



Alaska

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 January 2019, 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 ALASKA STATE LAWS PERTAINING TO DAIRY FARMS ABOUT:

HIRING

TOPIC	ANSWER	DETAILS
Notice of Payday / Pay Rate ¹	YES	Wages must be paid for each pay period. An employer shall notify an employee in writing at the time of hiring of the day and place of payment, and the rate of pay, and of any change with respect to these items on the payday before the time of change. An employer may give this notice by posting a statement of the facts, and keeping it posted conspicuously at or near the place of work where the statement can be seen by each employee as the employee comes or goes to the place of work. More details online.
Reporting ²	YES	All Alaskan employers must report, within 20 days, every new hire and rehire to Child Support Services Division.

WAGES

TOPIC	ANSWER	DETAILS
Payday ³	YES	An employee and employer may agree in an annual initial contract of employment to monthly pay periods when the employer must pay all employees for all labor performed or services rendered. Otherwise, the employer must establish monthly or semi-monthly pay periods, at the election of the employee.
Final Pay ⁴	YES	Following a termination by the employer, all final pay is due within three working days following the termination. If the employee resigns, all final pay is due at the next regular pay day that is at least three days after the employer received notice of the employee's resignation.
Overtime ⁵	NO	Employees engaged in agriculture are exempt from Alaska's overtime provisions.
Minimum Wage ⁶	NO	Alaska's minimum wage requirements do not apply to employees' employers in agriculture.
Hours Worked	NO	Alaska does not have any relevant laws on hours worked. Alaska follows the federal Fair Labor Standards Act for determining compensable time.
Reporting Time Pay	NO	Alaska does not have any relevant laws on reporting time pay. Alaska follows the federal Fair Labor Standards Act.
Taxes and Withholding	NO	The State of Alaska currently does not have an individual income tax, therefore no employee withholding for state income tax is required. See Unemployment Insurance under Record Keeping.

WAGES

(Continued)

