



Arizona

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 May 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 ARIZONA STATE LAWS PERTAINING TO DAIRY FARMS ABOUT:

HIRING

TOPIC	ANSWER	DETAILS
Notice of Payday / Pay Rate	NO	Not required under Arizona law.
Reporting ¹	YES	New hires must be reported to the Arizona New Hire Reporting Center within 20 days.

WAGES

TOPIC	ANSWER	DETAILS
Payday ²	YES	Must designate fixed paydays twice a month, not more than 16 days apart (i.e., must be paid no later than 16 days after the end of the most recent pay period). Overtime pay for work during a given pay period can be paid out on the regular payday for the following pay period.
Final Pay ³	YES	Employees that are fired or otherwise terminated by an employer must be paid within 7 business days or at the end of the next regular pay period, whichever is sooner. Employees that quit must be paid by the next regular payday.
Overtime	NO	Arizona law does not govern overtime pay; federal rules may apply. Employers are encouraged to review the federal fact sheet.
Minimum Wage ⁴	YES	\$10.50 per hour . The state's hourly minimum wage is to increase to \$11 on Jan. 1, 2019, and to \$12 on Jan. 1, 2020. Does not apply to people employed by a parent or sibling. Businesses with less than \$500,000 in annual gross revenue and that are exempt from federal minimum wage, are also exempt from paying Arizona minimum wage.
Hours Worked ⁵	YES	For its minimum wage law, Arizona defines hours worked as including: all time an employee is on duty or at the workplace as well as time the employee is working (whether asked to or not). On duty means they are working or waiting for work and are not permitted to use the time for their own purposes. Arizona guidance also says to follow federal rules on the definition of hours worked. See the federal fact sheet for more details.

WAGES

(Continued)

TOPIC	ANSWER	DETAILS
Reporting Time Pay	NO	Arizona law does not require reporting time pay, i.e. an employee is only required to be paid for actual hours worked.
Pay Stub ⁶	YES/NO	When employee's wages are paid through direct deposit or to a payroll card account, must provide a statement of the employee's earnings and withholdings.
Taxes and Withholding ⁷	YES	<p>Employers are required to <u>withhold Arizona income tax</u>. You 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 <u>Arizona Unemployment Insurance</u> taxes if:</p> <ul style="list-style-type: none"> • <i>You paid cash wages to farm workers of \$20,000 or more in a quarter in any calendar year; OR,</i> • <i>You employed ten or more farm workers for some part of a day in 20 or more weeks of any calendar year.</i> <p>Certain family employment is excluded from coverage requirements (a parent employed by their son/daughter, a person employed by their spouse, or a child under 21 employed by a parent). Unemployment taxes are paid by the employer; they are not taken out of employee pay. You can credit the amount you pay to Arizona in calculating how much you owe for federal unemployment taxes. More information.</p>
Deductions ⁸	YES	<p>Deductions required by law or courts (for ex. tax withholdings) do not require written authorization from the employee. Other deductions may be made with prior written authorization from the employee. Only monetary compensation can count toward the minimum wage requirements (so in-kind wages like meals and lodging cannot count as allowances toward the Arizona minimum wage). When a reasonable good-faith dispute exists as to the amount of wages owed, including the amount of any debt claim, reimbursement, recoupment or offset asserted by the employer against the employee, an employer may deduct amounts from an employee's wages.</p> <p>Employers should check federal FLSA requirements for federal laws about deductions. Deductions for the employee's benefit agreed to in writing are generally permissible. Deductions for the employer's benefit (damaged or lost equipment, employee errors, etc.) cannot take an employee below the minimum wage.</p>
Bonuses ⁹	YES/NO	<p>Under Arizona minimum wage law, wages are defined as monetary compensation due to an employee by reason of employment. Arizona wage payment law defines wages as nondiscretionary compensation. So discretionary bonuses would not be considered wages, while nondiscretionary bonuses can be considered wages and protected under wage laws.</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> <p>Employers should follow any written policy they have about paying bonuses as a best practice.</p>

