



# Human Resources Legal Fact Sheet: Arkansas

Updated June 2020

*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 October 2020, 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 Arkansas state laws for dairy farms about the following?

### Hiring

| Topic                       | Answer     | Summary   |
|-----------------------------|------------|---|
| Notice of Payday / Pay Rate | <b>NO</b>  | Arkansas does not have any law requiring employers to provide employees notice of wage rates or dates of pay.   |
| Reporting <sup>1</sup>      | <b>YES</b> | <a href="#">New hires</a> and rehires must be reported to the Arkansas 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     | Summary   |
|------------------------------------|------------|---|
| Payday <sup>2</sup>                | <b>YES</b> | Arkansas law requires that employees be paid no less frequently than semimonthly.   |
| Final Pay <sup>3</sup>             | <b>YES</b> | Terminated employees <a href="#">must be paid their final wages</a> within seven (7) days of the termination if the employee has demanded payment. In all other cases, payment must be made at the regularly scheduled payday, absent an agreement between the employer and employee to the contrary.   |
| Overtime <sup>4</sup>              | <b>NO</b>  | Arkansas law exempts agricultural employees from the general overtime law requiring pay at one and one-half (1½) times the regular rate of pay for hours worked above forty (40). Federal rules may apply. Refer to the federal fact sheet.   |
| Minimum Wage <sup>5</sup>          | <b>YES</b> | The state's current minimum wage is \$9.25. This <a href="#">will increase</a> to \$10.00 on January 1, 2020 and to \$11.00 on January 1, 2021. The Arkansas minimum wage law applies to employers with four (4) or more employees, but excludes individuals working for an agricultural employer who did not use more than five hundred (500) man-days of agricultural labor in any calendar quarter of the preceding calendar year.   |
| Hours Worked <sup>6</sup>          | <b>YES</b> | Arkansas law requires payment for all hours worked, which is defined by regulation as all hours an employee is suffered or permitted to work.   |
| Reporting Time Pay                 | <b>NO</b>  | No Arkansas law requires reporting time pay if no work is performed.  |
| Pay Stub                           | <b>NO</b>  | Arkansas law does not require paystubs for private sector employees, though it is generally a good practice.  |
| Taxes and Withholding <sup>7</sup> | <b>YES</b> | Arkansas employers are <a href="#">required to withhold tax</a> from wages of employees who work within the state of Arkansas. Verify all requirements with the <a href="#">Arkansas Department of Finance and Administration</a> . Employers <a href="#">must pay Arkansas Unemployment Insurance</a> taxes if: <ul style="list-style-type: none"> <li>You paid cash wages to farm workers of \$20,000 or more in any quarter in the current or preceding calendar year; or</li> </ul> |



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|  |            | <ul style="list-style-type: none"> <li>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.</li> </ul>   |
| Deductions and Allowances <sup>8</sup> | <b>YES</b> | Arkansas allows employers an allowance not to exceed thirty cents (\$0.30) per hour for the reasonable value of board, lodging, apparel or other items and services as part of the hourly rate paid to employees.   |
| Bonuses                                | <b>NO</b>  | <p>Arkansas 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.</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> |

### Recordkeeping

| Topic                                | Answer     | Summary  |
|--------------------------------------|------------|--|
| Payroll <sup>9</sup>                 | <b>YES</b> | Arkansas law requires employers generally to make and keep for not less than three (3) years a record of the name, address and occupation of each employee, the rate of pay, and the daily and weekly hours worked and wages paid to such employees, as well as other related payroll information. |
| Personnel File – Employee Access     | <b>NO</b>  | Arkansas law <a href="#">does not grant</a> private sector employees any rights of access to their personnel files.  |
| Unemployment Insurance <sup>10</sup> | <b>YES</b> | Employers subject to paying unemployment taxes must submit <a href="#">quarterly wage reports</a> . Employers with more than 250 employees must file electronically.   |
| Workers' Compensation <sup>11</sup>  | <b>YES</b> | Employers involved in agricultural farm labor are exempt from Arkansas workers' compensation requirements.   |
| OSHA                                 | <b>NO</b>  | Arkansas does not have a federally-approved occupational and health regulatory program for the state, therefore private sector workforces must comply with federal occupational safety and health standards and recordkeeping requirements. Refer to the federal fact sheet.                       |
| Federal                              | <b>YES</b> | There are numerous federal rules about recordkeeping. Employers should review the federal fact sheet.  |

### Working Conditions

| Topic                   | Answer     | Summary  |
|-------------------------|------------|--|
| Bathrooms <sup>12</sup> | <b>YES</b> | 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. In addition, where six or more males and females |



