



Mississippi

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 MISSISSIPPI STATE LAWS PERTAINING TO DAIRY FARMS ABOUT:

HIRING

TOPIC	ANSWER	DETAILS
Notice of Payday / Pay Rate	NO	Mississippi does not have any laws requiring employers to provide employees of notice of wage rates, dates of pay, employment policies, fringe benefits or other terms and conditions of employment.
Reporting ¹	YES	Each employer paying wages, salary or commission and doing business in Mississippi must report to the Directory of New Hires within the Mississippi Department of Human Services within 15 days: <ul style="list-style-type: none"> • The hiring of any person who resides or works in Mississippi to whom the employer anticipates paying wages, salary, or commission; and • The hiring or return to work of any employee who was laid off, furloughed, separated, granted leave without pay or was terminated from employment.

WAGES

TOPIC	ANSWER	DETAILS
Payday	NO	There is no Mississippi law concerning the timeliness of payment to agricultural employees. Agricultural employers are permitted to establish pay periods and paydays of its choosing.
Final Pay	NO	Mississippi does not have any laws dictating when an employer must pay wages to employees who have been separated from employment, whether by termination, discharge, voluntary quit, lay off or labor dispute.
Overtime	NO	Mississippi law does not govern overtime, federal rules may apply. Refer to the federal fact sheet.
Minimum Wage	NO	Mississippi law does not govern minimum wage, federal rules may apply. Refer to the federal fact sheet.
Hours Worked	NO	Mississippi does not have minimum wage or overtime laws and, thus, has not adopted a definition of hours worked for purposes of compensation calculations. Please see federal fact sheet.
Reporting Time Pay	NO	Mississippi law does not require employers to pay employees for reporting or showing up to work if no work is performed. Employers are only required to pay employees for hours worked.
Pay Stub	NO	Mississippi does not have any laws requiring employers to provide employees at the time of payment any notice of wages paid, wage rates, deductions or other wage payment information.
Taxes and Withholding ²	NO	Agricultural employees are exempt from withholding income taxes in Mississippi.

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WAGES

(Continued)

TOPIC	ANSWER	DETAILS
Deductions and Allowances	NO	Mississippi does not have any specific law regarding deductions from an employee's paycheck or whether an employee must provide written consent prior to any deduction, leaving employers to comply only federal law.
Bonuses	NO	Mississippi 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. Employers should follow any written policy they have about paying bonuses as a best practice. 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.

RECORD KEEPING

TOPIC	ANSWER	DETAILS
Payroll	NO	Mississippi does not have any laws requiring an employer to keep any employment-related documents. Refer to the federal fact sheet.
Personnel Files – Employee Access	NO	Mississippi does not have any laws regarding employee access to personnel files.
Unemployment Insurance ³	YES	<p>Agricultural employers are subject to unemployment insurance taxes only for services performed by an individual in agricultural labor who:</p> <ul style="list-style-type: none"> • <i>During any calendar quarter in either the current or the preceding calendar year paid remuneration in cash of Twenty Thousand Dollars (\$20,000.00) or more to individuals employed in agricultural labor, or</i> • <i>For some portion of a day in each of twenty (20) different calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding calendar year, employed in agricultural labor ten (10) or more individuals, regardless of whether they were employed at the same moment of time.</i> <p>Each employing unit shall keep a true, accurate and complete record which shall show:</p> <ul style="list-style-type: none"> • <i>all disbursements by items;</i> • <i>the amount of each disbursement;</i> • <i>to whom each disbursement is made;</i> • <i>for what each disbursement is made; and</i> • <i>the number of employees on that day in each week in which it employed the highest number.</i> <p>For each individual worker and each pay period the records shall show:</p> <ul style="list-style-type: none"> • <i>employee's Social Security number;</i> • <i>employee's name;</i> • <i>employee's place of employment within the state;</i> • <i>period covered by each payment;</i> • <i>number of hours worked for each pay period;</i> • <i>employee's wages for employment under this act, showing separately</i> <ul style="list-style-type: none"> - <i>cash wages and</i> - <i>the cash value of any other remuneration;</i> • <i>any special payments for services other than those rendered exclusively in a given quarter such as annual bonuses, gifts, prizes, etc., showing separately</i> <ul style="list-style-type: none"> - <i>cash payments and</i> - <i>any other remuneration and the nature of said payment; and</i> • <i>number of hours worked and wages payable in each week (except for workers paid on a salary or fixed stipend).</i>
Workers' Compensation ⁴	YES	Every employer shall keep a record in respect of any injury to an employee. Such record shall contain such information of disability or death in respect of such injury as the commission may by regulation require and shall be available to inspection by the commission or by any state authority at such times and under such conditions as the commission may by regulation prescribe.
OSHA	YES/NO	Mississippi is under federal OSHA jurisdiction, which covers most private sector workers within the state. Please sheet federal fact sheet for further information.
Federal	YES	There are numerous federal rules about recordkeeping. Employers should review the federal fact sheet.