RECORD KEEPING

TOPIC	ANSWER	DETAILS
Payroll ¹⁰	YES	<p>Employers with any employees subject to the Arizona minimum wage law must <u>keep payroll records for four years</u>. Records must contain for each employee and pay period:</p> <ul style="list-style-type: none"> • Name and any identifying number used on any time, work, or payroll records • Home address • DOB if under 19 • Occupation • Time of day and day of week the workweek begins • Rate and basis of pay (i.e. per hour, per week, etc.) • Hours worked each workday and total hours each workweek • Total daily or weekly straight-time earnings, or wages due for hours worked exclusive of premium overtime compensation • Total premium pay for overtime hours • Additions or deductions for each pay period, and a description of them • Total wages paid each pay period • Date of payment and pay period covered by the payment • Amount of earned paid sick time available • Amount of earned paid sick time taken to date in the year • Amount of pay employee has received as earned paid sick time • Employee's earned paid sick time balance <p>For employees that work on a fixed weekly schedule, the records can show the normal daily/weekly schedule and indicate any weeks where there was a deviation.</p> <p>The above records need to be kept safe and accessible at the workplace, or a central record-keeping office. If kept at a central office, need to be made available at the workplace within 72 hours of a notice from the AZ Department of Labor. The records must be available for inspection and copying by the AZ Department of Labor upon written request.</p> <p>Small employers (grossing less than \$500,000 in annual revenue) can apply for an exemption to the recordkeeping requirements.</p>
Personnel Files – Employee Access	NO	<p>Arizona law does not require employee access to personnel files for private employers.</p>
Unemployment Insurance ¹¹	YES	<p>Employers subject to contributions must submit <u>quarterly wage reports</u>.</p> <p>Whether or not subject to paying Unemployment Insurance taxes, <u>every employer in Arizona</u> must maintain accurate payroll records showing the following for each employee:</p> <ul style="list-style-type: none"> • Check stubs and canceled checks for all payments. • Cash receipts and disbursement records. • Payroll journal. • General journal and general ledger. • Copies of tax reports filed with all federal and state agencies. • Copies of W-2(s) and W-3(s). • Other accounting records as may be required. • For each payroll period, the: <ul style="list-style-type: none"> - beginning and ending dates of each pay period, - total amount of remuneration paid for all services, whether paid in cash, by check, or in any other manner, and the date of each such payment, and - date in each week on which the largest number of individuals worked and the number of individuals who worked on that day. • For each worker, the: <ul style="list-style-type: none"> - first and last name, - Social Security number, - date hired, rehired, or returned to work, - date employment ended and the reason(s) for separation from work, - amount of remuneration paid in each calendar quarter, - amount of remuneration paid each pay period, including the value of any remuneration in a form other than cash, - amount and date of any special payment, such as a bonus, gift, or prize, and - place in which services were performed. <p>Employers with more than one physical location must maintain these records by location. These records must be kept for four calendar. Records must be open to inspection, auditing, or copying by the Department of Economic Security at any reasonable time and as often as necessary.</p>

RECORD KEEPING

(Continued)

TOPIC	ANSWER	DETAILS
Workers' Compensation ¹²	YES	All books, records, and payroll records that reflect wages are open to inspection by the Industrial Commission of Arizona in order to administer Workers' Compensation law. Employers must also make a report of every known work-related injury/illness/fatality to the Industrial Commission at times and in a form prescribed by the Commission. So employers should keep injury records, even though they are not explicitly required under Arizona Workers' Compensation law.
OSHA ¹³	YES	The Arizona OSHA recordkeeping requirements incorporate the federal standard. See the federal fact sheet for details.
Federal	YES	There are numerous federal rules about recordkeeping. Employers should review the federal fact sheet.