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|  |                 | are employed, Arkansas law requires separate toilets and washrooms for males and females.  |
| Working Hours                                    | <b>NO</b>       | Arkansas law does not specify maximum hour or day requirements for adults.   |
| Rest and Meal Breaks <sup>13</sup>               | <b>NO</b>       | Arkansas <a href="#">law does not require</a> meal or rest breaks. However, any rest breaks given must be counted as hours worked. A bona fide meal period of at least thirty (30) minutes during which an employee is completely relieved from duty does not count as worktime.   |
| Labor Relations <sup>14</sup>                    | <b>NO</b>       | Arkansas is a right to work state, and prohibits mandatory membership in a union or the payment of dues as a condition of employment.  |
| Whistleblower Protection <sup>15</sup>           | <b>YES</b>      | Arkansas law protects private sector employees from retaliation for participating in any civil rights proceeding.  |
| Paid Sick and Vacation Leave                     | <b>NO</b>       | Arkansas law does not require vacation benefits or sick leave, either paid or unpaid. However, if an employer chooses to provide such benefits, it must comply with the terms of its established policy.   |
| Breaks for Nursing Mothers <sup>16</sup>         | <b>YES</b>      | Employers must <a href="#">provide reasonable unpaid break time</a> each day to an employee who needs to express breast milk for that employee's infant child. The break time shall, if possible, run concurrently with any break time already provided to the employee. An employer is not required to provide break time if to do so would create an undue hardship on the operations of the employer. The employer shall make reasonable efforts to provide a private, secure and sanitary room or other location in close proximity to the work area, other than a toilet stall, where the employee can express breast milk. |
| Pregnancy Accommodations and Leave <sup>17</sup> | <b>YES / NO</b> | Arkansas law prohibits discrimination because of gender, which state law defines to include pregnancy, childbirth or related medical conditions. Thus, an employer of nine (9) or more employees in Arkansas would have to provide to a pregnant woman the same leave benefits (if any) as are provided to other temporarily disabled employees.   |
| Family and Medical Leave                         | <b>NO</b>       | Federal law requiring unpaid leave may apply depending on the size of the employer. Refer to federal fact sheet.   |
| Military and other Service Leave <sup>18</sup>   | <b>YES</b>      | Arkansas law protects employees called for service in the National Guard or state militia to the same extent as if called into active duty by the United States. Specifically, such employees shall not be denied hiring, retention in employment, promotion or other incidents or other advantages in employment because of any obligation as a member of the armed services.   |
| Crime Victim and Witness Leave <sup>19</sup>     | <b>YES</b>      | Arkansas law prohibits employers from discharging or disciplining a victim or representative of a victim for participation in preparation for a criminal proceeding at the prosecuting attorney's request or for attendance at a criminal justice proceeding if the attendance is reasonably necessary to protect the interests of the victim.   |
| Jury Duty Leave <sup>20</sup>                    | <b>YES/NO</b>   | An Arkansas employer is not required to pay an employee <a href="#">for time spent serving on a jury</a> . However, Arkansas law protects an employee from discharge, loss of sick leave or vacation time, or any other form of penalty on account of his absence while serving jury duty.   |
| Voting Leave <sup>21</sup>                       | <b>YES</b>      | Arkansas law requires employers to schedule the work hours of employees on election days so that each employee will have the opportunity to vote. The law  |



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|                       |           | does not require an employer to pay an employee for any time off granted to an employee to vote.      |
| School Activity Leave | <b>NO</b> | Arkansas law does not address leave for private sector employees to attend a child's school activity. |

### Human Rights

| Topic  | Answer     | Summary  |
|--|------------|--|
| Employment Discrimination <sup>22</sup>      | <b>YES</b> | Arkansas law prohibits employment discrimination based on race, religion, national origin (including ancestry), gender (including pregnancy, childbirth or related medical conditions), or sensory, mental or physical disability. This law applies to employers with nine (9) or more employees within the state.   |
| Harassment / Sexual Harassment <sup>23</sup> | <b>YES</b> | <p>Arkansas law prohibits discrimination in employment on the basis of gender. Arkansas courts have ruled that this prohibition includes sexual harassment. 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"> <li>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.</li> <li>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."</li> </ul> <p>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.</p> |
| Forced Labor <sup>24</sup>                   | <b>YES</b> | Arkansas law prohibits human trafficking, which means recruiting, harboring, transporting, obtaining, enticing, soliciting, isolating, providing or maintaining a person knowing that person will be subjected to involuntary servitude. Employers should ensure they are carefully following all visa requirements or work agreements to avoid any inadvertent violations.  |

