Agriculture Workers - State Statutes and Federal Laws

* Minnesota Health Statutes
  + [Section 144.12](https://www.revisor.mn.gov/statutes/cite/144.12), Regulation, Enforcement, Licenses, Fees
  + [Section 144.148](https://www.revisor.mn.gov/statutes/cite/144.148), Rural Hospital Capital Improvement Grant Program
  + [Section 145A.14](https://www.revisor.mn.gov/statutes/cite/145A.14), Special Grants
* Minnesota Labor & Industry Statutes
  + [Section 176.181](https://www.revisor.mn.gov/statutes/cite/176.181), Insurance
  + [Section 177.21](https://www.revisor.mn.gov/statutes/cite/177.21), Minnesota Fair Labor Standards Act (MFLSA)
  + [Section 181.001](https://www.revisor.mn.gov/statutes/cite/181), Payment of Wages Act
  + [Section 181.14](https://www.revisor.mn.gov/statutes/cite/181.14), Payment to Employees Who Quit or Resign; Settlement of Disputes
  + [Section 181.79](https://www.revisor.mn.gov/statutes/cite/181.79), Wages Deductions for Faculty Workmanship, Loss, Theft, or Damage
  + [Section 181.85](https://www.revisor.mn.gov/statutes/cite/181.85)-181.89, Migrant Labor
* Minnesota Public Welfare Statutes
  + [Section 256B.06](https://www.revisor.mn.gov/statutes/cite/256B.06), Eligibility; Migrant Workers; Citizenship
  + [Section 256D.02](https://www.revisor.mn.gov/statutes/cite/256D.02), Definitions
  + [Section 256J.12](https://www.revisor.mn.gov/statutes/cite/256J.12), Minnesota Residence
* Federal Codes and Regulations
  + [8 U.S.C § 1101](https://www.law.cornell.edu/uscode/text/8/1101), Definitions
  + [8 U.S.C. § 1188](https://www.law.cornell.edu/uscode/text/8/1188), Aliens and Nationality – Admission of temporary H-2A workers
  + [26 U.S.C § 3121(g)](https://www.law.cornell.edu/uscode/text/26/3121#g), Internal Revenue Service – Definitions
  + [29 U.S.C § 203(f)](https://www.law.cornell.edu/uscode/text/29/203#f), Labor – Definitions
  + [29 U.S.C. §§ 201 et seq.,](https://www.law.cornell.edu/uscode/text/29/chapter-8) Federal Fair Labor Standards Act (FLSA)
  + [29 U.S.C. §§ 1801 et seq.,](https://www.law.cornell.edu/uscode/text/29/chapter-20) Migrant and Seasonal Agricultural Worker Protection Act (AWPA/MSPA)
  + [29 CFR § 1910.142](https://www.law.cornell.edu/cfr/text/29/1910.142), Temporary Labor Camp Standards

Notes:

1. Minnesota Statutes and Federal Acts were identified by Minnesota House research student interns and contributed by AAWC member, Colin Laffey.
2. Hyperlinks for Minnesota Statutes connect to the Minnesota Legislature Office of the Revisor of Statutes at <https://www.revisor.mn.gov/>
3. Hyperlinks for U.S. Codes connect to Cornell Law School’s Legal Information Institute, an open access source for laws, at <https://www.law.cornell.edu/uscode/text>. U.S. Codes can also be found at the site run by the U.S. Government Publishing Office: <https://www.govinfo.gov/>

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| **Minnesota Laws** | |
| HEALTH | |
| Minn. Stat. 144.12 REGULATION, ENFORCEMENT, LICENSES, FEES. | *Gives the Health Commissioner authority to create rules for sanitary conditions of migrant labor camps*  Subd. 1 Rules…The commissioner may control, by rule, by requiring the taking out of licenses or permits, or by other appropriate means, any of the following matters:…  (11) the construction, equipment, and maintenance, in respect to sanitary conditions, of lumber camps, migratory or migrant labor camps, and other industrial camps; |
| Minn. Stat. 144.148 RURAL HOSPITAL CAPITAL IMPROVEMENT GRANT PROGRAM | *Directs the Health Commissioner to award rural hospital capital improvement grants to eligible rural hospitals.*  Subd. 2 Program (b) A grant shall not exceed $1,500,000 per eligible rural hospital that also satisfies the following criteria:…  (4) is located near a migrant worker employment site and regularly treats significant numbers of migrant workers and their families; |
| Minn. Stat. 145A.14 SPECIAL GRANTS. | *Gives the Health Commissioner authority to make special grants to local governments or nonprofits for providing health services for migrant agricultural workers and their families*  Subd. 1.Migrant health grants. (a) The commissioner may make special grants to cities, counties, groups of cities or counties, or nonprofit corporations to establish, operate, or subsidize clinic facilities and services, including mobile clinics, to furnish health services for migrant agricultural workers and their families in areas of the state where significant numbers of migrant workers are located. **"Migrant agricultural worker" [definition]** means any individual whose principal employment is in agriculture on a seasonal basis, who has been so employed within the past 24 months, and who has established a temporary residence for the purpose of such employment. |
| LABOR, INDUSTRY | |
| Minn. Stat. 176.181 INSURANCE. |  |
