



Vermont

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 VERMONT STATE LAWS PERTAINING TO DAIRY FARMS ABOUT:

HIRING

TOPIC	ANSWER	DETAILS
Notice of Payday / Pay Rate	NO	Vermont law does not address any notice of payday or pay rate for new hires.
Reporting ¹	YES	<u>New hires</u> and rehires must be reported to the Department of Labor within 10 days.

WAGES

TOPIC	ANSWER	DETAILS
Paydays ²	YES	Employees must be paid weekly. However, with a written notice to its employees, an employer can issue paychecks on a bi-weekly or semi-monthly basis. The payday can be no more than six days after the last day of the pay period.
Final Pay ³	YES	<u>An employee who quits or resigns</u> must be paid on the last regular payday, or if there is no regular payday, on the following Friday. An employee who is discharged (fired, or otherwise terminated) from employment must be paid within 72 hours of the discharge.
Overtime ⁴	NO	Vermont overtime requirements do not apply to the agricultural industry; federal rules may apply. Employers are encouraged to review the federal fact sheet.
Minimum Wage ⁵	NO	Vermont minimum wage law does not apply to the <u>agricultural industry</u> ; federal rules may apply. Employers are encouraged to review the federal fact sheet.
Reporting Time Pay	NO	Vermont law does not require reporting time pay, i.e. an employee is only required to be paid for actual hours worked.
Hours Worked	NO	Vermont law does not explicitly address the definition of 'hours worked' for the purpose of calculating compensable time. Employers should follow federal laws summarized in the federal fact sheet.

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WAGES

(Continued)

TOPIC	ANSWER	DETAILS
Pay Stub ⁶	NO	Agriculture is exempt from Vermont pay stub requirements, which fall under the minimum wage rules.
Taxes and Withholding ⁷	YES	<p>Employers are required to <u>withhold Vermont income tax</u> if they 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>Employers must pay <u>Vermont Unemployment Insurance</u> taxes if:</p> <ul style="list-style-type: none"> You paid cash wages to farm workers of \$20,000 or more in a quarter in the current or prior calendar year; OR, You employed ten or more farm workers for some part of a day in 20 or more weeks of the current or prior calendar year. <p>Certain family employment is excluded from coverage requirements (a person employed by their spouse, or, a minor 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 Vermont in calculating how much you owe for federal unemployment taxes.</p>
Deductions ⁸	YES/NO	Deductions required by law or courts (for ex. tax withholdings) generally do not require written authorization from the employee. Vermont laws on deductions are found in the minimum wage law, from which agriculture is exempt. So employers should look to federal rules instead; refer to the federal fact sheet.
Bonuses ⁹	YES	<p>Under Vermont wage law, the definition of wages includes incentive pay. Generally, discretionary bonuses are not be considered wages, while nondiscretionary bonuses may 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. Please see the <u>Summary of Vermont Wage and Hour Laws</u> for information regarding bonuses.</p>

RECORD KEEPING

TOPIC	ANSWER	DETAILS
Payroll ¹⁰	YES/NO	Vermont wage law only addresses explicit payroll recordkeeping requirements for employees covered under Vermont minimum wage law, from which agriculture is exempt. However, payroll records are required as part of other laws (for example, Unemployment Insurance below).
Personnel File – Employee Access ¹¹	NO	Vermont law does not require private employers to let employees view their personnel file. That said, there are rules regarding the production of employee personnel records in civil litigation.
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.
Workers' Compensation ¹²	YES	Every employer subject to workers compensation coverage must keep a record of all injuries, fatal or otherwise, sustained by his or her employees in the course of their employment.

