



Kentucky

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 KENTUCKY STATE LAWS PERTAINING TO DAIRY FARMS ABOUT:

HIRING

TOPIC	ANSWER	DETAILS
Notice of Payday/ Pay Rate	NO	Kentucky law does not require employers to give employees a notice of the regular pay day or pay rate.
Reporting ¹	YES	<u>New hires</u> and rehires must be reported to the State Directory of New Hires within 20 days.

WAGES

TOPIC	ANSWER	DETAILS
Payday ²	YES	<u>Must pay employees</u> at least semimonthly. Employees must be paid wages within 18 days of the pay period in which the wages were earned.
Final Pay ³	YES	Employees that are fired, quit, resign, or otherwise terminated must be paid by the regular payday for the period worked by the employee or within 14 days of their last workday, whichever is later.
Overtime ⁴	YES	Employees must be paid 1.5 times their regular rate for the 7th day of work in any one workweek. However, this does not apply if they did not work more than 40 hours total in the workweek.
Minimum Wage ⁵	NO	Individuals employed in agriculture are exempt from Kentucky minimum wage law, but federal rules may apply. Refer to the federal fact sheet.
Hours Worked ⁶	NO	Kentucky minimum wage regulations define hours worked for employees subject to the state minimum wage. Since agriculture is exempt from state law, employers should refer to the federal fact sheet.
Reporting Time Pay	NO	Kentucky law does not require reporting time pay for agricultural employees, i.e. an employee is only required to be paid for actual hours worked.
Pay Stub ⁷	YES	Employers with 10 or more employees must provide employees with a statement of wage deductions, specifying: the amount of each deduction and the purpose of each one. If employers provide an electronic statement, then they must give employees access to a computer and printer for reviewing the statement.

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WAGES

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TOPIC	ANSWER	DETAILS
Taxes and Withholding ⁸	YES	<p>Employers must withhold Kentucky income taxes. 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 Kentucky 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 21 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 Kentucky in calculating how much you owe for federal unemployment taxes.</p>
Deductions and Allowances ⁹	YES	<p>Employers can only deduct from wages:</p> <ul style="list-style-type: none"> As required to by state or federal law, or court order When authorized in writing by the employee to cover insurance premiums, hospital and medical dues, or other deductions not amounting to a rebate or deduction from the standard wage arrived at by collective bargaining or pursuant to wage agreement or statute. <p>Employers cannot deduct for the following:</p> <ul style="list-style-type: none"> Fines Cash shortages Breakage Losses due to acceptance by an employee of checks with are then dishonored Losses due to defective or faulty workmanship, lost or stolen property, damage to property, default of customer credit, nonpayment for goods or services received by a customer – if such losses are not attributable to the employee’s willful or intentional disregard of the employer’s interest. <p>Employers should refer to the federal fact sheet for additional rules.</p>
Bonuses	YES/NO	<p>Kentucky wage law does not specifically address whether bonuses are part of wages. Generally, nondiscretionary wages paid under an agreement are considered wages and protected under wage law, while discretionary bonuses are not usually considered wages.</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 ¹⁰	NO	<p>Kentucky minimum wage law specifies recordkeeping requirements, but agriculture is exempt from that law. However, records must be kept under unemployment insurance law (see below). Federal rules may also apply; refer to the federal fact sheet.</p>
Personnel Files – Employee Access	NO	<p>Kentucky law does not require private sector employers to grant employees access to their personnel file.</p>
OSHA	YES	<p>Kentucky has incorporated the federal recordkeeping requirements. Refer to the federal fact sheet for recordkeeping requirements.</p>
Federal	YES	<p>There are numerous federal rules about recordkeeping. Employers should review the federal fact sheet.</p>



