeeping and reporting requirements. See federal fact sheet for details.</p>
Federal	YES	<p>There are numerous federal rules about recordkeeping. Employers should review the federal fact sheet.</p>
Workers' Compensation ¹⁴	YES	<p>Employers must keep records of all injuries reported by employees or that he/she otherwise has knowledge of. The records must include: a description of the injury, how long the employee could not work because of the injury (if applicable), and a description of how the injury happened. The records must be available for inspection at reasonable times by any governmental agency.</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 Department of Labor and Industry for the purpose of administering Workers' Compensation.</p>

RECORD KEEPING

(Continued)

TOPIC	ANSWER	DETAILS
Unemployment Insurance ¹⁵	YES	<p>Employers covered under the Unemployment Compensation (UC) program must file quarterly wage reports.</p> <p>The UC Law specifically provides that an employer's books and records may be audited by the Department. An employer, whether or not liable for UC, must maintain the following records and, when necessary for review, make these records available to the Department of Labor and Industry:</p> <ul style="list-style-type: none"> • <i>employment and payroll records:</i> <ul style="list-style-type: none"> - SSN - Name - Place of employment - Wage rate (hourly, daily or piece rate, weekly, monthly or annual salary). - Total remuneration paid for each pay period by type of payment (cash and fair market value of noncash remuneration). - Traveling or other business expenses actually incurred and accounted for, and the dates such expenses were incurred and were paid by the employer. - All scheduled hours and hours worked. - Daily attendance record, showing the dates on which the worker actually worked, and time lost due to reasons other than lack of work. (**this only needs to be kept for 2 years) - If separated, the date and the reasons for separation. - Number of credit weeks. - Documentation of payments made to the worker, including bank statements, cancelled checks, copies of cancelled checks, check stubs, and electronic funds transfer records. - Any contract between the employer and the worker. - If the employer considers the worker to be an independent contractor or otherwise not an "employee" under the law, all records, documentation and evidence supporting that position. - Federal and State tax returns for the periods when the worker was employed. • cash books • journal ledgers • corporate minutes <p>Keep the records at the workplace or a central recordkeeping office. They must be retained for at least 4 years after any contributions have been made. The records should be readily accessible for review by the Department of Labor and Industry.</p>

WORKING CONDITIONS

TOPIC	ANSWER	DETAILS
Bathrooms ¹⁶	YES	<p>Seasonal workers must be provided access to a reasonably close, sufficient, suitable, and separate toilet facility including sufficient supply of cool, potable water. Pennsylvania has also adopted the 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.</p>
Working Hours ¹⁷	YES/NO	<p>No max hour or day requirements for adult permanent employees. Seasonal labor is limited to no more than six work days in any one week, or more than 48 hours in any one week, or more than ten hours in any one day. Whenever any seasonal farm workers are employed or permitted to work on the premises of more than one employer in any one week or in any one day, the aggregate number of hours during which he shall be required to work on all such premises shall not exceed 48 in any one week or ten in any one day.</p> <p>See Child Labor (below) for maximum hours for minors.</p>
Rest and Meal Breaks ¹⁸	YES	<p><u>Not required for adults, if permanent employees.</u> Employers that choose to provide rest and meal breaks must follow the applicable federal rules. Refer to federal fact sheet.</p> <p>Seasonal labor, whether minors or adults, who work more than five continuous hours are required to be given a 30-minute uninterrupted rest period.</p>
Labor Relations	NO	<p>No provision in state law recognizing farm worker rights to organize.</p>

