



Tennessee

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 TENNESSEE STATE LAWS PERTAINING TO DAIRY FARMS ABOUT:

HIRING

TOPIC	ANSWER	DETAILS
Notice of Payday / Pay Rate ¹	YES	Employers must post and maintain notices of the regular payday in at least two conspicuous places in the workplace. It is unlawful to misrepresent the wage rate to employees entering into a new contract of employment.
Reporting ²	YES	<u>New hires</u> and rehires must be reported to the Tennessee New Hire Reporting Program within 20 days.

WAGES

TOPIC	ANSWER	DETAILS
Payday ³	YES	<p><u>Wages must be paid</u> at least once per month.</p> <p>If paydays are once monthly, wages or compensation earned before the first day of any month must be paid no later than the fifth day of the succeeding month.</p> <p>If paydays are twice per month:</p> <ul style="list-style-type: none"> • <i>Wages or compensation earned before the first day of any month must be paid not later than the twentieth day of the month following the one in which the wages were earned; and</i> • <i>Wages or compensation earned before the sixteenth day of any month must be paid not later than the fifth day of the succeeding month.</i>
Final Pay ⁴	YES	<u>Employees that have been discharged</u> must be paid by either the next regular payday or within 21 days, whichever is later.
Overtime	NO	Tennessee law does not govern overtime pay, federal rules may apply. Refer to the federal fact sheet.
Minimum Wage	NO	Tennessee law does not govern minimum wage, federal rules may apply. Refer to the federal fact sheet.
Hours Worked	NO	Tennessee wage payment law does not explicitly define hours worked for the purpose of calculating compensable time. Employers should refer to 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 to access the links.



WAGES

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TOPIC	ANSWER	DETAILS
Pay Stub	NO	Tennessee law does not require paystubs for private sector employees, though it is generally good practice.
Reporting Time Pay	NO	Tennessee law does not require reporting time pay, i.e. an employee is only required to be paid for actual hours worked.
Taxes and Withholding ⁵	YES/NO	<p>Tennessee does not have a state income tax on earned income, and therefore has no withholding requirements. 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 Tennessee 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 (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 Tennessee in calculating how much you owe for federal unemployment taxes. More details.</p>
Deductions and Allowances ⁶	YES	<p>Employers can deduct for health insurance at the request of any employee who participates in the health insurance program.</p> <p>An employer may make a wage deduction for any amount of money the employee owes the employer if it meets all of the following criteria:</p> <ul style="list-style-type: none"> There must be a written agreement allowing the employer to offset the employee's wages for any amount the employee owes the employer; The employee signs the agreement that allows the employer to offset/deduct the employee's wages for any amount the employee owes the employer prior to the employer advancing wages or lending the employee money; The employer notifies the employee in writing 14 days prior to the deduction/payment of wages due, specifying: there is an amount the employee owes the employer, the employee's wages may be offset if the amount owed is not paid prior to the payment of wages, the employee has the option to submit an affidavit contesting the amount; and The employee has not paid the amount owed the employer as described in the written notice. <p>The employee can submit an affidavit to the Department of Labor and Workforce Development contesting the amount owed no later than 7 days after receiving the notice described in bullet #3 above.</p> <p>Other wage deduction rules apply under federal law. Refer to the federal fact sheet.</p>
Bonuses	YES/NO	<p>Tennessee wage law does not explicitly address bonuses. 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	YES/NO	Tennessee wage law does not have recordkeeping requirements; however, employers are required to keep records under unemployment insurance law (see below). Additionally, federal rules may apply. Refer to the federal fact sheet.
Personnel File — Employee Access	NO	Tennessee law does not explicitly grant private sector employees access to their personnel files.
Unemployment Insurance ⁷	YES	<p>Employers subject to paying unemployment taxes must submit electronic, <u>quarterly wage reports</u>.</p> <p>Whether or not subject to paying Unemployment Insurance taxes, employers must keep employment records. An employer's payroll records must show the following information:</p> <ul style="list-style-type: none"> • <i>Period covered by the payroll</i> • <i>Place of employment within the state</i> • <i>Scheduled hours per day or week</i> <p>Records must be kept on each individual employee showing:</p> <ul style="list-style-type: none"> • <i>Social Security number and name</i> • <i>The number of hours for which he was paid (except for workers paid on salary)</i> • <i>The individual's wages.</i> <p>If the employer has employees covered under the program, must also keep:</p> <ul style="list-style-type: none"> • <i>The date on which the worker was hired, rehired, or returned to work after temporary lay-off;</i> • <i>The date when work was terminated by layoff, quit, discharge, or death;</i> • <i>Scheduled hours (except for workers without a fixed schedule of hours, such as those working outside their employer's establishment in such a manner that the employer has no record or definite knowledge of their working hours);</i> • <i>Full-time weekly wage (except for workers such as those on a piece-meal work, commission, or other variable pay basis whose full-time weekly wage is not readily determinable, or where there is no customary full-time week for the particular occupation);</i> • <i>The worker's money wages in each pay period and the worker's total wages for all pay periods in each month showing separately:</i> <ul style="list-style-type: none"> - <i>money wages,</i> - <i>the cash value of all other remunerations, including the amount of gratuities (tips) actually received and reported to the employing unit by the worker, or reasonable valuation of the remunerations from that source, and</i> - <i>the total of 1. and 2.;</i> • <i>Any special payments for services other than those rendered exclusively in a given month, such as annual bonuses, gifts, prizes, etc., showing separately:</i> <ul style="list-style-type: none"> - <i>money payments,</i> - <i>other remunerations,</i> - <i>total of 1. and 2., and</i> - <i>the nature of said payments.</i> <p>These records must be maintained for the most recent seven-year period. The Department's Employer Accounts Auditors have the right to audit any employer's records to determine liability, verify payroll information, correct improper reports, or obtain delinquent quarterly reports.</p>
Workers' Compensation	YES/NO	Injury and illness records are not explicitly required for employers under Tennessee's Workers' Compensation law. However, there are recordkeeping requirements under OSHA.
OSHA	YES	Tennessee has incorporated the federal standard for OSHA recordkeeping and reporting. Refer to the federal fact sheet.
Federal	YES	There are numerous federal rules about recordkeeping. Employers should review the federal fact sheet.



