



Maryland

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 MARYLAND STATE LAWS PERTAINING TO DAIRY FARMS ABOUT:

HIRING

TOPIC	ANSWER	DETAILS
Notice of Payday / Pay Rate ¹	YES	At the time of hiring, must give employees a notice of: <ul style="list-style-type: none"> • The rate of pay of the employee • The regular paydays • Leave benefits Must give notice of any change in payday or wage at least 1 pay period in advance.
Reporting ²	YES	<u>New hires</u> and rehires must be reported to the Maryland New Hire Registry within 20 days.

WAGES

TOPIC	ANSWER	DETAILS
Payday ³	YES	Employers must establish regular pay periods. Employees in Maryland must be paid at least once every two weeks or twice in a month.
Final Pay ⁴	YES	Upon separation from employment, <u>employees</u> must be paid all wages due on or before the day on which the employee would have been paid had they not separated from employment (in other words, the regularly scheduled payday or earlier). Employers are not required to pay employees for accrued leave unless otherwise specified in the terms of the employer's written policy.
Overtime ⁵	YES	Must pay employees overtime wages of at least 1.5 times their regular hourly wages for each hour over 60 worked during the workweek. <u>Agricultural employees are exempt</u> from state overtime if the employer used no more than 500 man-days of agricultural labor during each quarter of the preceding calendar year. Maryland overtime does not apply to the child, parent, spouse, or other member of the immediate family of the employer.
Reporting Time Pay	NO	Maryland law does not require employers to pay employees for reporting or showing up to work if no work is performed. An employer is also not required to pay an employee a minimum number of hours if the employer dismisses the employee from work prior to completing their scheduled shift. Employers are only required to pay employees for hours actually worked.

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WAGES

(Continued)

TOPIC	ANSWER	DETAILS
Minimum Wage ⁶	YES	<p><u>\$10.10 per hour</u> (In Montgomery county, the minimum wage is \$12.25 an hour for employers with 51 or more employees and \$12.10 an hour for employers with 50 or fewer employees).</p> <p>Agricultural employees are exempt if the employer used no more than 500 man-days of agricultural labor during each quarter of the preceding calendar year. Maryland minimum wage does not apply to the child, parent, spouse, or other member of the immediate family of the employer.</p>
Hours Worked ⁷	YES	<p>“Hours of work” means the time during a workweek that an individual employed by an employer is required by the employer to be on the employer’s premises, on duty, or at a prescribed workplace. Meal periods count as hours worked if the individual is required to perform any duties during the meal period. Travel time is included in computing hours of work if the individual travels during regular work hours; travels from one worksite to another; or is called out after work hours in emergency situations.</p>
Pay Stub ⁸	YES	<p>For each pay period, an employer must give each employee a statement of gross earnings of the employee and any/all deductions from those gross earnings.</p>
Taxes and Withholding ⁹	YES	<p>Employers are required to withhold <u>Maryland income tax</u> if the employee’s wages are also subject to federal Social Security (FICA) tax. Employers must give your employees a statement of taxes withheld, like a federal Form W-2, 1099-MISC or 1099-R. <u>More details.</u></p> <p>Employers must pay <u>Maryland Unemployment Insurance</u> 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 Maryland in calculating how much you owe for federal unemployment taxes. <u>More details.</u></p>
Deductions and Allowances ¹⁰	YES	<p>Work, whether satisfactory or not, must be awarded compensation. Wage deductions are extraordinary, and are prohibited unless:</p> <ul style="list-style-type: none"> • A court has ordered or allowed the employer to make the deduction. Examples include court ordered wage garnishments and orders to pay child support. • The Commissioner of the Maryland Division of Labor and Industry has allowed the deduction to offset or “pay for” something of value the employee has received. Examples include long distance telephone calls on the employer’s business phone, personal loans, wage advances, etc. In this case, the deduction may reduce the employee’s wages below the minimum wage. • Allowed by some law or regulation of the government. Examples include state and federal taxes. • The employee has given express written authorization to the employer to make the deduction. This should take the form of a separate and distinct statement, signed by the employee, concerning only the deduction and nothing more. Even with a proper authorization, however, employers must still pay at least the federal minimum wage in the case of a deduction for an employer’s loss due to the employee’s fault or negligence of an employee (for example, careless damage to the employer’s truck). Finally, an authorized deduction may be invalid if it violates or is inconsistent with other federal or state laws or regulations. <p>Wage Allowances for Meals and Lodging</p> <p>The reasonable cost of lodging, meals, and other facilities can be included as part of wages if the employee voluntarily, without coercion, accepts and actually receives the benefit. The reasonable cost cannot exceed the actual cost to the employer to provide it and cannot include profit to the employer or any person/establishment affiliated with the employer. Lodging/meals/other facilities provided primarily for the benefit or convenience of the employer may not be included as part of wages.</p>

WAGES

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TOPIC	ANSWER	DETAILS
Bonuses ¹¹	YES	<p>Maryland wage payment law includes bonuses in the definition of wages. 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>