TOPIC	ANSWER	DETAILS
Pay Stub ⁷	YES	<p>A statement of earnings and deductions must include the employee's:</p> <ul style="list-style-type: none"> • Rate of pay. • Gross wages. • Net wages. • Pay period beginning and ending dates. • Federal income tax deductions. • FICA deductions. • Alaska Employment Security Act contributions. • Board and lodging costs. • Advances. • Actual straight-time and overtime hours worked in the pay period. • Other authorized deductions.
Deductions and Allowances ⁸	YES	<p>Generally, deductions of any sort require a written agreement that is voluntarily executed and may not reduce pay below the statutory minimum wage or adversely affect overtime. Employers may deduct:</p> <ul style="list-style-type: none"> • Transportation and moving expenses if done under a written agreement so long as the employee's pay is not reduced below the minimum wage; and overtime compensation is not affected. • Board and lodging expenses. • A security deposit to ensure uniforms or equipment are returned in good order so long as the deduction: is by written agreement; does not exceed the cost of the item; and does not reduce pay below the statutory minimum wage or adversely affect overtime. <p>Employers in Alaska may not deduct:</p> <ul style="list-style-type: none"> • Customer checks returned for insufficient funds. • Non-payment for goods or services as a result of theft or credit default. • Cash register shortages unless the employee admits in writing to have taken the shortage. • Lost, missing or stolen property unless the employee admits responsibility in writing. • Damage or breakage costs unless due to the employee's willful misconduct and the employee acknowledges responsibility in writing. <p>Alaska generally follows the federal standards for determining deductions from an exempt employee's salary.</p>
Bonuses ⁹	NO	<p>Alaska has no relevant laws on bonuses. Employees are not entitled to holiday bonus pay. It depends on whether the employer has promised holiday pay. If the employer promises to pay time-and-a-half for work on a holiday, the employee would receive 1½ times his regular rate of pay for the holiday hours worked. If the employer does not offer a bonus for holiday pay, the employee would be paid only straight-time for holiday hours worked. If the employer promises to pay holiday pay but has not established a special rate, and the employee works on the holiday, the employee could receive straight-time for eight hours of work and straight time for eight hours of holiday pay.</p> <p>Generally, discretionary bonuses are not considered wages, while nondiscretionary bonuses paid under an agreement can be considered wages.</p> <p>A nondiscretionary bonus, or earned 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 or a bonus for length of service) 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
Payroll ¹⁰	YES	<p>Employers are not required to <u>maintain payroll records</u> for employees engaged in agriculture. Generally, however, Alaska employers are required to keep accurate records for all employees they hire. The Alaska Wage and Hour Act (AWHA) requires no particular form for the records but does require that the records include certain identifying information about the employee and data about the hours worked and the wages earned. The law requires this information to be accurate.</p> <p>The following basic records must be maintained by the employer for a period of at least three years:</p> <ul style="list-style-type: none"> • Employee's full name and Social Security number. • Employee's address, including zip code. • Employee's occupation. • Employee's birth date, if younger than 19. • Employee's sex. • Beginning and ending dates of the pay period. • Total hours employee worked each day. • Total hours employee worked each workweek. • Basis on which employee's wages are paid (for example "\$9 per hour," "\$440 a week" or "piecework"). • Employee's regular rate of pay. • Total straight-time and overtime hours employee actually worked in the pay period. • Employee's total daily or weekly straight-time earnings. • Employee's total overtime earnings for the workweek. • All additions to or deductions from the employee's wages, to include: federal income tax deductions; Federal Insurance Contribution Act deductions; Alaska Employment Security Act deductions; board and lodging costs (if applicable); advances on pay; and all other authorized deductions. • Total gross and net wages paid each pay period. • Date of payment for each pay period. <p>Employers may use any timekeeping method they choose. For example, they may:</p> <ul style="list-style-type: none"> • Use a time clock. • Have a timekeeper keep track of employee's work hours. • Tell their workers to write their own times on the records.
Personnel Files – Employee Access ¹¹	YES	<p>Employees (and former employees) have a right to access their personnel files. An employer shall permit an employee or former employee to inspect and make copies of the employee's personnel file and other personnel information maintained by the employer concerning the employee under reasonable rules during regular business hours. The employer may require an employee or former employee who requests copies of material under this subsection to pay the reasonable cost of duplication.</p>
Unemployment Insurance ¹²	YES/NO	<p>Service performed by an individual in agricultural labor (except when that service is performed for a person who, during any calendar quarter in either the current or the preceding calendar year, paid remuneration in cash of \$20,000 or more to individuals employed in agricultural labor; or when that service is performed for a person who employed 10 or more individuals in agricultural labor for some portion of the day in each of at least 20 different weeks) is exempt from unemployment insurance requirements. More details.</p>
Workers' Compensation ¹³	YES	<p>An employer shall keep a record with respect to an injury to an employee. The record must contain the information of disease, other disability or death with respect to an injury that the division requires, and must be available to inspection by the division or by a state authority at the times and under the conditions that the department prescribes by regulation.</p> <p>Within 10 days from the date the employer has knowledge of an injury or death or from the date the employer has knowledge of a disease or infection, alleged by the employee or on behalf of the employee to have arisen out of and in the course of the employment, the employer shall file with the division a report setting out:</p> <ul style="list-style-type: none"> • (1) the name, address and business of the employer; • (2) the name, address and occupation of the employee; • (3) the cause and nature of the alleged injury or death; • (4) the year, month, day and hour when and the particular locality where the alleged injury or death occurred; and • (5) the other information that the division may require.
OSHA	YES	<p>Alaska has incorporated the federal standard for OSHA recordkeeping and reporting. See the federal fact sheet.</p>
Federal	YES	<p>Alaska follows a number of federal rules for recordkeeping.</p>