RECORD KEEPING

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TOPIC	ANSWER	DETAILS
Unemployment Insurance ¹¹	YES	<p>Employers subject to paying unemployment taxes must submit <u>quarterly wage reports</u>.</p> <p>Whether or not subject to paying Unemployment Insurance taxes, all employers must keep accurate records of employment. Records must be kept for six calendar years.</p> <ul style="list-style-type: none"> For each pay period: <ul style="list-style-type: none"> The beginning and ending date of the pay period; The total amount of wages paid for covered employment in the pay period; and The largest number of workers in covered employment in any one (1) day of each calendar week; and For each worker: <ul style="list-style-type: none"> The name and Social Security account number; The wages paid, showing separately cash payments, the reasonable cash value of remuneration in any medium other than cash, the date on which the payments were made, and the pay period during which the services were performed. If the remuneration is in a medium other than cash, show the nature and amount of the remuneration; The total wages payable for each calendar quarter; and The date on which the employee was hired, rehired, or returned to work after a temporary layoff, and the date on which the employee was separated from covered employment. <p>Employers must also keep certain additional records for a period of two years. These records must show for each 7 day/weekly period for each worker:</p> <ul style="list-style-type: none"> Amount of wages earned Number of hours worked Number of hours additional work was available but not accepted The rate of pay for the additional work. <p>Records must be available for inspection by the Division of Unemployment Insurance.</p>
Workers' Compensation ¹²	YES/NO	<p>Workers' compensation coverage is optional for agricultural operations. Employers that elect coverage are required to keep a record of all work-related injuries and fatalities. There are also recordkeeping requirements under OSHA.</p>

WORKING CONDITIONS

TOPIC	ANSWER	DETAILS
Bathrooms ¹³	YES	<p>Kentucky 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.</p>
Working Hours	NO	<p>Kentucky law does not address a maximum number of working hours for adults.</p>
Rest and Meal Breaks ¹⁴	YES	<p>Must provide employees with a reasonable period for lunch as close to the middle of the work shift as possible. The lunch break cannot be sooner than 3 hours or later than 5 hours after the shift starts. According to federal rules, the lunch period does not need to be paid if at least 30 minutes long and employees are completely relieved of duties during that time.</p> <p>Employers must also provide one rest period of at least 10 minutes for each four hours worked, in addition to the lunch break. The rest period must be paid.</p>
Labor Relations	NO	<p>No provision in state law recognizing farm worker rights to organize.</p>
Whistleblower Protection	YES/NO	<p>Kentucky 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.</p>

WORKING CONDITIONS

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TOPIC	ANSWER	DETAILS
Paid Sick and Vacation Leave	NO	Kentucky law does not require paid sick or vacation leave for agricultural workers. Employers who choose to provide such benefits must follow their written policy/contract.
Breaks for Nursing Mothers ¹⁵	YES/NO	Nursing mothers are allowed to express breast milk in any location, public or private, where she is otherwise authorized to be. However, Kentucky law does not specify that an employee must provide breaks or other accommodations to express milk.
Pregnancy Accommodations and Leave ¹⁶	YES	Female employees affected by pregnancy, childbirth, or related medical conditions must be treated the same as other individuals with similar ability or inability to work for all employment-related purposes. Federal rules may apply; refer to the federal fact sheet.
Family and Medical Leave	NO	Kentucky does not have a family or medical leave law. Federal law requiring unpaid leave may apply depending on the size of the employer. Refer to federal fact sheet.
Military and other Service Leave ¹⁷	YES	Kentucky law protects employees that are members of the National Guard. They must be granted a leave of absence and job reinstatement to perform active duty or training in the National Guard. The leave does not need to be paid. Refer to the federal fact sheet for federal requirements.
Crime Victim and Witness Leave ¹⁸	YES	Kentucky does not have a specific law relating to leave for crime victims or witnesses. However, an employer cannot discharge an employee for taking time off, as required by law, to appear in court or other hearing, as long as the employee gives prior notice of the court or administrative certificate.
Jury Duty Leave ¹⁹	YES	An employer cannot discharge, threaten, or otherwise coerce an employee for responding to a <u>jury summons or serving on a jury</u> . Employers are not required by law to pay employees during jury service.
Voting Leave ²⁰	YES	Employees must be granted time off to vote if the employee requested it at least the day before. The employee must have a reasonable amount of time, no less than 4 hours, to vote while the polls are open. The employer can specify the time during the day that the employee can be absent. The employer cannot penalize the employee for taking time off to vote. reasonable time to vote
School Activity Leave	NO	Kentucky law does not address leave for private sector employees to attend a child's school activity.