### Child Labor

| Topic                     | Answer     | Summary  |
|---------------------------|------------|--|
| Child Labor <sup>25</sup> | <b>YES</b> | Arkansas law maintains <a href="#">numerous restrictions on child labor</a> , including for <a href="#">agricultural positions</a> . Children must be at least fourteen (14) years old to be employed, and an employer must keep on file an employment certificate for any child under sixteen (16) years of age. Children under sixteen (16) years may not work for more than eight (8) hours in any day, forty-eight (48) hours in any week or six (6) |



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days in any week. They also may not work before 6:00 a.m., or after 7:00 p.m., except on nights preceding a non-school day, when they may be employed until 9:00 p.m. Children under seventeen (17) years old may not work for more than ten (10) consecutive hours in any one day, ten (10) hours in a 24-hour period, 54 hours in any week, or six days in any week. They also may not work before 6:00 a.m., or after 11:00 p.m., except on nights preceding non-school days.

### Health and Safety

| Topic                              | Answer          | Summary   |
|------------------------------------|-----------------|---|
| Workers Compensation <sup>26</sup> | <b>YES / NO</b> | Employers involved in agricultural farm labor are exempt from Arkansas workers' compensation requirements. However, obtaining <a href="#">workers' compensation coverage</a> is good practice for limiting exposure to lawsuits and providing support to employees.   |
| OSHA                               | <b>NO</b>       | As Arkansas does not have an OSHA-approved state plan, it is under federal OSHA jurisdiction. Refer to the federal fact sheet.  |
| Housing <sup>27</sup>              | <b>YES</b>      | Arkansas law allows employers an allowance not to exceed thirty cents (\$0.30) per hour for the reasonable value of board, lodging, apparel or other items and services as part of the hourly rate paid to employees. Additionally, 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. |

<sup>1</sup> Ark. Code § 11-10-902(b).

<sup>2</sup> Ark. Code § 11-4-401(a).

<sup>3</sup> Ark. Code § 11-4-405(b).

<sup>4</sup> Ark. Code § 11-4-211(c). See Ark. Wage and Hour Regs 010.14-106(C)(1)(a).

<sup>5</sup> Ark. Code § 11-4-210(a)(3); Ark. Code § 11-4-203(4) and Ark. Code § 11-4-203(3)(F).

<sup>6</sup> See Ark. Wage and Hour Regs 010.14-108(A)(1).

<sup>7</sup> Ark. Code § 11-10-209(4)(A); and Ark. Code § 11-10-210(a)(5).

<sup>8</sup> Ark. Code § 11-4-213(a).

<sup>9</sup> Ark. Code § 11-4-217(a). See also Ark. Code § 11-2-115(a)(2); Ark. Code § 11-4-612(a); and Ark. Wage and Hour Regs 010.14-102(A).

<sup>10</sup> Ark. Code § 11-10-701.

<sup>11</sup> Ark. Code § 11-9-102(11)(A)(iii).

<sup>12</sup> Ark. Code § 11-5-112(a); Ark. Code § 20-59-214.

<sup>13</sup> See Ark. Wage and Hour Regs 010.14-108(C).

<sup>14</sup> Ark. Code § 11-3-303.

<sup>15</sup> Ark. Code § 16-123-108.

<sup>16</sup> Ark. Code § 11-5-116.

<sup>17</sup> Ark. Code § 16-123-107(a); Ark. Code § 16-123-102(1).

<sup>18</sup> Ark. Code § 12-62-413(a).

<sup>19</sup> Ark. Code § 16-90-1105.

<sup>20</sup> Ark. Code § 16-31-106(a)(2).

<sup>21</sup> Ark. Code § 7-1-102.

<sup>22</sup> Ark. Code § 16-123-102(5); and Ark. Code § 16-123-107(a).

<sup>23</sup> Ark. Code § 16-123-107(a). See also *Island v. Buena Vista Resort*, 103 S.W.3d 671 (Ark. 2003).

<sup>24</sup> Ark. Code § 5-18-103(1).

<sup>25</sup> See Ark. Child Labor Regs 010.14-308. Ark. Code § 11-6-104; Ark. Code § 11-6-108; Ark. Code § 11-6-109; and Ark. Code § 11-6-110.

<sup>26</sup> Ark. Code § 11-9-102(11)(A)(iii).

<sup>27</sup> Ark. Code § 11-4-213(a). See Ark. Wage and Hour Regs 010.14-107(D).