WORKING CONDITIONS

TOPIC	ANSWER	DETAILS
Bathrooms ¹⁴	YES	Alaska has incorporated the federal Pasteurized Milk Ordinance (PMO). The PMO rules 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	Alaska does not specify max hour or day requirements for adults.
Rest and Meal Breaks ¹⁵	YES/NO	Employers are not required to provide breaks for employees over 18. Employers that choose to provide rest and meal breaks must follow the applicable federal rules. Refer to federal fact sheet. See Child Labor below for rules for minors.
Labor Relations	NO	There is no provision in state law recognizing farm worker rights to organize. Alaska does not have right-to-work laws covering private employers.
Whistleblower Protection	YES/NO	Alaska law does not provide a general protection for private sector employees in whistleblower cases. However, specific employee disclosures (for example, OSHA-related violations) are protected from retaliation.
Paid Sick and Vacation Leave ¹⁶	NO	Alaska does not have paid sick or vacation leave laws. Employers only have to give such benefits if the employer has promised that the employee will receive these payments. Thus, an employer only has to pay these benefits if he/she has a policy to pay such benefits or has made a promise or has a contract with the employee to pay these benefits.
Breaks for Nursing Mothers	NO	Alaska follows federal law regarding breaks for nursing mothers (FLSA). Refer to the federal fact sheet.
Pregnancy Accommodations and Leave ¹⁷	YES/NO	Alaska has no state law requiring employers to provide pregnancy leave. However, Alaska's anti-discrimination statute prohibits discrimination based on pregnancy when the reasonable demands of the position do not require distinction on that basis. Leave may be considered a reasonable accommodation under that statute in the event of pregnancy.
Family and Medical Leave	NO	Alaska has no state equivalent of the Family and Medical Leave Act. Refer to federal fact sheet for further information.
Military and other Service Leave ¹⁸	YES	<p>All Alaska employers are covered by this law. Employees eligible for this leave are:</p> <ul style="list-style-type: none"> Members of the organized militia, which includes: the Alaska National Guard; the Alaska Naval Militia; and the Alaska State Defense Force. Effective September 21, 2018, Alaska residents who are members of the National Guard of another state. <p>An employer must grant:</p> <ul style="list-style-type: none"> An employee who is a member of the organized militia a leave of absence to perform active state service. Effective September 21, 2018, an employee who is an Alaska resident and a member of the National Guard of another state to perform active National Guard service under a law of that state. <p>Employees released from active state militia services are entitled to return to their former positions, or comparable positions, at the same pay, seniority, and benefit level they would have had if they not been on active service leave.</p> <p>Generally, employees must report to work at the beginning of the work day following the last calendar day necessary to travel from the site of active state service to their work site. If an employee fails to return to work at that time, the employer may discipline the employee consistent with its policy on unexcused work absences.</p>
Crime Victim and Witness Leave ¹⁹	YES/NO	<p>Alaska does not have a crime victim and witness leave law.</p> <p>However, an employer may not penalize or threaten to penalize a victim of an offense because the victim:</p> <ol style="list-style-type: none"> is subpoenaed or requested by the prosecuting attorney to attend a court proceeding for the purpose of giving testimony; or reports the offense to a law enforcement agency or participates in the investigation of the offense by a law enforcement agency.

WORKING CONDITIONS

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TOPIC	ANSWER	DETAILS
Jury Duty Leave ²⁰	YES	<p>All Alaska employers are covered by this law and all employees are eligible for jury duty leave. An employer must offer leave, which may be unpaid, to employees for the following:</p> <ul style="list-style-type: none"> • Respond to a jury summons. • Serve as a juror. • Attend court for prospective jury service. <p>If an employee receives or responds to a jury summons, serves as a juror or attends jury service, an employer may not:</p> <ul style="list-style-type: none"> • Deprive the employee of employment. • Threaten, coerce or penalize the employee.
Voting Leave ²¹	YES	<p>All Alaska employers are covered by this law. All employees qualified to vote are eligible for this leave.</p> <p>An employee may take off enough work time to allow them to vote in a state election, unless the employee has sufficient time outside of working hours to vote. The employee has sufficient time outside working hours if he has two consecutive hours to vote either between:</p> <ul style="list-style-type: none"> • The opening of the polls and the beginning of the employee's regular working shift. • The end of the employee's regular working shift and the closing of the polls. <p>Employees without sufficient non-working hours to vote may take time off to vote in a state-wide election without loss of pay.</p>
School Activity Leave	NO	Alaska does not have a school activity leave law.