WORKING CONDITIONS

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TOPIC	ANSWER	DETAILS
Whistleblower Protection ¹⁹	YES/NO	Pennsylvania 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.
Breaks for Nursing Mothers	NO	No state law on providing workplace accommodations for employees that are nursing, but there may be requirements under federal law. Employers should refer to the federal fact sheet.
Pregnancy Accommodations and Leave	NO	Pennsylvania law does not directly address pregnancy leave or pregnancy accommodations for agricultural workers. Employers should refer to the federal fact sheet.
Paid Sick and Vacation Leave	YES	<u>Employers are not required to provide vacation, sick, holiday pay</u> or any pay for hours not worked. But if you choose to provide them, you should follow your written policy on how these benefits are earned, accrued, used, and paid out.
Family and Medical Leave	NO	Pennsylvania 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.
Military Leave ²⁰	YES	Employees are eligible for job-protected unpaid leave for military service. Returning employee must be reinstated to same or similar position with same status, seniority, and pay.
Witness Duty/ Crime Victim Leave ²¹	YES	Eligible employees are those taking leave to attend court as either a victim or a crime, witness to a crime, or a member of a victim's family. Employers are not required to compensate employees for employment time lost because of court attendance.
Jury Duty Leave ²²	YES	An employer cannot deprive an employee of his or her employment, seniority position or benefits, or threaten or otherwise coerce him or her with respect thereto, because the employee receives a summons, responds thereto, serves as a juror or attends court for prospective jury service. Employers are not required to compensate employees for jury service.
Voting Leave	NO	Pennsylvania law does not address voting leave.
School Activity Leave	NO	Pennsylvania law does not address leave for private sector employees to attend a child's school activity.
Other Leave ²³	YES	<p>Emergency Response Volunteer firefighters, volunteer fire police officers, and volunteer members or an ambulance service or rescue squad are eligible for leave. The leave is only allowed where the call was taken before the employee was to report for work.</p> <p>State Emergencies An employer may not terminate or discipline an employee for failing to report to work due to a state emergency.</p>

HUMAN RIGHTS

TOPIC	ANSWER	DETAILS
Employment Discrimination ²⁴	YES/NO	<p>Pennsylvania law on employment discrimination does not apply to agriculture. Employers should review federal anti-discrimination laws found in the federal section of the fact sheet.</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>
Harassment/ Sexual Harassment ²⁵	NO	<p>Pennsylvania law on employment discrimination (which includes workplace sexual harassment) does not apply to agriculture. However, employers are still subject to federal laws and may find the following information useful.</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 a complaint.</p>
Forced Labor ²⁶	YES	<p>Human trafficking is illegal in Pennsylvania. Trafficking for labor means: recruiting, enticing, soliciting, harboring, transporting, providing, obtaining or maintaining an individual if you knows or recklessly disregards that the individual will be subject to involuntary servitude; or knowingly benefits financially or receives anything of value from any act that facilitates any of the above activity. More details.</p> <p>Employers should ensure they are carefully following all visa requirements or work agreements to avoid any inadvertent violations.</p> <p>Furthermore, it is a crime to prevent or restrict or attempt to prevent or restrict, without lawful authority, the ability of an individual to move or travel, the person knowingly destroys, conceals, removes, confiscates or possesses an actual or purported:</p> <ul style="list-style-type: none"> • <i>passport or other immigration document of an individual; or</i> • <i>government identification document of an individual.</i>

HEALTH AND SAFETY

TOPIC	ANSWER	DETAILS
Workers' Compensation ²⁷	YES	<p>Farms must provide workers' compensation if they pay one agricultural worker wages of \$1,200 or more OR has one employee in agricultural labor for 30 or more days in a calendar year. Spouses and children under 18 are excluded unless they have sought a written inclusion under the workers' compensation law.</p> <p>Employers have to immediately report injuries to their insurer once they receive notice from an employee. For injuries resulting in the loss of a day/shift or more of work, you also have to file a First Report of Injury form to the Workers Compensation Bureau within 7 days. Fatalities must be reported within 48 hours. More details.</p> <p>See Federal OSHA requirements for accident reporting to OSHA.</p>
OSHA	YES	<p>Pennsylvania is under federal OSHA jurisdiction. See the federal portion of the fact sheet for more information.</p>

