



# Florida

## 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 FLORIDA STATE LAWS PERTAINING TO DAIRY FARMS ABOUT:

### HIRING

TOPIC	ANSWER	DETAILS
Notice of Payday/ Pay Rate	<b>NO</b>	Not required under Florida law.
Reporting <sup>1</sup>	<b>YES</b>	<a href="#">New hires</a> and rehires must be reported to the Florida New Hire Reporting Center within 20 days.

### WAGES

TOPIC	ANSWER	DETAILS
Payday	<b>NO</b>	Florida law does not address how often an employee must be paid.
Final Pay	<b>NO</b>	Florida law does not address when payments are due for an employee that quits, resigns, or is fired. It is recommended that employers pay former employees on the next regular payday following the employee's employment separation.
Overtime	<b>NO</b>	Florida law follows the FLSA overtime rules. There is a state law for extra pay for manual labor beyond 10 hours in a day; however, the law is vague (see Footnote below). Employers are thus encouraged to review the federal fact sheet.
Minimum Wage <sup>2</sup>	<b>YES</b>	<a href="#">\$8.25 per hour</a> . Subject to the same exemptions as the federal FLSA; see the federal fact sheet for more details.
Hours Worked	<b>NO</b>	Florida law does not explicitly address the definition of 'hours worked' for purposes of calculating compensable time. Employers should follow federal laws summarized in the federal fact sheet.
Reporting Time Pay	<b>NO</b>	Florida law does not require reporting time pay, i.e. an employee is only required to be paid for actual hours worked.
Pay Stub	<b>NO</b>	Florida law does not address pay stubs/pay statements for regular employees (there are rules for employers operating labor pools).
Deductions	<b>NO</b>	Florida law does not explicitly address allowed/prohibited deductions. Employers should follow federal rules found in the federal fact sheet.

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# WAGES

(Continued)

TOPIC	ANSWER	DETAILS
Taxes and Withholding <sup>3</sup>	YES	<p>Employers must give employees a statement of taxes withheld, like a federal Form W-2, 1099-MISC or 1099-R.</p> <p>Employers must pay <a href="#">Florida Reemployment Assistance</a> taxes if:</p> <ul style="list-style-type: none"> <li>You paid cash wages to farm workers of \$10,000 or more in a quarter in any calendar year; OR,</li> <li>You employed 5 or more farm workers for some part of a day in 20 or more weeks of any calendar year.</li> </ul> <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 – also includes stepfamily). Unemployment taxes are paid by the employer; they are not taken out of employee pay. You can credit the amount you pay to Florida in calculating how much you owe for federal unemployment taxes. <a href="#">More details.</a></p>
Bonuses	NO	<p>Florida law does not explicitly address the issue of bonuses and wages. Generally, discretionary bonuses are not 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>

# CHILD LABOR

TOPIC	ANSWER	DETAILS
Child Labor <sup>4</sup>	YES	<p><a href="#">Work permits</a> are not required for minors, but employers must have proof of age.</p> <p>Minimum age:</p> <ul style="list-style-type: none"> <li>During school hours: 16, but can only be employed during school hours if they have graduated or received an equivalency diploma</li> <li>Outside school hours: 14</li> <li>Minimum age requirements do not apply to minors working directly for their parents/guardians, working on the home farm, or working in management of livestock</li> </ul> <p>Max hours (does not apply to minors employed by a parent):</p> <ul style="list-style-type: none"> <li>Under 16 <ul style="list-style-type: none"> <li>When school in session: No more than 3 hours a day, except for when there is no school the next day. No more than 15 hours per week. Cannot work before 7am or after 7pm when school is scheduled the next day.</li> <li>When school is not in session: Max 8 hours per day, 40 hours per week. Cannot work before 7am or after 9pm.</li> </ul> </li> <li>16 or over <ul style="list-style-type: none"> <li>When school in session: No more than 8 hours a day, except for when there is no school the next day. No more than 30 hours per week. Cannot work before 6:30am or after 11pm when school is scheduled the next day.</li> <li>When school is not in session: Not specified.</li> </ul> </li> </ul> <p>Minors cannot be required to work more than 6 consecutive days in any one week. Minors who work for more than 4 hours continuously must be given a meal period of at least 30 minutes. These limits do not apply to minors employed by their parents.</p> <p>There are <a href="#">prohibited and restricted occupations</a> for minors. Must also follow <a href="#">federal restrictions/prohibited occupations</a> for agricultural work.</p>