WORKING CONDITIONS

TOPIC	ANSWER	DETAILS
Bathrooms ⁵	YES	Mississippi 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	Mississippi law does not specify max hour or day requirements for adults.
Rest and Meal Breaks	NO	Mississippi law does not require rest or meal breaks but federal law may apply. Please see federal fact sheet for further information.
Labor Relations ⁶	YES	Mississippi law provides that a person's right to work shall not be denied on account of membership or non-membership in any labor union or labor organization.
Whistleblower Protection	NO	Mississippi does not have a specific whistleblower protection statute, but federal laws may apply. Please see federal fact sheet for further information. Mississippi courts have, however, recognized a common law cause of action that protects employees for reporting the illegal acts of their employer or fellow employees.
Paid Sick and Vacation Leave	NO	Mississippi law does not require paid sick or vacation leave. Employers who choose to provide such benefits must follow their written policy/contract. Accrued or earned vacation must be paid to an employee upon separation from employment if the company policy or employment contract is silent on the matter.
Breaks for Nursing Mothers ⁷	YES	No employer shall prohibit an employee from expressing breast milk during any meal period or other break provided by the employer.
Pregnancy Accommodations and Leave	NO	Mississippi does not have a specific state law providing maternity or pregnancy disability leave, paid or unpaid. However, federal rules may apply. See federal fact sheet for further information.
Family and Medical Leave	NO	Mississippi does not have a state-level family and medical leave law for private employers. Federal law requiring unpaid leave may apply depending on the size of the employer. Refer to federal fact sheet
Military and Service Leave ⁸	YES	Employers cannot deprive a former U.S. armed forces member or current reserve member of employment or discriminate in any condition of employment based on military service. Employees are entitled to be reinstated to the same or similar position as they held before leave began with the same status, pay, and seniority.
Crime Victim and Witness Leave	NO	Mississippi does not have any state laws regarding crime victim or witness leave.
Jury Duty Leave ⁹	YES	Mississippi employers cannot persuade or attempt to persuade any juror to avoid jury service; to intimate or to threaten any juror in that respect; or to remove or otherwise subject an employee to adverse employment action as a result of jury service if the employee notifies his or her employer that he or she has been summoned to serve as a juror within a reasonable period of time after receipt of a summons. It is unlawful for an employer to require or request an employee to use annual, vacation or sick leave for time spent responding to a summons for jury duty, time spent participating in the jury selection process, or time spent serving on a jury.
Voting Leave	NO	Mississippi does not have a law that requires an employer to grant its employees leave, either paid or unpaid, to vote.
School Activity Leave	NO	Mississippi does not have a law that requires an employer to grant its employees leave, either paid or unpaid, to attend school activities for dependent children.

HUMAN RIGHTS

TOPIC	ANSWER	DETAILS
Employment Discrimination ¹⁰	YES/NO	<p>Mississippi does not have an anti-discrimination statute outlining prohibited discrimination, but federal law applies. Please see federal fact sheet for further information.</p> <p>Employers are prohibited from directing or coercing, directly or indirectly, any employee to vote or not to vote for any particular person or group of persons in any election, or to discharge or to threaten to discharge any employee, or to increase or decrease the salary or wages of any employee, or otherwise promote or demote an employee, because of his or her vote or failure to vote for any particular candidate or group of candidates.</p> <p>Employers cannot discriminate against an employee because of his or her current or former membership in the US Armed Forces or any of its reserve components.</p> <p>Additionally, employers cannot make it a condition of employment for a prospective or current employee to abstain from smoking or using tobacco products during non-working hours, as long as the employee complies with laws or policies regulating workplace smoking during working hours.</p>
Harassment/ Sexual Harassment	YES/NO	<p>Although Mississippi does not have a state harassment law, federal law may apply. 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>Please see federal fact sheet for further information on harassment/sexual harassment.</p>
Forced Labor ¹¹	YES	<p>It is a crime to coerce, recruit, entice, harbor, transport, provide or obtain by any means, or attempt to coerce, recruit, entice, harbor, transport, provide or obtain by any means, another person, intending or knowing that the person will be subjected to forced labor or services, or who benefits, whether financially or by receiving anything of value from participating in an enterprise that he knows or reasonably should have known has engaged in such acts, shall be guilty of the crime of human-trafficking.</p> <p>It is a crime to knowingly purchase the forced labor or services of a trafficked person or who otherwise knowingly subjects, or attempt to subject, another person to forced labor or services or who benefits, whether financially or by receiving anything of value from participating in an enterprise that he knows or reasonably should have known has engaged in such acts, shall be guilty of the crime of procuring involuntary servitude.</p>

CHILD LABOR

TOPIC	ANSWER	DETAILS
Child Labor	NO	<p>Mississippi does not have any regulations limiting agricultural child labor within the state that apply to minors working in the agricultural industry, but federal rules may apply. See federal fact sheet for further information.</p>

HEALTH AND SAFETY

TOPIC	ANSWER	DETAILS
Workers' Compensation	YES/NO	Farmers and farm labor are not included under the provisions of Mississippi's workers' compensation law and are thus exempt. However, this exemption does not apply to the processing of agricultural products when carried on commercially. Courts often distinguish farming operations from manufacturing operations. If the business is not deemed a farming operation the business is not exempt from paying injured employee worker's compensation. However, an agricultural employer can choose to obtain workers compensation coverage. Obtaining <u>workers' compensation coverage</u> is good practice for limiting exposure to lawsuits and providing support to employees.
OSHA	YES	Mississippi is under federal OSHA jurisdiction, which covers most private sector workers within the state. Please see federal fact sheet.
Housing	YES/NO	Mississippi 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 <u>FARM HR Manual</u> has guidance around best practices for agricultural worker housing. Furthermore, employers should follow OSHA's sanitation regulations, 29 C.F.R. §§ 1910.141 et seq., and temporary labor camp regulations, 29 C.F.R. § 1910.142 et seq.

References

1. Miss. Code § 43-19-46
2. Miss. Code § 27-7-303
3. Miss. Code § 71-5-11; Miss. Code § 71-5-127;
4. Miss. Code § 71-3-65
5. Miss. Code § 75-31-65
6. Miss. Code 71-1-47
7. Miss. Code §71-1-55
8. Miss. Code § 33-1-1 et seq.
9. Miss. Code § 13-5-35
10. Miss. Code § 23-15-871; Miss. Code § 33-1-15; Miss. Code § 71-7-33
11. Miss. Code § 97-3-54.1