



Wyoming

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 WYOMING STATE LAWS PERTAINING TO DAIRY FARMS ABOUT:

HIRING

TOPIC	ANSWER	DETAILS
Notice of Payday / Pay Rate	NO	Wyoming does not have any law requiring employers to provide employees, whether at hire or at any other time, notice of wage rates or dates of pay.
Reporting ¹	YES	<u>New hires</u> and rehires must be reported to the Wyoming New Hire Reporting Center within 20 days. Employers who submit reports electronically are required to submit reports in two monthly transmissions not less than twelve (12) and not more than sixteen (16) days apart.

WAGES

TOPIC	ANSWER	DETAILS
Payday	NO	Wyoming does not have a law governing <u>how frequently an agricultural employer must pay</u> its employees.
Final Pay ²	YES	Employees that have quit service or been discharged <u>must be paid</u> no later than the employer’s usual practice on regularly scheduled payroll dates or at a time specified under the terms of a collective bargaining agreement.
Overtime ³	NO	Wyoming law does not specify a general overtime rate and employees employed in agriculture are not subject to Wyoming’s wage laws. However, federal rules may apply. Please refer to the federal fact sheet for further information.
Minimum Wage ⁴	YES/NO	Employees employed in agriculture are not subject to the minimum wage requirements. However, federal rules may apply. Refer to the federal fact sheet for further information.
Hours Worked	NO	Wyoming law requires payment for all hours worked but does not address when an employer must count employee time as hours worked. Refer to the federal fact sheet.
Reporting Time Pay	NO	No Wyoming law requires reporting time pay.
Pay Stub ⁵	YES	Every employer shall, at the time of each payment of wages, furnish each of his employees an itemized statement in writing showing all deductions made from such wages.
Taxes and Withholding	YES/NO	Wyoming 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.



WAGES

(Continued)

TOPIC	ANSWER	DETAILS
Deductions and Allowances	YES	Wyoming has <u>wage offset rules</u> that allow various deductions from wages. For example, an employer may deduct contributions for insurance payments provided that such employee has granted written authorization for the deductions and that such deductions shall terminate upon the employee's written revocation of said authorization. All authorized offsets shall be itemized on a statement or detachable check stub provided to the employee.
Bonuses	YES/NO	Wyoming 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 ⁶	YES/NO	Although it excludes agricultural employers, Wyoming law requires employers generally to make and keep for not less than two (2) years a record of the name, address and occupation of each employee, the rate of pay, the amount paid each pay period and the hours worked each day and week by each employee.
Personnel Files – Employee Access	NO	Wyoming law does not explicitly grant private sector employees access to their personnel files.
Unemployment Insurance ⁷	YES	Employers must pay <u>Wyoming Unemployment Insurance</u> taxes if: <ul style="list-style-type: none"> You paid cash wages to farm workers of \$20,000 or more in any quarter in the current or preceding 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 preceding calendar year. Employers subject to paying unemployment taxes must submit electronic, <u>quarterly wage reports</u> . An employer shall maintain accurate employment records containing information prescribed by the commission. Records shall be open to inspection by and submitted to the department upon request.
Workers' Compensation ⁸	YES	Wyoming employers must post in a conspicuous place a notice of the workers/compensation act and the procedure for filing claims. Wyoming law allows the workers compensation administrator to examine the books, accounts, payrolls at any reasonable time on twenty-four (24) hours' notice, excluding Sundays and holidays. Note that under Wyoming workers' comp laws, employers must file quarter wage reports.
OSHA	YES	Wyoming <u>has adopted</u> the federal OSHA recordkeeping and reporting regulations. 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	YES	Wyoming follows the requirements of the federal Pasteurized Milk Ordinance when performing inspections. Among other sanitation requirements, dairy farms must have one or more toilets that are conveniently located, properly constructed, properly operated and maintained in a sanitary manner.
Working Hours	NO	Wyoming law does not specify maximum hour or day requirements for adults.
Rest and Meal Breaks	NO	Wyoming law does not require meal or rest breaks for adults.
Labor Relations ⁹	YES	Wyoming law declares it to be the policy of the state that workers have the right to organize and to bargain collectively with their employers. However, no one can be required to become, remain or abstain from being a member of any labor organization, or pay or refrain from paying labor organization dues as a condition of employment or continuation of employment.
Whistleblower Protection ¹⁰	YES/NO	Wyoming 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 ¹¹	NO	Wyoming law does not require vacation benefits. Accrued vacation is not considered “wages” payable at termination if both (1) the employer’s written policies provide that accrued vacation is forfeited on termination of employment and (2) the employee acknowledges this in writing. Wyoming law does not require employers to provide employees with sick leave benefits, but <u>if an employer chooses to do so, it must comply with the terms of its established policy.</u>
Breaks for Nursing Mothers ¹²	NO	Wyoming law does not specifically require employers to accommodate breastfeeding mothers, although a nonbinding resolution encourages breastfeeding and commends employers who provide such accommodations.
Pregnancy Accommodations and Leave ¹³	NO	Wyoming law prohibits employment practices that discriminate based on pregnancy but does not require employers to grant time off for the birth of a child. Federal law may apply. Please see federal fact sheet for further information.
Family and Medical Leave	NO	Federal law requiring unpaid leave may apply depending on the size of the employer. Refer to federal fact sheet.
Military and other Service Leave ¹⁴	YES	Wyoming law protects employees who leave employment to perform service in the uniformed services during the period of service, and allows the employee, at his option, to use any amount or combination of his accrued annual leave, military leave to his credit. The employee shall continue to accrue sick leave, vacation leave or military leave on the same basis as he would have accrued during the period of service. Employers may not discriminate against any person based on membership in the uniformed services or the performance of any service obligation.
Crime Victim and Witness Leave ¹⁵	YES	Wyoming law protects victims in delinquency proceedings and prohibits any change in terms of employment solely because of the act of responding to a subpoena.
Jury Duty Leave ¹⁶	YES	An employer is not required to pay an employee for time spent serving on a jury. However, an employer may not discharge, threaten to discharge, intimidate or coerce any employee by reason of the employee’s attendance or scheduled attendance in connection with jury service.
Voting Leave ¹⁷	YES	Wyoming law requires employers to provide an employee with one (1) hour of paid leave to vote in a primary, general or special election to fill a seat in the United States Congress, if the employee does not have three (3) or more consecutive off-duty hours in which to vote while polls are open. The employer may dictate when the employee takes paid voting leave.
School Activity Leave	NO	Wyoming law does not address leave for private sector employees to attend a child’s school activity.