WORKING CONDITIONS

TOPIC	ANSWER	DETAILS
Bathrooms ⁸	YES	Similar to the federal Pasteurized Milk Ordinance (PMO), Tennessee's dairy regulations have various sanitation requirements. Among other things, Tennessee regulations 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	Tennessee law does not specify max hour or day requirements for adults.
Labor Relations	NO	No provision in state law recognizing farm worker rights to organize.
Paid Sick and Vacation Leave	NO	Tennessee law does not require paid sick or vacation leave. Employers who choose to provide such benefits must follow their written policy/contract.
Rest and Meal Breaks ⁹	YES	<u>Must provide employees with a 30 minute</u> unpaid rest or meal break if scheduled to work 6 hours consecutively, unless their work is such that they have ample opportunity for rest. The break cannot be scheduled during or before the first hour of scheduled activity. Employers that provide breaks may also be subject to federal rules; refer to the federal fact sheet.
Whistleblower Protection	YES/NO	Tennessee 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 ¹⁰	YES	Employers must provide <u>reasonable unpaid break time</u> each day to an employee who needs to express breast milk for that employee's infant child. The break time shall, if possible, run concurrently with any break time already provided to the employee. An employer is not required to provide break time if to do so would unduly disrupt the operations of the employer. The employer shall make reasonable efforts to provide a room or other location in close proximity to the work area, other than a toilet stall, where the employee can express breast milk in privacy.
Pregnancy Accommodations and Leave	NO	State law does not address pregnancy accommodations for private sector employees. Generally, pregnancy disabilities must be treated the same as other temporary disabilities. See Family and Medical Leave for adoption, pregnancy, and childbirth leave.
Family and Medical Leave ¹¹	YES	Employers with 100 or more employees are covered under a Tennessee law that allows employees up to 4 months of <u>unpaid leave for adoption, pregnancy, childbirth, and nursing an infant</u> . Applies to employees that have been with the employer at least 12 consecutive months. There are various rules on notice and job reinstatement. Federal law requiring unpaid leave may apply depending on the size of the employer. Refer to federal fact sheet.
Military and other Service Leave ¹²	YES	Tennessee law provides employment protections for Tennessee National Guard members. Employers cannot refuse to hire or terminate an employee for being a National Guard member. Employers cannot terminate an employee because of absences from work for attending required drills or annual training.
Crime Victim and Witness Leave	NO	Tennessee law does not address leave for crime victims or witnesses for private sector employees.
Voting Leave ¹³	YES	Tennessee requires that employers provide a reasonable time of up to three hours to vote. The leave is required if the employee's workday begins less than 3 hours after polls open or ends less than 3 hours before the polls close. Advance notice from the employee is required by noon the day before Election Day – and the employer can specify the hours during which the employee can be absent. Employees cannot be subject to a penalty or reduction in pay for the absence.



WORKING CONDITIONS

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TOPIC	ANSWER	DETAILS
Jury Duty Leave ¹⁴	YES	<p>An employer cannot discharge, threaten to discharge, coerce, or intimidate an individual for responding to a jury summons or serving on a jury.</p> <p>An employee must be excused from work to respond to a jury summons or serve on a jury. The employee must show the summons to the employer the day after it is received. If the employee serves for more than three hours, the employee does not have to return to work for the next scheduled work shift within the next 24 hours. Employers with 5 or more employees must pay an employee their usual compensation for time spent serving and traveling to/from jury duty, less any jury fee received. Temporary employees that have been with the employer less than 6 months are not entitled to pay. If an employee is scheduled to work the night shift, they must be excused from their shift the night before jury service.</p>
School Activity Leave	NO	Tennessee law does not address leave for private sector employees to attend a child's school activity.