# RECORD KEEPING

TOPIC	ANSWER	DETAILS
Unemployment Insurance <sup>5</sup>	YES	<p>Employers subject to the Reemployment Assistance tax must submit <u>quarterly wage reports</u>.</p> <p>Whether or not subject to paying Reemployment Assistance taxes, every employer in Florida must keep the following records for each employee:</p> <ul style="list-style-type: none"> <li>• <i>Name and social security number</i></li> <li>• <i>Place of employment (the Florida county) within the State</i></li> <li>• <i>Beginning and ending dates of each pay period and dates on which work was performed during each pay period</i></li> <li>• <i>Amount of wages paid to each worker for each pay period and dates of payment. If paid on an hourly basis, must have the number of hours worked each pay period, the daily wages, and the date of payment.</i></li> <li>• <i>Date(s) hired, re-hired, and returned to work after temporary separation from work, and the date(s) of separation</i></li> <li>• <i>Special payments of any kind. All special payments, including bonuses, gifts, prizes, etc., must be recorded separately. The record must include the amount of money payments, reasonable cash value of other compensation, the nature of such payments and, if appropriate, the period during which services were performed for such payments; and,</i></li> <li>• <i>The address of each location where payroll records are maintained.</i></li> </ul> <p>Employers must keep the records for five calendar years. The records must be made available to the Department of Revenue or Department of Economic Opportunity upon request.</p>
Workers' Compensation <sup>6</sup>	YES	<p>Employers must keep a record of every known work-related injury or illness that does not require anything beyond first aid (in other words, ones that do not get reported to the insurance company). The record should contain name, SSN, date/time of injury, occupation, who the injury, description of accident/illness, what injury/illness occurred, the affected body part, and the location of injury if different from the workplace.</p> <p>Employers must maintain the following records for the current calendar year and the preceding two calendar years. The records must be kept at the principal place of business, the job site, or a corporate registered office.</p> <ul style="list-style-type: none"> <li>• <b>Employment records</b></li> <li>• <i>The employment records required by this subsection shall indicate with regard to every such person:</i> <ul style="list-style-type: none"> <li>- <i>Name of the person.</i></li> <li>- <i>Social Security Number, Federal Employer Identification Number, or IRS Tax Identification Number of the person.</i></li> <li>- <i>Each day, month, and year or pay period when the employer engaged the person in employment.</i></li> <li>- <i>Amount of compensation paid or owed by the employer for work or service performed by the person. Where compensation is paid or owed on an hourly basis, the record shall indicate the day, month, and year of work or service and the number of hours worked by the person during each pay period. Where compensation is paid or owed on any basis other than hourly, the record shall specify the basis, such as competitive bid, piece rate, or task, and indicate the day, month, and year, when compensation was earned.</i></li> </ul> </li> <li>• <i>In addition, every employer shall maintain the following records for each such person:</i> <ul style="list-style-type: none"> <li>- <i>All checks or other records provided to the person for salary, wage, or earned income.</i></li> <li>- <i>All Form 1099 Miscellaneous Income and Form W-2 Wage and Tax Statements issued to the person.</i></li> <li>- <i>All written contracts or agreements between the employer and the person that describe the terms of employment.</i></li> <li>- <i>All employment and unemployment reports filed pursuant to Florida law.</i></li> </ul> </li> <li>• <b>Tax records.</b></li> <li>• <b>Account records.</b> Every employer shall maintain monthly, quarterly, or annual statements for all open or closed business accounts.</li> <li>• <b>Disbursements.</b> For cash, checks, money orders, etc. Must indicate disbursement date, to whom the money was paid, the payment amount, and the purpose.</li> <li>• <b>Workers' compensation insurance and certificates of election to be exempt.</b></li> <li>• <b>Contracts.</b> Any contracts with independent contractors, general contractors, or employee leasing companies.</li> </ul>

## RECORD KEEPING

(Continued)

TOPIC	ANSWER	DETAILS
Personnel Files – Employee Access	<b>NO</b>	Florida law does not require private employers to give employees access to their personnel files.
OSHA	<b>YES</b>	Employers must comply with the federal OSHA recordkeeping standard. See the federal fact sheet for details.
Payroll	<b>YES/NO</b>	Payroll records are not required under Florida minimum wage or wage payment laws; however there are requirements under Unemployment Insurance above and federal laws.
Federal	<b>YES</b>	There are numerous federal rules about recordkeeping. Employers should review the federal fact sheet.

## WORKING CONDITIONS

TOPIC	ANSWER	DETAILS
Bathrooms <sup>7</sup>	<b>YES</b>	Florida 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 <sup>8</sup>	<b>YES</b>	Florida wage law states that 10 hours is a legal day's work. Anyone employed in manual labor by the day, week, month, or year must have a written contract that agrees to less or greater number of hours, if applicable. Without a written contract, the worker is entitled to extra pay for work beyond 10 hours. See Child Labor (above) for maximum hours for minors.
Rest and Meal Breaks	<b>NO</b>	Florida 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. See Child Labor (below) for rules for minors.
Labor Relations <sup>9</sup>	<b>YES</b>	Florida's Union Regulation Law gives private sector employees the right to organize and bargain collectively.
Whistleblower Protection	<b>YES/NO</b>	Florida 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	<b>NO</b>	Not required under Florida law. Employers who choose to provide fringe benefits should follow their written policy/contract.
Breaks for Nursing Mothers	<b>NO</b>	Florida law does not 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	<b>NO</b>	Florida law does not address workplace accommodations for pregnant employees, but there may be requirements under federal law. Employers should refer to the federal fact sheet. Additionally, it is illegal to discriminate against employees because they are pregnant (see below).
Family, Parental, and Pregnancy Leave	<b>NO</b>	Florida law does not address family, parental, or pregnancy leave. Federal law requiring unpaid leave may apply depending on the size of the employer. Refer to federal fact sheet.