RECORD KEEPING

(Continued)

TOPIC	ANSWER	DETAILS
Unemployment Insurance ¹³	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 Vermont must maintain accurate employment records for at least four years that include:</p> <p>For each pay period:</p> <ul style="list-style-type: none"> • <i>The date and total amount of compensation paid for subject employment;</i> • <i>The date and total amount of compensation paid for non-subject employment;</i> • <i>The beginning and ending dates of each pay period;</i> • <i>The beginning and ending dates of such subject employment and such non-subject employment.</i> <p>For each worker:</p> <ul style="list-style-type: none"> • <i>Name, address, and social security account number;</i> • <i>Place of employment;</i> • <i>Hourly rate of pay or salary amount and the frequency of payment;</i> • <i>Date on which worker was hired, or returned to work after a temporary layoff, and date separated from work and reason therefor;</i> • <i>The actual days worker performed services in employment each week and the actual number of hours worker performed services in employment each day;</i> • <i>Total compensation paid in each quarter;</i> • <i>Worker's compensation paid for each pay period showing separately:</i> <ul style="list-style-type: none"> - <i>Money payments (excluding special remuneration.)</i> - <i>Special compensation of all kinds showing separately:</i> <ul style="list-style-type: none"> › <i>Money payments;</i> › <i>Reasonable cash value of payments in any medium other than money;</i> › <i>The nature of such special remuneration; and</i> › <i>The period or periods during which the services were performed for which the special remuneration was paid.</i> - <i>The reasonable cash value of remuneration paid by the employing unit in any medium other than cash, i.e. lodging, room and board, etc.).</i> - <i>The amount of gratuities received from persons other than his or her employing unit and reported by the worker to his or her employing unit.</i> - <i>Amount paid worker as allowances or reimbursements for traveling or other business expenses, dates of payment, and the amounts of such expenditures actually incurred and accounted for by worker.</i> <p>The records must also make it possible to determine wages earned for any week of employment, whether that week was less than full time, and time lost (if any) by each worker and the reason for it.</p> <p>The records must be open to inspection and subject to being copied by the Vermont Department of Labor at any reasonable time and as often as may be necessary.</p> <p>Employers must also make available upon request the following records and documents:</p> <ul style="list-style-type: none"> • <i>Check stubs and cancelled checks for all payments;</i> • <i>Cash receipts and disbursement records;</i> • <i>Payroll journal and time cards;</i> • <i>General journal and general ledger;</i> • <i>Copies of tax reports filed with all federal and state agencies;</i> • <i>Copies of IRS forms W-2, W-3, and 1099.</i> <p>More information about employer obligations are found in the Employer Handbook.</p>

WORKING CONDITIONS

TOPIC	ANSWER	DETAILS
Bathrooms ¹⁴	YES	Vermont 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 ¹⁵	YES	Must provide an employee with reasonable opportunities during work periods to eat and to use toilet facilities. Employers that provide rest and meal breaks must follow the applicable federal rules. Refer to federal fact sheet.
Labor Relations	NO	Vermont law does not address the rights of farm workers to organize/collective bargaining.
Whistleblower Protection ¹⁶	YES/NO	Vermont 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 ¹⁷	YES	Vermont law requires all employers to provide paid sick leave, with various rules for accrual and use. Certain employees are exempt from the sick time law, such as seasonal employees employed by an employer for 2 weeks or fewer in a 12-month period, minors under the age of 18, and employees who work for an average of less than 18 hours per week. Employees accrue one hour of earned sick time for every 52 hours worked, subject to certain accrual caps. See detailed information from the Vermont Department of Labor. Employers who choose to provide other fringe benefits must follow their written policy/contract.
Breaks for Nursing Mothers ¹⁸	YES	For three years after the birth of a child, an employer must provide reasonable time (paid or unpaid) throughout the day for the employee to express milk. Employers must make reasonable accommodations to provide a private space that is not a bathroom stall. Employers can apply for an exemption if it would substantially disrupt operations. It is illegal to retaliate or discriminate against an employee who exercises their rights as above.
Pregnancy Accommodations and Leave ¹⁹	YES	An employee with a pregnancy-related condition (whether or not considered to have a disability) has a right to reasonable accommodations in the workplace to perform her job. A pregnancy-related condition is one caused by pregnancy, childbirth, or a medical condition related to pregnancy or childbirth. The law applies to all Vermont workplaces and all pregnant employees. Employees must request accommodations. Employers can decline a request for accommodation if it would constitute an undue hardship (significantly difficult, unduly expensive, or unworkable to put into place), but cannot ignore a request, retaliate against an employee, or fire the employee for making the request. For leave, see 'Family and Medical Leave' below.
Jury Duty Leave ²⁰	YES	Employers cannot discharge an employee for jury service, or otherwise discriminate against them compared to an employee not serving as a juror. Employees are considered in the service of their employer while serving as jurors for the purposes of determining seniority, fringe benefits, credit toward vacations, and other rights, privileges, and benefits of employment. An employer is not required to pay an employee for time spent responding to a jury summons or serving on a jury.
Voting Leave	NO	Vermont does not have a law requiring voting leave, but it is good practice to ensure employees have at least two hours on voting day to go to the polls.