HEALTH AND SAFETY

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TOPIC	ANSWER	DETAILS
Ag Housing ²⁸	YES/NO	<p>There are Pennsylvania laws regulating seasonal farm labor camps. Under the law's definitions, a seasonal farm worker may include dairy workers: an individual who resides in living quarters owned, leased, or operated by an employer or farm labor contractor and occupied by four or more unrelated individuals.</p> <p>Employers providing a seasonal farm labor camp must obtain a permit from the Pennsylvania Department of Agriculture. Chapter 82 of the Pennsylvania Administrative Code sets standards for conditions of work, living quarters, occupancy, camp sanitation, food facilities, fire protection, and safety of seasonal farm workers. More detail.</p> <p>Pennsylvania 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 ²⁹	YES/NO	<p>Agriculture is exempt from state child labor law, except for seasonal farm labor. Minors employed as seasonal farmworkers are subject to the following:</p> <p>Require work permits.</p> <p>Minimum age: 14 (except for immediate family)</p> <p>Max hours (except for immediate family):</p> <ul style="list-style-type: none"> • <i>Cannot work more than six consecutive days</i> • <i>Cannot be required to work between 7am and 1 hour after the end of the school day, regardless of whether the minor is a student.</i> • <i>During the school term</i> <ul style="list-style-type: none"> - <i>14 and 15: max 3 hrs per school day, 8hrs on a non-school day. Max of 18 hours during the school week</i> - <i>16 and 17: max 8 hrs per day. Max of 28 hours during the school week</i> • <i>During school vacations</i> <ul style="list-style-type: none"> - <i>14 and 15: max 8 hrs per day, 40 hrs per week</i> - <i>16 and 17: max 10 hrs per day, 48 hrs per week. They can refuse work requests more than 44 hrs per week.</i> <p>Must provide break periods of at least 30 minutes for minors ages 14 through 17 who work five or more consecutive hours. More details.</p> <p>Follow federal laws on hazardous work restrictions.</p>

References

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| 1. 43 PA Stat. Ann. § 260.4 | 10. 34 PA. Code § 9.1; 9.2; 43 PA Stat. Ann. § 1301.206; 34 PA. Code §231.22 | 17. 43 PA Stat. § 1301.207 | 24. 43 PA Stat. § 954 (c); 43 PA Stat. §336.343 PA Stat. § 1301.204. |
| 2. 23 Pa.C.S.A. § 4391 et seq. | 11. 34 PA Code § 231.43 | 18. 43 PA Stat. §40.3; 43 PA Stat. § 1301.207 | 25. See above |
| 3. 43 PA Stat. Ann. . § 260.3 | 12. 34 PA Code 231.31; 34 PA Code 231.35 | 19. 43 PA Stat. § 1422 | 26. 18 Pa. C.S.A. § 3001 et seq |
| 4. 43 PA Stat. Ann. § 260.5; 43 PA Stat. Ann. § 1301.206 | 13. 43 PA Stat. § 1321, 1322 | 20. 51 Pa. C.S.A. §§ 7301 to 7319 | 27. 77 PA Stat. § 463; § 631 to 633; §994 |
| 5. 43 PA Stat. Ann. § 333.105; PA Stat. Ann. 43 P.S. §1301.201 | 14. 77 PA Stat. Ann. §995; 77 PA Stat. Ann. §2615 | 21. 18 Pa. C.S.A. § 4957 | 28. 43 PA Stat. § 1301.101 et seq.; 27 PA Code 82.1 et seq. |
| 6. 43 PA Stat. Ann. § 333.105; 43 PA Stat. Ann. § 1301.201 | 15. PA Admin Code 34 §63.52; §63.64 | 22. 42 Pa. C.S.A. § 4563 | 29. 43 PA Stat. § 40.13; 43 PA Stat. § 1301.203; 43 PA Stat. §40.3 |
| 7. 34 PA. Code § 231.1 | 16. 43 PA Stat. § 1301.308; 7 Pa. Code § 59a.101 | 23. 35 Pa. C.S.A. § § 7421 to 7427, 43 PA Stat. §§ 1481 to 1485 | |
| 8. 34 PA. Code § 231.36 | | | |
| 9. 61 PA Code § 113.1; 43 PA Stat. § 753 (l)(3)(G) and (l)(4)(5) | | | |