HUMAN RIGHTS

TOPIC	ANSWER	DETAILS
Employment Discrimination ²²	YES	<p>The Alaska Human Rights Act (AHRA) prohibits employment and other discrimination based on the following protected classes:</p> <ul style="list-style-type: none"> • Race. • Religion. • Color. • National origin. • Age. • Physical or mental disability. • Sex. • Marital status or changes in marital status. • Pregnancy. • Parenthood. <p>Employers may not, based on an individual's membership in a protected class:</p> <ul style="list-style-type: none"> • Refuse employment. • Bar a person from employment. • Discriminate against a person in: <ul style="list-style-type: none"> - compensation (see State Q&A, Wage and Hour Laws: Alaska); or - in a term, condition or privilege of employment. • Discharge, expel or otherwise discriminate against a person because: <ul style="list-style-type: none"> - the person has opposed any practices forbidden by the AHRA; or - because the person has filed a complaint, testified or assisted in a proceeding under the AHRA. • Pay female employees less than male employees for work of comparable character or work in the same operation, business or type of work in the same locality. • Unless based on a bona fide occupational qualification, print, publish, broadcast or otherwise circulate a statement, inquiry or advertisement related to prospective employment, or use an employment application that expresses directly or indirectly a: <ul style="list-style-type: none"> - limitation; - specification; or - discrimination.

HUMAN RIGHTS

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TOPIC	ANSWER	DETAILS
Harassment/ Sexual Harassment ²³	YES	<p>Workplace harassment is prohibited by the Alaska Human Rights Act (AHRA). Harassment of a person because of his membership in any of the protected classes covered by the AHRA is unlawful.</p> <p>Sexual harassment is not specifically defined by the AHRA. The Alaska Supreme Court has looked to federal law for guidance and has determined that the AHRA prohibits sexual harassment as a form of sex discrimination.</p> <p>Both quid pro quo and hostile work environment sexual harassment are prohibited. Quid pro quo sexual harassment is defined as behavior by a supervisor or employer extorting or attempting to extort sexual favors or other sexual consideration in consideration for a job benefit or prevention of an adverse job action. Hostile work environment sexual harassment exists where employees work in an offensive or abusive environment and are subject to conduct that unreasonably interferes with work performance. To prove a hostile work environment claim, the discriminatory behavior must be sufficiently severe or pervasive to alter the conditions of the victim's employment.</p> <p>Likewise, a constructive discharge claim will exist where an employer makes working conditions so intolerable that a reasonable person in the employee's situation would feel they have no choice but to quit</p> <p>Alaska law does not distinguish between same-sex and opposite-sex sexual harassment.</p>
Forced Labor ²⁴	YES	<p>Any person who is a victim of a severe form of trafficking in persons in Alaska will be considered for crime victim compensation under Alaska Stat. § 18.67 according to the same guidelines as any other violent crime victim.</p> <p>"Severe forms of trafficking in persons" is defined as:</p> <ul style="list-style-type: none"> • Sex trafficking in which a commercial sex act is induced by force, fraud or coercion, or in which the person induced to perform such an act is under 18; or • the recruitment, harboring, transportation, provision or obtaining of a person for labor or services, through the use of force, fraud or coercion, for the purpose of subjecting that person to involuntary servitude, peonage, debt bondage or slavery.

CHILD LABOR

TOPIC	ANSWER	DETAILS
Child Labor ²⁵	YES	<p>Under Alaska's Child Labor Act, employers may not employ minor children in specified occupations. The number of hours minor children may work also is limited. All employers are covered by this law.</p> <p>Alaska employers generally may not hire minors who are younger than 14 years old. Minors of different ages are restricted regarding the types of work they may perform</p> <p>Minors under 16 years old may work:</p> <ul style="list-style-type: none"> • When school is in session, a total of nine hours of school attendance plus employment in any one day. Work may be performed only between the hours of 5:00 a.m. and 9:00 p.m. Total hours worked are limited to 23 in any week, excluding babysitting and domestic work. (Alaska Stat. Ann. § 23.10.340.) • During school vacations, up to 40 hours per week between the hours of 5:00 a.m. and 9:00 p.m. <p>Minors under 18 years of age may not work more than six days a week.</p> <p>Minors under the age of 18 are entitled to a minimum 30 minute unpaid break if they are scheduled to work for at least six consecutive hours. The break must occur:</p> <ul style="list-style-type: none"> • After the first hour and a half of work. • Before the last hour of work. <p>Minors under 18 who work five consecutive hours without a break are entitled to a minimum 30 minute unpaid break before continuing to work.</p> <p>Child labor laws do not prohibit employment of a child under the direct supervision of a parent in a business owned and operated by the parent.</p>