| Minn. Stat. 177.21 FAIR LABOR STANDARDS ACT. | *The Minnesota Fair Labor Standards Act establishes and safeguards minimum wage and overtime compensation standards that maintain workers' health, efficiency, and general well-being against unfair competition of wage and hour standards, and sustains purchasing power and increase employment opportunities.* |
| Minn. Stat. 181.001 PAYMENT OF WAGES |  |
| Minn. Stat. 181.14 PAYMENT TO EMPLOYEES WHO QUIT OR RESIGN; SETTLEMENT OF DISPUTES |  |
| Minn. Stat. 181.79 WAGES DEDUCTIONS FOR FAULTY WORKMANSHIP, LOSS, THEFT, OR DAMAGE. |  |
| Minn. Stat. 181.85-181.91 MIGRANT LABOR | *The Migrant Labor portion of the EMPLOYMENT chapter of the Minnesota Statutes (Chapter 181) stipulates the requirements for employing migrant labor including the terms of payment, what records must be kept, and civil actions for violations.* |
| * 181.86 EMPLOYMENT STATEMENT. | Subdivision 1.Terms. An employer that recruits a migrant worker shall provide the migrant worker, at the time the worker is recruited, with a written employment statement which shall state clearly and plainly, in English and Spanish:  (1) the date on which and the place at which the statement was completed and provided to the migrant worker;  (2) the name and permanent address of the migrant worker, of the employer, and of the recruiter who recruited the migrant worker;  (3) the date on which the migrant worker is to arrive at the place of employment, the date on which employment is to begin, the approximate hours of employment, and the minimum period of employment;  (4) the crops and the operations on which the migrant worker will be employed;  (5) the wage rates to be paid;  (6) the payment terms, as provided in section 181.87;  (7) any deduction to be made from wages; and  (8) whether housing will be provided.  Subd. 2.Contract. The employment statement is an enforceable contract between the migrant worker and the employer. |
| * 181.87 PAYMENT TERMS. | Subdivision 1.Entitled to payment. Each migrant worker who is recruited by an employer is entitled to payment in accordance with this section.  Subd. 2.Biweekly pay. The employer shall pay wages due to the migrant worker at least every two weeks, except on termination, when the employer shall pay within three days.  Subd. 3.Guaranteed hours. The employer shall guarantee to each recruited migrant worker a minimum of 70 hours pay for work in any two successive weeks and, should the pay for hours actually offered by the employer and worked by the migrant worker provide a sum of pay less than the minimum guarantee, the employer shall pay the migrant worker the difference within three days after the scheduled payday for the pay period involved. Payment for the guaranteed hours shall be at the hourly wage rate, if any, specified in the employment statement, or the federal minimum wage, whichever is higher. Any pay in addition to the hourly wage rate specified in the employment statement shall be applied against the guarantee. This guarantee applies for the minimum period of employment specified in the employment statement beginning with the date on which employment is to begin as specified in the employment statement. The date on which employment is to begin may be changed by the employer by written, telephonic, or telegraphic notice to the migrant worker, at the worker's last known address, no later than ten days prior to the previously stated beginning date. The migrant worker shall contact the recruiter to obtain the latest information regarding the date upon which employment is to begin no later than five days prior to the previously stated beginning date. This guarantee shall be reduced, when there is no work available for a period of seven or more consecutive days during any two-week period subsequent to the commencement of work, by five hours pay for each such day, when the unavailability of work is caused by climatic conditions or an act of God, provided that the employer pays the migrant worker, on the normal payday, the sum of $5 for each such day.  Subd. 4.Worker fired or quits. If the migrant worker quits or is fired for cause prior to the completion of the operation for which hired, the migrant worker is entitled to no further guarantee under subdivision 3 from that employer. If the migrant worker quits or is fired for cause before the completion of a two-week pay period, the worker is entitled to no guarantee for that period.  Subd. 5.Housing vacated. The employer may require the migrant worker to vacate the provided housing on final payment of all wages.  Subd. 6.Refusal to work; illness. If on any day for which work is offered the migrant worker refuses or because of illness or disability is unable to perform work which is offered, the employer may reduce the guarantee available in the pay period by the number of hours of work actually offered by the employer that day.  Subd. 7.Statement itemizing deductions from wages. The employer shall provide a written statement at the time wages are paid clearly itemizing each deduction from wages. |