HEALTH AND SAFETY

TOPIC	ANSWER	DETAILS
Workers' Compensation ¹⁵	YES	<p>Workers' Compensation is not required for farm or agricultural laborers and employers in Tennessee, however it is good practice to obtain coverage. <u>If an employer elects coverage</u>, they must follow the accident reporting requirements as follows.</p> <p>Employers must also immediately (within 1 business day) <u>submit all known or reported injuries or illnesses</u> to their insurance carriers unless the employer is qualified and certified as a self-insured employer. Self-insured employers must either report the claim to their Third Party Administrator (TPA) or internal claims handling program. Reportable workplace injuries or illnesses are those that cause:</p> <ul style="list-style-type: none"> • An employee to receive medical treatment outside of the employer's premises; • Their absence from work, or their retention of a permanent impairment; or, • Their death.
OSHA ¹⁶	YES	<p>Tennessee has an approved OSHA 'state-plan', which means it is at least as effective as federal OSHA. <u>Similar to federal OSHA</u>, TOSHA has a general duty clause that requires employers to provide employees a workplace free from recognized hazards that are likely to cause death or serious physical harm.</p> <p>TOSHA has adopted the federal OSHA Standards for Agriculture, the General Industry Standards that apply to agriculture, and the reporting/recordkeeping requirements. See the federal fact sheet for details on requirements.</p>
Housing	YES/NO	Tennessee 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.

CHILD LABOR

TOPIC	ANSWER	DETAILS
Child Labor ¹⁷	NO	Tennessee child labor laws do not apply to minors employed in agricultural work. Federal rules apply; refer to the federal fact sheet.



HUMAN RIGHTS

TOPIC	ANSWER	DETAILS
Employment Discrimination ¹⁸	YES	<p>Tennessee law <u>prohibits employment discrimination</u> based on race, color, creed, religion, sex, age 40 and above, national origin, mental, visual, or physical disability. Applies to employers with 8 or more employees. In the case of disability, applies to employers with 1 or more employees.</p> <p>Employment discrimination means bias in hiring (including during interviews), promotion, job assignments, firing, pay, and other terms of employment.</p> <p>It is illegal to retaliate against employees for filing a complaint or opposing a discriminatory practice or assisting in any manner in an investigation, proceeding or hearing.</p>
Harassment/ Sexual Harassment ¹⁹	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>It is illegal to retaliate against employees for filing a complaint or opposing a discriminatory practice or assisting in any manner in an investigation, proceeding or hearing.</p>
Forced Labor ²⁰	YES	<p>Tennessee law prohibits involuntary labor servitude, which occurs when a person subjects another person to forced labor by causing or threatening to cause physical harm, physically restraining the person, abusing or threatening to abuse the law or legal process, destroying, concealing, removing, confiscating or possessing any passport or other immigration or identification document, or using blackmail or threatening to cause financial harm.</p> <p>Human trafficking is illegal in Tennessee. Trafficking for forced labor means: recruiting, enticing, harboring, transporting, providing, obtaining, intending or knowing that person will be subject to involuntary servitude.</p> <p>Employers should ensure they are carefully following all visa requirements or work agreements to avoid any inadvertent violations.</p>

References

1. Tenn. Code Ann. §50-2-103, §50-2-104
2. Tenn. Code Ann. §36-5-1104
3. Tenn. Code Ann. §50-2-103
4. Tenn. Code Ann. §50-2-103
5. Tenn. Code Ann. §50-7-207(c)
6. Tenn. Code Ann. §50-2-110, §50-1-308
7. Tenn. Comp. R. & Regs. 0800-10-03-.10, 0800-10-01-.02
8. Tenn. Comp. R. & Regs. 0080-3-2-.08
9. Tenn. Code Ann. §50-2-103(h)
10. Tenn. Code Ann. §50-1-305
11. Tenn. Code Ann. §4-21-408
12. Tenn. Code Ann. §58-1-604
13. Tenn. Code Ann. §2-1-106
14. Tenn. Code Ann. §22-4-106
15. Tenn. Code Ann. §50-6-106, Tenn. Comp. R. & Regs. 0800-02-01-.05
16. Tenn. Code Ann. §50-3-105, Tenn. Comp. R. & Regs. 0800-01-01 to 0800-01-11
17. Tenn. Code Ann. §50-5-107
18. Tenn. Code Ann. §4-21-401 et seq., §4-21-301
19. See above
20. Tenn. Code Ann. §39-13-307, §39-13-308