## WORKING CONDITIONS

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TOPIC	ANSWER	DETAILS
Jury Duty Leave <sup>10</sup>	YES	Employees cannot be penalized, threatened, retaliated against, fired, or otherwise coerced because they receive or respond to a summons to serve as a juror. Employers can continue to pay regular wages during jury service, but it is not required by Florida law.
Crime Victim and Witness Leave <sup>11</sup>	YES	<p>Employers must allow employees up to 3 days leave in a 12 month period if the employee or a family member have been a victim of domestic violence or sexual violence. Applies to employers who employ 50 or more people and employees that have worked for their employer for at least 3 months. The leave can be to:</p> <ul style="list-style-type: none"> <li>• Seek an injunction for protection against domestic violence or an injunction for protection in cases of repeat violence, dating violence, or sexual violence;</li> <li>• Obtain medical care or mental health counseling, or both, for the employee or a family or household member to address physical or psychological injuries resulting from the act of domestic violence or sexual violence;</li> <li>• Obtain services from a victim services organization, including, but not limited to, a domestic violence shelter or program or a rape crisis center as a result of the act of domestic violence or sexual violence;</li> <li>• Make the employee's home secure from the perpetrator of the domestic violence or sexual violence or to seek new housing to escape the perpetrator; or</li> <li>• Seek legal assistance in addressing issues arising from the act of domestic violence or sexual violence or to attend and prepare for court-related proceedings arising from the act of domestic violence or sexual violence</li> </ul> <p>The leave can be paid or unpaid at the employer's discretion. The employee must use accrued annual, vacation, or personal leave (if applicable) before taking the domestic violence/sexual violence leave, unless the employer waives this requirement.</p> <p>A person who testifies in a judicial proceeding in response to a subpoena may not be dismissed from employment because of the content of the testimony or for missing work to comply with the subpoena.</p>
Military and other Service Leave	NO	State law does not explicitly address military leave for private sector employees, but federal law applies. Employers should refer to the federal fact sheet.
Voting Leave	NO	Florida does not have a voting leave law covering private employers.
School Activity Leave	NO	Florida law does not address leave for private sector employees to attend a child's school activity.

## HEALTH AND SAFETY

TOPIC	ANSWER	DETAILS
OSHA	YES	Florida falls under federal OSHA jurisdiction. See the federal fact sheet for more information.
Workers' Compensation <sup>12</sup>	YES	<p><u>Workers' Compensation coverage</u> is required for farms that regularly employ more than 5 employees, or, more than 12 seasonally at one time that is completed in less than 30 days.</p> <p>Employers must <u>report any work-related injury or illness that requires</u> more than first aid. Such injuries/illnesses need to be reported to the insurer within 7 days from when the employer learns of the injury.</p> <p>Fatalities must be reported to the Division of Workers' Compensation within 24 hours, by phone, fax, or email.</p>
Housing	YES/NO	Florida 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.

# HUMAN RIGHTS

TOPIC	ANSWER	DETAILS
Employment Discrimination <sup>13</sup>	YES	<p>Florida law <u>prohibits employment discrimination</u> based race, color, religion, sex, national origin, age, handicap, marital status, sickle-cell trait, pregnancy. 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 <sup>14</sup>	YES	<p>Sexual harassment is typically considered a type of discrimination based on sex. 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"> <li>• <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></li> <li>• <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></li> <li>• <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></li> </ul> <p>It is illegal to retaliate against employees for filing or otherwise aiding with a complaint.</p>
Forced Labor <sup>15</sup>	YES	<p>Human trafficking is illegal in Florida. 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.</p> <p>Employers should ensure they are carefully following all visa requirements or work agreements to avoid any inadvertent violations.</p>

## References

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| 1. Fl. Stat. §409.2576                             | 5. Fla. Admin. Code. R. 73B-10.025;                             | 9. Fl. Stat. §447.01 et seq.                          | 760.02, 760.10        |
| 2. Fl. Stat. §448.110                              | 73B-10.032  | 10. Fl. Stat. §40.271; §40.24                         | 14. See above         |
| 3. Fl. Stat. §§443.1215, 443.1216(5), 443.1216(13) | 6. Fl. Stat. §440.35; Fl. Admin. Code. R. 69L-6.015; 69L-56.401 | 11. Fl. Stat. §741.313; §92.57                        | 15. Fl. Stat. §787.06 |
| 4. Fl. Stat. §§ 450.021, 450.045, 450.081;         | 7. Fl. Admin. Code. R. 5K-10.001                                | 12. Fl. Stat. §440.02; Fl. Admin. Code. R. 69L-56.401 |                       |
|  | 8. Fl. Stat. §448.01  | 13. Fl. Stat. §§ 448.07, 448.075,                     |                       |