| * 181.88 RECORD KEEPING. | Every employer subject to the provisions of sections 181.85 to 181.90 shall maintain complete and accurate records of the names of, the daily hours worked by, the rate of pay for and the wages paid each pay period to every individual migrant worker recruited by that employer, and shall preserve the records for a period of at least three years. |
| * 181.89 CIVIL ACTIONS. | Subdivision 1.May bring action. Any migrant worker claiming to be aggrieved by a violation of sections 181.86 to 181.88 may bring a civil action for damages and injunctive relief against the worker's employer.  Subd. 2.Judgment; damages. If the court finds that any defendant has violated the provisions of sections 181.86 to 181.88, the court shall enter judgment for the actual damages incurred by the plaintiff or the appropriate penalty as provided by this subdivision, whichever is greater. The court may also award court costs and a reasonable attorney's fee. The penalties shall be as follows:  (1) whenever the court finds that an employer has violated the record-keeping requirements of section 181.88, $50;  (2) whenever the court finds that an employer has recruited a migrant worker without providing a written employment statement as provided in section 181.86, subdivision 1, $250;  (3) whenever the court finds that an employer has recruited a migrant worker after having provided a written employment statement, but finds that the employment statement fails to comply with the requirement of section 181.86, subdivision 1 or section 181.87, $250;  (4) whenever the court finds that an employer has failed to comply with the terms of an employment statement which the employer has provided to a migrant worker or has failed to comply with any payment term required by section 181.87, $500;  (5) whenever the court finds that an employer has failed to pay wages to a migrant worker within a time period set forth in section 181.87, subdivision 2 or 3, $500; and  (6) whenever penalties are awarded, they shall be awarded severally in favor of each migrant worker plaintiff and against each defendant found liable. |
| * 181.90 USE WAGNER-PEYSER SYSTEM. | An employer who uses the federal work clearance order system under the Wagner-Peyser Act of 1933, Statutes at Large, volume 48, page 113, as amended, is deemed to recruit the migrant workers who are thereby induced to travel to Minnesota to perform agricultural labor. The provisions of sections 181.85 to 181.89 shall not be construed to prohibit the use of the work clearance order system by an employer who recruits migrant workers, but use of the federal work clearance order system by an employer shall not excuse the employer from compliance with sections 181.85 to 181.89. |
| Minn. Stat. 181.85 MIGRANT LABOR; DEFINITIONS. | *For the purposes of the Migrant Labor statutes within the Employment chapter, the following terms are defined:*  Subd. 2**. Agricultural labor** **[definition]**. "Agricultural labor" means field labor associated with the cultivation and harvest of fruits and vegetables and work performed in processing fruits and vegetables for market.  Subd. 3. **Migrant worker [definition].** "Migrant worker" means an individual at least 17 years of age who travels more than 100 miles to Minnesota from some other state to perform seasonal agricultural labor in Minnesota.  Subd. 4. **Employer [definition].** "Employer" means a processor of fruits or vegetables that employs, either directly or indirectly through a recruiter, more than 30 migrant workers per day for more than seven days in any calendar year.  Subd. 5. **Recruit [definition].** "Recruit" means to induce an individual, directly or indirectly through an agent or recruiter, to travel to Minnesota to perform agricultural labor by an offer of employment or of the possibility of employment.  Subd. 6. **Recruiter [definition].** "Recruiter" means an individual or person other than an employer that for a fee, either for itself or for another individual or person, solicits, hires, or furnishes migrant workers, excluding members of an individual recruiter's immediate family, for agricultural labor to be performed for an employer in this state. "Recruiter" does not include a public agency providing employment services. |
| PUBLIC WELFARE AND RELATED ACTIVITIES | |
| Minn. Stat. 256B.06 *Medical Assistance for Needy Persons* - ELIGIBILITY; MIGRANT WORKERS; CITIZENSHIP. | *States the requirements to be eligible for medical assistance in Minnesota. Migrant workers who are U.S. citizens, qualified noncitizens and/or residing lawfully in the U.S. are eligible for their medical needs to be met by the county.*  Subd. 3. Migrant worker. Notwithstanding any law to the contrary, a migrant worker who meets all of the eligibility requirements of this section except for having a permanent place of abode in another state, shall be eligible for medical assistance and shall have medical needs met by the county in which the worker resides at the time of making application.  Subd. 4. Citizenship requirements. (a) Eligibility for medical assistance is limited to citizens of the United States, qualified noncitizens as defined in this subdivision, and other persons residing lawfully in the United States. |