HEALTH AND SAFETY

TOPIC	ANSWER	DETAILS
Workers' Compensation ²⁶	YES	Employers with one or more workers must have <u>workers' compensation insurance</u> . An employer must buy the insurance from a licensed insurance company or be self-insured.
OSHA	YES	Alaska has an <u>OSHA-approved State Plan</u> . For the most part, Alaska adopts many of the federal OSHA regulations. The Alaska State Plan covers all private sector places of employment in the state, with some exceptions. It does not cover the enforcement of the field sanitation standard, 29 CFR 1928.110, and the enforcement of the temporary labor camps standard, 29 CFR 1910.142, with respect to any agricultural establishment where workers are engaged in "agricultural employment" within the meaning of the Migrant and Seasonal Agricultural Worker Protection Act, 29 USC 1802(3) – regardless of the number of workers – including workers engaged in hand packing of produce into containers (whether done on the ground, on a moving machine or in a temporary packing shed), except Alaska retains enforcement responsibility over agricultural temporary labor camps for workers engaged in egg, poultry or red meat production, or the post-harvest processing of agricultural or horticultural commodities. The Wage and Hour Division of the U.S. Department of Labor covers the agricultural issues not covered by the Alaska State Plan.
Housing	NO	Alaska 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 <u>FARM HR Manual</u> has guidance around best practices for agricultural worker housing.

References

1. Alaska Stat. § 23.05.160.
2. Alaska Stat. § 25.27.075.
3. Alaska Stat. Ann. § 23.05.140(a).
4. Alaska Stat. Ann. § 23.05.140(b).
5. Alaska Stat. Ann. § 23.10.060(b); Alaska Stat. Ann. § 23.10.060(a)); Alaska Stat. Ann. § 23.10.060(d)(1)); Alaska Stat. Ann. § 23.10.060(d)(4); see Fred Meyer of Alaska, Inc. v. Bailey, 100 P.3d 881, 884 (Alaska 2004).
6. Alaska Stat. Ann. § 23.10.065(a); AKDOL Labor Standards and Safety Division; Alaska Stat. Ann. § 23.10.065(c); Minimum Wage Standard and Overtime Hours; Alaska Stat. Ann. § 23.10.055.
7. Alaska Admin. Code tit. 8, § 15.160(h)(1)-(13).
8. Alaska Admin. Code tit. 8, § 15.160(a); (Alaska Admin. Code tit. 8, § 15.160(c) to (g); Alaska Admin. Code tit. 8, § 15.160(a).
9. <http://labor.alaska.gov/lss/whfaq.htm>.
10. Alaska Stat. § 23.10.055; Alaska Stat. Ann. § 23.10.100.
11. Alaska Stat. § 23.10.430.
12. Alaska Stat. § 23.20.525.
13. Alaska Stat. § 23.30.065; Alaska Stat. § 23.30.070.
14. Alaska Admin. Code tit. 18, § 32.020.
15. Alaska Stat. Ann. § 23.10.350(c).
16. Alaska Stat. Ann. § 23.05.160; Alaska Admin. Code tit. 8, § 25.030.
17. Alaska Stat. Ann. § 18.80.220(a)(1).
18. Alaska Stat. Ann. § 26.05.075; Alaska Stat. Ann. §§ 26.05.075(a) and 26.05.010(b)(1); Alaska Stat. Ann. § 26.05.075(b).
19. Alaska Stat. § 12-61-017
20. Alaska Stat. Ann. § 09.20.037(a); Alaska Stat. Ann. § 09.20.037.
21. Alaska Stat. Ann. § 15.15.100.
22. Alaska Stat. Ann. § 18.80.220; Alaska Stat. § 18.80.300(5).
23. Alaska Stat. Ann. § 18.80.220; see French v. Jardon, Inc., 911 P.2d 20, 26 (Alaska 1996); Mills v. Hankla, 297 P.3d 158, 166 (Alaska 2013); Charles v. Interior Reg'l Hous. Auth., 55 P.3d 57, 59-60 (Alaska 2002).
24. Alaska Stat. 18.67 et seq.
25. Alaska Stat. Ann. §§ 23.10.325 to 23.10.370; Alaska Stat. Ann. § 23.10.335; Alaska Stat. Ann. §§ 23.10.332 to 23.10.355; Alaska Stat. Ann. § 23.10.350(a), (c).
26. Alaska Stat. Ann. § 23.30.001 et seq.