WORKING CONDITIONS

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TOPIC	ANSWER	DETAILS
Crime Victim and Witness Leave ²¹	YES	Employers cannot discharge or discipline an employee who is a crime victim, victim's family member, or victim's representative for honoring to a subpoena to testify. Additionally, employers cannot discharge or discriminate against an employee for an absence from work to serve as a witness pursuant to a summons that has been issued and served.
Family and Medical Leave ²²	YES	<p>Employer with 10 or more employees who work on average at least 30 hours per week each year must provide parental leave.</p> <p>Employer with 15 or more employees who work on average at least 30 hours per week each year must provide family leave.</p> <p>To be eligible for parental leave or family leave, the employee must have worked for the employer for at least one year and work at least 30 hours per week on average.</p> <p>An employee must provide reasonable written notice of intent to take leave. Leave can be for a period of up to 12 weeks during any 12-month period. Family leave can be taken for the serious illness of the employee; the employee's child, stepchild, or ward who lives with the employee, or foster child; the employee's parent; the employee's spouse; or the employee's spouse's parent. Parental leave can be taken for:</p> <ul style="list-style-type: none"> • <i>The birth of the employee's child.</i> • <i>The initial placement of a child who is 16 years old or younger with the employee for adoption.</i> <p>When returning from leave under this law, the employee must be offered the same or comparable job at the same level of compensation, benefits, seniority, or other terms and conditions existing on the day leave began (though there are some exceptions).</p> <p>Short-term family leave can also be taken under this law, to a maximum of 4 hours in any 30-day period, and up to 24 hours in any 12-month period. Short-term family leave can be to:</p> <ul style="list-style-type: none"> • <i>Attend to/accompany a child, stepchild, foster child, ward, parent, spouse, or parent-in-law to routine medical or dental appointments</i> • <i>Accompany a parent, spouse, or parent-in-law to other appointments for care and well-being</i> • <i>Respond to a medical emergency involving a child, stepchild, foster child, parent, spouse, or parent-in-law</i> • <i>To participate in preschool or school activities directly related to the academic educational advancement of the employee's child, stepchild, foster child, or ward, like a parent-teacher conference.</i> <p>Vermont has a guide online to help answer common questions. Leave may run concurrent with leave under the federal Family Medical Leave Act.</p>
Military and Other Service Leave ²³	YES	Employees have leave and reinstatement rights when serving in the Reserve Components of the U.S. Armed Forces, of the Ready Reserve, or in a unit of the Vermont National Guard, or the National Guard of another state. Upon request, they are entitled to leaves of absence for a total of 15 days in a calendar year to attend drills, training, or other temporary duty. Any absence for military training or State active duty shall not affect the employee's right to receive normal vacation, sick leave, bonus, advancement, and other advantages of employment normally to be anticipated in the employee's particular position. There are additional federal laws that apply; refer to the federal fact sheet.
School Activity Leave	YES	See 'Family and Medical' leave above.

HUMAN RIGHTS

TOPIC	ANSWER	DETAILS
Employment Discrimination ²⁴	YES	<p>Vermont law prohibits employment discrimination based on race, color, religion, national origin, sex, sexual orientation, gender identity, genetic information, ancestry, place of birth, age, credit history, HIV status, physical or mental condition, pregnancy, childbirth, or related medical condition.</p> <p>Employment discrimination means bias in hiring (including during interviews), promotion, job assignments, firing, pay, and other terms of employment.</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 ²⁵	YES	<p>All employers, employment agencies, and labor organizations have an obligation to ensure a workplace free of sexual harassment. Sexual harassment is a type of discrimination based on sex that is illegal in Vermont. Employers must also have a workplace policy against sexual harassment, post the policy in the workplace, and provide a written copy of the policy to all 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 ²⁶	YES	<p>Human trafficking is illegal in Vermont. Trafficking for labor means: the recruitment, harboring, transportation, provisioning, or obtaining by any means of a person for labor 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>