| Minn. Stat. 256D.02 *General Welfare* - DEFINITIONS. | *Migrant workers are exempt from the residency requirement to be eligible for public assistance programs outlined in Minnesota Statute Chapter 256D – General Assistance, including food assistance and other cash payments. Individuals seeking general assistance need to provide their Social Security number or SSN application to the county agency.*  (e) Migrant workers as defined in section 256J.08 [see below] are exempt from the residency requirements of this section, provided the migrant worker provides verification that the migrant family worked in this state within the last 12 months and earned at least $1,000 in gross wages during the time the migrant worker worked in this state. |
| Minn. Stat. 256J.08 *Minnesota Family Investment Program* – DEFINITIONS. | Subd. 56. **Migrant worker [definition].** "Migrant worker" means a person who travels away from home on a regular basis, usually with a group of other laborers, to seek employment in an agriculturally related activity. |
| Minn. Stat. 256J.12 *Minnesota Family Investment Program* - MINNESOTA RESIDENCE. | *Migrant workers are exempt from the residency requirement to be eligible for assistance established under the Minnesota Family Investment Program (MFIP) and the Temporary Assistance for Need Families (TANF)*  Subd. 2a. Migrant workers. Migrant workers, as defined in section 256J.08 [see above], and their immediate families are exempt from the requirements of subdivisions 1 and 1a, provided the migrant worker provides verification that the migrant family worked in this state within the last 12 months and earned at least $1,000 in gross wages during the time the migrant worker worked in this state. |
| **Federal Laws** | |
| U.S.C. TITLE 8 – ALIENS AND NATIONALITY | |
| 8 U.S. Code § 1101 (a)(15)(H)(ii)(a) - Definitions | *Defines a class of nonimmigrant alien pertaining to residents of another country who come to the U.S. to perform agricultural labor.*  **[H-2A definition]** (ii)(a) having a residence in a foreign country which he has no intention of abandoning who is coming temporarily to the United States to perform agricultural labor or services, as defined by the Secretary of Labor in regulations and including agricultural labor defined in section 3121(g) of title 26, agriculture as defined in section 203(f) of title 29, and the pressing of apples for cider on a farm, of a temporary or seasonal nature |
| 8 U.S. Code § 1188 Admission of temporary H–2A workers | *Describes the conditions and considerations for approval of H-2A petitions, including housing*  (4) Housing. Employers shall furnish housing in accordance with regulations. The employer shall be permitted at the employer’s option to provide housing meeting applicable Federal standards for temporary labor camps or to secure housing which meets the local standards for rental and/or public accommodations or other substantially similar class of habitation: Provided, That in the absence of applicable local standards, State standards for rental and/or public accommodations or other substantially similar class of habitation shall be met: Provided further, That in the absence of applicable local or State standards, Federal temporary labor camp standards shall apply: Provided further, That the Secretary of Labor shall issue regulations which address the specific requirements of housing for employees principally engaged in the range production of livestock: Provided further, That when it is the prevailing practice in the area and occupation of intended employment to provide family housing, family housing shall be provided to workers with families who request it: And provided further, That nothing in this paragraph shall require an employer to provide or secure housing for workers who are not entitled to it under the temporary labor certification regulations in effect on June 1, 1986. The determination as to whether the housing furnished by an employer for an H–2A worker meets the requirements imposed by this paragraph must be made prior to the date specified in paragraph (3)(A) by which the Secretary of Labor is required to make a certification described in subsection (a)(1) with respect to a petition for the importation of such worker. |
| U.S.C. TITLE 26 – INTERNAL REVENUE CODE | |
| 26 U.S. Code § 3121(g) Agricultural Labor | **[Agricultural Labor definition]** *Defines agricultural labor including raising or harvesting agricultural or horticultural commodity, including livestock, poultry, bees, fur-bearing animals; the conservation, management, or improvement of farms; handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market any agricultural/horticultural commodity.* |