HUMAN RIGHTS

TOPIC	ANSWER	DETAILS
Employment Discrimination ²¹	YES	<p>Kentucky law <u>prohibits employment discrimination</u> based on race, color, religion, national origin, sex, pregnancy, childbirth, age over 40, disability, HIV status, black lung disease, smoking, disability. Applies to employers with 8 or more employees. In the case of disability discrimination, applies to those with 15 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 or otherwise aiding with a complaint.</p>
Harassment/ Sexual Harassment ²²	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 or otherwise aiding with a complaint.</p>
Forced Labor ²³	YES	<p><u>Human trafficking</u> is illegal. Trafficking for labor means the use of force, threat of force, fraud, or any other coercion to compel or induce someone to provide labor or services.</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 ²⁴	NO	<p>Kentucky child labor laws exempt farm work. Federal rules are stricter and thus apply. Refer to the federal fact sheet.</p>

HEALTH AND SAFETY

TOPIC	ANSWER	DETAILS
Workers' Compensation ²⁵	YES	Workers' compensation coverage is optional for agricultural employers. However, carrying worker's compensation coverage is generally good practice. More details. Agricultural employers that voluntarily elect coverage must follow the law's injury reporting process. Work-related injuries or illnesses that result absence from work of more than 1 day must be reported to the employer's insurance carrier or third-party administrator within 3 days of receiving notice of the injury or incident.
OSHA ²⁶	YES	Kentucky has an approved OSHA 'state-plan', which means it is at least as effective as federal OSHA. Similar to federal OSHA, Kentucky 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. Kentucky OSHA has incorporated the federal OSHA Standards for Agriculture , the federal General Industry Standards that apply to agriculture, and the reporting/recordkeeping requirements . See the federal fact sheet for details on requirements. Work-related fatalities and in-patient hospitalizations of three or more employees must be reported to Kentucky OSHA within 8 hours. Work-related amputations, loss of an eye, and in-patient hospitalizations of one or more employees must be reported within 72 hours.
Housing	YES/NO	Kentucky 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.

References

1. Ky. Rev. Stat. §405.435
2. Ky. Rev. Stat. §337.020
3. Ky. Rev. Stat. §337.055
4. Ky. Rev. Stat. §337.050
5. Ky. Rev. Stat. §337.010, 337.275
6. 803 Ky. Admin. Regs. 1:065
7. Ky. Rev. Stat. §337.070
8. Ky. Rev. Stat. §141.310, 341.050, 341.055
9. Ky. Rev. Stat. §337.060
10. 803 Ky. Admin. Regs. 1:066 §1 et seq.
11. 787 Ky. Admin. Regs. 1:220 and 1:180
12. Ky. Rev. Stat. §342.038
13. 902 Ky. Admin. Regs. 50:110
14. Ky. Rev. Stat. §337.355, 337.365
15. Ky. Rev. Stat. §211.755
16. Ky. Rev. Stat. §344.030
17. Ky. Rev. Stat. §38.238
18. Ky. Rev. Stat. §337.415
19. Ky. Rev. Stat. §29A.160
20. Ky. Rev. Stat. §118.035
21. Ky. Rev. Stat. §344.040 et seq., 207.135, 342.197
22. See above.
23. Ky. Rev. Stat. §529.010, 529.100
24. Ky. Rev. Stat. §339.210
25. Ky. Rev. Stat. §342.038, 342.630, 342.650, 342.660
26. Ky. Rev. Stat. §338.031; 803 Ky. Admin. Regs. 2:600 §1 et seq. and 2:180 §1 et seq.