HUMAN RIGHTS

TOPIC	ANSWER	DETAILS
Employment Discrimination ¹⁸	YES	<p>Wyoming law <u>prohibits employment discrimination</u> based on disability, age (40 and over), sex, race, creed, color, national origin, ancestry or pregnancy. Applies to employers with two (2) or more employees within the state.</p> <p>Employment discrimination means to refuse to hire, to discharge, to promote or demote or to discriminate in matters of compensation or the terms, conditions or privileges of employment against a protected person.</p>
Harassment/ Sexual Harassment ¹⁹	YES	<p>Wyoming law prohibits discrimination in employment based on sex, which includes sexual harassment.</p> <p>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>
Forced Labor ²⁰	YES	<p>Wyoming law prohibits holding another in a condition of involuntary servitude. Human trafficking is illegal in Wyoming, and means recruiting, transporting, transferring, harboring, receiving, providing, obtaining isolating, maintaining or enticing an individual for the purpose of forced labor or servitude.</p>

CHILD LABOR

TOPIC	ANSWER	DETAILS
Child Labor ²¹	YES	<p>Wyoming law <u>prohibits the employment of a child under the age of fourteen (14) except in farm, domestic or lawn or yard service.</u></p> <p>Maximum Work Hours:</p> <ul style="list-style-type: none"> • Youth sixteen (16) years and older may perform any job for unlimited hours. • Youth fourteen (14) and up may perform any nonhazardous farm job outside of school hours. • Youth ages twelve (12) and thirteen (13) may work outside of school hours in nonhazardous jobs, either with a parent’s written consent or on the same farm as the parents. • Youth under twelve (12) years of age may be employed outside of school hours, with written parental consent, in nonhazardous jobs on farms where employees are exempt from the minimum wage requirements of the FLSA. <p>Minors of any age may be employed by their parents at any time in any occupation on a farm owned or operated by their parents. Any person employing a child under sixteen (16) shall procure and have on file where the child is employed a form of proof of age. Acceptable documents include a birth certificate, a form I-9 showing the child’s age or any other document showing the age of the child as approved by the Wyoming Department of Workforce Services.</p>



HEALTH AND SAFETY

TOPIC	ANSWER	DETAILS
Workers' Compensation ²²	YES	For the most part, employers are required to obtain <u>workers compensation coverage</u> . There are some exceptions for casual labor (service of less than 2 consecutive weeks), spouses, dependents, and certain other individuals. Employers must <u>file an injury report</u> within ten (10) days after the date notified of an injury.
OSHA	YES	Wyoming operates an OSHA-approved state plan covering most private sector workers and all state and local government workers. <u>Employers must report</u> any work related fatality within 8 hours of the incident, and all work related inpatient hospitalizations, amputations or losses of an eye within 24 hours of the incident.
Housing	YES/NO	Wyoming 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.

References

1. Wyo. Stat. § 27-1-115(b).
2. Wyo. Stat. § 27-4-104(a).
3. Wyo. Stat. § 27-4-201.
4. Wyo. Stat. § 27-4-201.
5. Wyo. Stat. § 27-4-101(b).
6. Wyo. Stat. § 27-4-203; and Wyo. Stat. § 27-4-201.
7. Wyo. Stat. § 27-3-502(e); Wyo. Stat. § 27-3-107(c); and Wyo. Stat. § 27-3-502(c)(ii).
8. Wyo. Stat. § 27-14-507; Wyo. Stat. § 27-14-202; and Wyo. Stat. § 27-14-803(b).
9. Wyo. Stat. § 27-7-101; Wyo. Stat. § 27-7-108 to 27-7-115.
10. Wyo. Stat. § 27-11-109(e) (OSHA)
11. Wyo. Stat. § 27-4-501(a)(iii).
12. Wyo. House Joint Resolution 5 (2003).
13. Wyo. Stat. § 27-9-105(a)(i).
14. Wyo. Stat. § 19-11-104; and Wyo. Stat. § 19-11-107.
15. Wyo. Stat. § 14-6-508.
16. Wyo. Stat. § 1-11-401.
17. Wyo. Stat. § 22-2-111.
18. Wyo. Stat. § 27-9-105(a)(i); and Wyo. Stat. § 27-9-102(b).
19. Wyo. Stat. § 27-9-105; and *Hoflund v. Airport Golf Club*, 105 P.3d 1079 (2005).
20. Wyo. Stat. § 6-2-202(a)(ii); Wyo. Stat. § 6-2-702(a); and Wyo. Stat. § 6-2-704.
21. Wyo. Stat. § 27-6-107; and Wyo. Stat. § 27-6-108(a).
22. Wyo. Stat. § 27-14-506(a).