| U.S.C. TITLE 29 – LABOR | |
| 29 U.S. Code § 203(f) – Definitions | **(f) “Agriculture” [definition]** includes farming in all its branches and among other things includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities (including commodities defined as agricultural commodities in section 1141j(g) [2] of title 12), the raising of livestock, bees, fur-bearing animals, or poultry, and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market. |
| 29 U.S. Code Chapter 8 – Fair Labor Standards §§ 201 et seq | *This act includes several sections designed with the intent of Congress to prevent labor conditions detrimental to a minimum standard of living to maintain health and well-being of workers.* |
| 29 U.S. Code Chapter 20 – Migrant and Seasonal Agricultural Worker Protection §§ 1801 et seq. | *This act includes several sections designed with the intent of Congress to assure necessary protections for migrant and seasonal agricultural workers, agricultural associations, and agricultural employers.* |
| 29 U.S. Code § 1802. Definitions | *Defines the following:*  (1) The term **“agricultural association” [definition]** means any nonprofit or cooperative association of farmers, growers, or ranchers, incorporated or qualified under applicable State law, which recruits, solicits, hires, employs, furnishes, or transports any migrant or seasonal agricultural worker.  (2) The term **“agricultural employer”** **[definition]** means any person who owns or operates a farm, ranch, processing establishment, cannery, gin, packing shed or nursery, or who produces or conditions seed, and who either recruits, solicits, hires, employs, furnishes, or transports any migrant or seasonal agricultural worker.  (3) The term **“agricultural employment”** **[definition]** means employment in any service or activity included within the provisions of section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)), or section 3121(g) of title 26 and the handling, planting, drying, packing, packaging, processing, freezing, or grading prior to delivery for storage of any agricultural or horticultural commodity in its unmanufactured state.  …  (5) The term **“employ” [definition]** has the meaning given such term under section 3(g) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(g)) for the purposes of implementing the requirements of that Act [29 U.S.C. 201 et seq.].  …  (7) The term **“farm labor contractor” [definition]** means any person, other than an agricultural employer, an agricultural association, or an employee of an agricultural employer or agricultural association, who, for any money or other valuable consideration paid or promised to be paid, performs any farm labor contracting activity.  (8) (A) Except as provided in subparagraph (B), the term **“migrant agricultural worker” [definition]** means an individual who is employed in agricultural employment of a seasonal or other temporary nature, and who is required to be absent overnight from his permanent place of residence.  (B) The term “migrant agricultural worker” does not include—  (i) any immediate family member of an agricultural employer or a farm labor contractor; or  (ii) any temporary nonimmigrant alien who is authorized to work in agricultural employment in the United States under sections 1101(a)(15)(H)(ii)(a) and 1184(c) of title 8.  …  (10)(A) Except as provided in subparagraph (B), the term **“seasonal agricultural worker”** **[definition]** means an individual who is employed in agricultural employment of a seasonal or other temporary nature and is not required to be absent overnight from his permanent place of residence—  (i) when employed on a farm or ranch performing field work related to planting, cultivating, or harvesting operations; or  (ii) when employed in canning, packing, ginning, seed conditioning or related research, or processing operations, and transported, or caused to be transported, to or from the place of employment by means of a day-haul operation.  (B) The term “seasonal agricultural worker” does not include—  (i) any migrant agricultural worker;  (ii) any immediate family member of an agricultural employer or a farm labor contractor; or  (iii) any temporary nonimmigrant alien who is authorized to work in agricultural employment in the United States under sections 1101(a)(15)(H)(ii)(a) and 1184(c) of title 8. |
| C.F.R TITLE 29 – LABOR – CHAPERT XVII, PART 1910 – OCCUPATIONAL SAFETY AND HEALTH STANDARDS | |
| 29 Code of Federal Regulations § 1910.142 - Temporary labor camps | *This code sets requirements for the conditions of temporary labor camps including condition of the site, shelter, water supply, toilet facilities, sewage disposal facilities, laundry, handwashing, and bathing facilities, refuse disposal, feeding facilities, insect and rodent control, first aid, and reporting of communicable disease.* |
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