WORKING CONDITIONS

TOPIC	ANSWER	DETAILS
Bathrooms ¹⁴	YES	Arizona 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	No max hour or day requirements for adults. See Child Labor (below) for maximum hours for minors.
Rest and Meal Breaks	NO	Arizona law does not require rest or meal breaks for adults. Employers that choose to provide rest and meal breaks must follow the applicable federal rules. Refer to federal fact sheet.
Labor Relations ¹⁵	YES	Arizona law protects the rights of agricultural employees to organize/collective bargaining, but somewhat limits the right to strike.
Whistleblower Protection ¹⁶	YES	Employees cannot be fired or retaliated against for disclosing, in a reasonable manner, that he/she has information or a reasonable belief that the employer has/is/will violate Arizona law. Also, this disclosure is protected only if made either to the employer, a representative of the employer, or a state agency. Disclosures made to media outlets are not protected by the statute.
Paid Sick and Vacation Leave ¹⁷	YES	Arizona law requires paid sick leave. Details on accrual and usage rules can be found online . Employers must allow eligible employees to accrue at least one hour of paid sick leave for every 30 hours worked, with an accrual limit of 24 hours per year for employers with fewer than 15 employees and 40 hours per year for those with more than 15 employees. Employers can choose to select a higher annual limit. Paid vacation leave is not required under Arizona law. Employers who choose to provide such benefits must follow their written policy/contract.
Breaks for Nursing Mothers	NO	Arizona law does not specifically address workplace accommodations for employees that are nursing but there may be requirements under federal law. Employers should refer to the federal fact sheet.
Pregnancy Accommodations	NO	Arizona law does not specifically address workplace accommodations for employees that are pregnant. Employers should refer to the federal fact sheet. Additionally, it is illegal to discriminate against employees because they are pregnant (see below).

WORKING CONDITIONS

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TOPIC	ANSWER	DETAILS
Family and Medical Leave ¹⁸	YES/NO	Arizona's paid sick leave law allows employees to use accrued sick leave to provide care for a family member with a mental or physical illness, injury, or health condition; for diagnosis of those; or for preventive medical care. Arizona law does not explicitly address leave for new parents; federal rules may apply.
Jury Duty Leave ¹⁹	YES	Employers must allow employees to take unpaid leave to serve as jurors, and they cannot require or ask employees to use annual, vacation, or sick leave for jury duty. Employers can't penalize employees who take jury duty leave.
Crime Victim and Witness Leave ²⁰	YES	Employers with 50 or more employees must allow <u>employees who are crime victims</u> to take unpaid leave to be present at certain proceedings, to obtain an order of protection, and to seek an injunction, and other related procedures. Employers also must allow eligible employees to use paid sick leave for reasons related to domestic or sexual violence, abuse, or stalking.
Military Leave ²¹	YES	Employers must grant employees leave to enter active duty or to participate in military training, and they must re-employ workers called up for military duty.
Voting Leave ²²	YES	Employers must allow employees enough leave to vote, such that they have three consecutive hours between the opening of the polls and the beginning of their regular work shift, or, between the end of their regular work shift and the closing of the polls. Employers can't penalize employees because they take time off to vote, nor can they interfere with or influence their choice to vote for certain candidates. Employees must apply for such leave prior to the day of election, and the employer may specify the hours during which the employee may absent himself.
School Activity Leave	NO	Arizona law does not address leave for private sector employees to attend a child's school activity.

CHILD LABOR

TOPIC	ANSWER	DETAILS
Child Labor ²³	YES	<p>Arizona child labor laws do not apply to minors employed by a grandparent, sibling, aunt, uncle, first cousin, stepparent, parent, or person legally acting as a parent; as long as that family member owns at least 10% of the employing organization and is actively involved in daily operation.</p> <p><u>Work permits</u> not required in Arizona.</p> <p>Arizona law does not explicitly address the minimum age for work, so employers should follow federal rules found in the federal fact sheet.</p> <p><u>Max hours:</u></p> <ul style="list-style-type: none"> • <u>Under 16:</u> <ul style="list-style-type: none"> - <i>When school in session: No more than 3 hours on a school day, 8 hours on a non-school day, for a total of 18 hours per week. Cannot work before 6am or after 9:30pm when there is school the next day, or until 11:00pm when there is not school the next day.</i> - <i>When school is not in session or not enrolled in school: Max of 8 hours per day, 40 hours per week. Cannot work before 6am or after 11pm.</i> • <i>16 or over: No maximum specified</i> <p>There are <u>restricted and prohibited occupations</u> for workers under 18.</p>