CHILD LABOR

TOPIC	ANSWER	DETAILS
Child Labor ²⁷	YES	<p>Work permits required if under 16.</p> <p>Minimum age:</p> <ul style="list-style-type: none"> • <i>During school hours: 16</i> • <i>Outside school hours: 14, 12 with written parental consent</i> • <i>Minors employed in agriculture by a parent or guardian do not have to adhere to the minimum age requirements</i> <p>There are restricted and prohibited occupations for workers under 18. Additionally, must follow federal restrictions/prohibited occupations for agricultural work and other federal rules found in the federal fact sheet.</p>

HEALTH AND SAFETY

TOPIC	ANSWER	DETAILS
Workers' Compensation ²⁸	YES	Agriculture employers must have workers compensation coverage if they have an aggregate payroll greater than \$10,000 in a calendar year. Coverage is optional for family members that live with you. <u>Employers must report a work injury</u> that results in either medical attention or one lost day of work or more within 72 hours of notice or knowledge of an 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.
OSHA ²⁹	YES	<u>Vermont has an approved OSHA 'state-plan'</u> , which means it is at least as effective as federal OSHA. Similar to federal OSHA, VOSHA 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. VOSHA 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.
Housing ³⁰	YES	Housing provided as a benefit of farm employment must adhere to the <u>Vermont Rental Housing Health Code</u> . Employers may be entitled to an <u>expedited eviction process</u> when employment is terminated. Employers should follow best practices when providing housing – which includes, at minimum, a written housing agreement and properly maintaining the facilities. The FARM HR Manual has guidance around best practices for agricultural worker housing.

References

1. Vt. Stat. Ann. Tit. 33, §4110
2. Vt. Stat. Ann. Tit. 21, §342
3. Vt. Stat. Ann. Tit. 21, §342
4. Vt. Stat. Ann. Tit. 21, §383
5. Vt. Stat. Ann. Tit. 21, §383
6. CVR 24-090-003
7. Vt. Stat. Ann. Tit. 32, §5841; Vt. Stat. Ann. Tit. 21, §1301
8. Vt. Stat. Ann. Tit. 21, § 301, 342; CVR 24-090-003
9. Vt. Stat. Ann. Tit. 21, §341
10. Vt. Stat. Ann. Tit. 21, §393
11. Vt. Stat. Ann. Tit. 21, § 1691(a)
12. Vt. Stat. Ann. Tit. 21, §701
13. Vt. Stat. Ann. Tit. 21, §1314; CVR 24 005 001. Rule 4; Rule 6
14. Vt. Stat. Ann. Tit. 6, §2701
15. Vt. Stat. Ann. Tit. 21, §304
16. Vt. Stat. Ann. Tit. 21, §507
17. Vt. Stat. Ann. Tit. 21, §481 et seq.
18. Vt. Stat. Ann. Tit. 21, §305
19. Vt. Stat. Ann. Tit. 21 §495k
20. Vt. Stat. Ann. Tit. 21, §499
21. Vt. Stat. Ann. Tit. 13, §5313, Vt. Stat. Ann. Tit. 21, §499
22. Vt. Stat. Ann. tit. 21, § 471 et seq.
23. Vt. Stat. Ann. Tit. 21, §491, §492, §493
24. Vt. Stat. Ann. Tit. 21, §495 et seq; Vt. Stat. Ann. Tit 18, §9333
25. See above; and Vt. Stat. Ann. Tit. 21, §495d; §495h
26. Vt. Stat. Ann. Tit. 13, §2652
27. Vt. Stat. Ann. Tit. 21, §431; CVR 24-010-000, (A)570.2(b); 570.35
28. CVR 24 010 003 Rule 3.0000
29. Vt. Stat. Ann. Tit. 21, §223; CVR 24 050 039;
30. CVR 13 140 031; Vt. Stat. Ann. Tit. 9, § 4469a