HUMAN RIGHTS

TOPIC	ANSWER	DETAILS
Employment Discrimination ²⁴	YES	<p>Arizona law prohibits employment discrimination based on race, color, religion, creed, gender, age 40 and over, physical or mental disability, national origin, pregnancy, genetic test results/information, and medical marijuana use. Applies to employers 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>Employers cannot pay men and women different wages for comparable work on jobs that have virtually the same requirements in terms of skills, effort, and responsibility. Wage differences based on seniority, merit, quantity or quality of production or other factors other than sex are permitted.</p> <p>It is illegal to retaliate against employees for filing or otherwise aiding with a complaint.</p>
Harassment/ Sexual Harassment ²⁵	YES	<p>Sexual harassment is generally considered a form of employment discrimination based on gender (though not explicitly stated in Arizona law). Arizona law does state that sexual harassment protections apply to all employers with one or more employees. Sexual 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 ²⁶	YES	<p>Human trafficking is illegal in Arizona. Trafficking for labor means: recruiting, harboring, transporting, provisioning, or obtaining of a person by any means for subjection to forced labor, forced services, debt bondage, or slavery. More details.</p> <p>Employers should ensure they are carefully following all visa requirements or work agreements to avoid any inadvertent violations.</p>

HEALTH AND SAFETY

TOPIC	ANSWER	DETAILS
Workers' Compensation ²⁷	YES	<p>Arizona employers must have workers compensation coverage. Employers <u>must report any work-related injury</u> or illness to the Industrial Commission and their insurance carrier within ten days of receiving a notice of accident from an employee. For fatalities, employers must also notify the Industrial Commission immediately by phone, no later than the next business day.</p> <p>More details.</p>
OSHA ²⁸	YES	<p>Arizona has an approved OSHA 'state-plan', which means it is at least as effective as federal OSHA. Similar to federal OSHA, ADOSH 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.</p> <p>ADOSH has adopted the federal OSHA Standards for Agriculture, except for 'Field Sanitation' and 'Cadmium', the General Industry Standards that apply to agriculture, and the reporting/recordkeeping requirements. See the federal fact sheet for details on requirements.</p>
Housing	YES/NO	<p>Arizona law does not explicitly address standards for 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.</p>

References

1. Ariz. Rev. Stat. §23-722.01
2. Ariz. Rev. Stat. §23-351
3. Ariz. Rev. Stat. §23-353
4. Ariz. Rev. Stat. §23-362; §23-363
5. Ariz. Admin. Code. R20-5-1202(19) and (22)
6. Ariz. Rev. Stat. §23-351
7. Ariz. Rev. Stat. §43-402; §43-403 (exception only applies to seasonal hand labor); Ariz. Rev. Stat. §23-613; §23-617
8. Ariz. Rev. Stat. §§ 23-350, 23-352; Ariz. Admin. Code. R20-5-1206
9. Ariz. Rev. Stat. §23-350; §23-362
10. Ariz. Rev. Stat. §23-364(D); Ariz. Admin. Code R20-5-1210; R20-5-1209; R20-5-1220
11. Ariz. Rev. Code §23-721; Ariz. Admin. Code R6-3-1703; R6-3-1702
12. Ariz. Rev. Code. §23-926; 23-908
13. Ariz. Admin. Code R20-5-629
14. Ariz. Admin. Code R3-2-802
15. Ariz. Rev. Stat. §23-1381; §23-1383; §23-1393
16. Ariz. Rev. Stat. §23-1501
17. Ariz. Rev. Stat. §§ 8-420, 13-707, 13-802, 21-236, 23-350(5), 23-362, 23-364, 23-371 et seq., 23-381, 26-167, 23-168
18. Ariz. Rev. Code §23-373
19. Ariz. Rev. Stat. §21-236
20. Ariz. Rev. Stat. §§ 8-420 and 13-4439
21. Ariz. Rev. Stat. §§ 26-167 and 26-168
22. Ariz. Rev. Stat. § 16-402
23. Ariz. Rev. Code §23-235; §23-233
24. Ariz. Rev. Stat. §§41-1461, 41-1463, 36-2813, 23-341, 44-1691 to 44-1693, 44-1695 to 44-1696
25. See above, particularly §41-1461
26. Ariz. Rev. Code §13-1308
27. Ariz. Rev. Code. §23-902; §23-908; Ariz. Admin. Code R-20-5-110
28. Ariz. Rev. Code §23-403