RECORD KEEPING

TOPIC	ANSWER	DETAILS
Payroll ¹²	YES	<p>Each employer shall keep, for at least 3 years, in or about the place of employment, a record of:</p> <ul style="list-style-type: none"> • the name, address, and occupation of each employee; • the rate of pay of each employee; • the amount that is paid each pay period to each employee; and, • the hours that each employee works each day and workweek.
Personnel File — Employee Access	NO	Maryland law does not explicitly grant private sector employees access to their personnel files.
Unemployment Insurance ¹³	YES	<p>Employers subject to paying unemployment taxes must submit electronic, quarterly wage reports.</p> <p>Whether or not subject to paying Unemployment Insurance taxes, employers must keep accurate employment records. The records must include for each employee:</p> <ul style="list-style-type: none"> • The dates of each pay period; • All of the wages paid to each worker for each pay period and the total amount of wages paid for employment in the pay period, showing separately the amount of wages paid: <ul style="list-style-type: none"> - In cash, and - In any medium other than cash; • The method by which wages are computed; • Hire date, separation date, and reason for separation of each worker; • Name, address, and Social Security number of each worker; and • With respect to individuals who work less than full-time: <ul style="list-style-type: none"> - The wage rate, - The number of hours worked each day, - Wages earned by calendar week, - Whether the individual worked less than full-time during the week, and - Whether the individual worked all available hours. <p>Employers must retain the records for five years from the last day of the calendar quarter the records relate to. The records must be kept safe and readily accessible at the place of business. Employment records are subject to inspection and copying by the Department of Labor, Licensing, and Regulation.</p>
Workers' Compensation	YES/NO	Injury and illness records are not explicitly required for employers under Maryland's Workers' Compensation law. However, there are recordkeeping requirements under OSHA.
OSHA	YES	Maryland has incorporated the federal standard for OSHA recordkeeping and reporting. Refer to the federal fact sheet.
Federal	YES	There are numerous federal rules about recordkeeping. Employers should review the federal fact sheet.

WORKING CONDITIONS

TOPIC	ANSWER	DETAILS
Bathrooms ¹⁴	YES	Maryland 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	Maryland law does not specify max hour or day requirements for adults.
Rest and Meal Breaks	NO	Maryland law does not require <u>rest or meal breaks for adults</u> . Employers that choose to provide rest and meal breaks must follow the applicable federal rules. Refer to federal fact sheet.
Labor Relations	NO	No provision in state law recognizing farm worker rights to organize.
Whistleblower Protection	YES/NO	Maryland 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	NO	Maryland 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	NO	Maryland 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 and Leave ¹⁵	YES	<p>Disability due to pregnancy or childbirth must be treated the same as other temporary disabilities.</p> <p>If an employee requests reasonable accommodations for disabilities caused or contributed by pregnancy or childbirth, the employer must explore with the employee all possible means of providing reasonable accommodations, including:</p> <ul style="list-style-type: none"> • <i>changing the employee's job duties;</i> • <i>changing the employee's work hours;</i> • <i>relocating the employee's work area;</i> • <i>providing mechanical or electrical aids;</i> • <i>transferring the employee to a less strenuous or less hazardous position; or</i> • <i>providing leave.</i> <p>A reasonable accommodation is one that does not impose an undue hardship on the employer.</p> <p>Employers must post information on these rights in a conspicuous location and include it in any employee handbook. The law applies to employers with 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and protects workers regardless of tenure and number of hours worked. See 'Family and Medical Leave' below for parental leave.</p>
Family and Medical Leave ¹⁶	YES	<p>An employee can use their earned/accrued paid leave for the illness of the employee's immediate family.</p> <p>Under the Parental Leave Act, an eligible employee is entitled to a total of six (6) workweeks of unpaid parental leave during any 12-month period for the birth of a child of the employee; or the placement of a child with the employee for adoption or foster care. Eligible employees are those that have worked for the employer for at least 12 months and for 1,250 hours during the previous 12 months. Applies to employers with between 15 and 49 employees in Maryland. Employers with 50 or more employees may have obligations under federal law; refer to the federal fact sheet</p> <p>Employers that provide leave without pay for the birth of a child must provide the same leave to an employee for adoption.</p> <p>The <u>Maryland Healthy Working Families Act</u> does not apply to agricultural operations. Federal law requiring unpaid leave may apply depending on the size of the employer. Refer to federal fact sheet.</p>

WORKING CONDITIONS

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TOPIC	ANSWER	DETAILS
Military and other Service Leave ¹⁷	YES	<p>Members of the National Guard and militia called to active duty or training by the Governor have the same leave and reinstatement rights and benefits guaranteed under federal USERRA.</p> <p>Deployment Leave authorizes individuals of employers with 50 or more employees who work full-time or part-time, have worked for the employer for the last 12 months, and has worked at least 1,250 hours during the last 12 months, leave from work on the day that an immediate family member, which includes a spouse, parent, stepparent, child, stepchild or sibling of the employee is leaving for, or returning from, active duty outside the United States as a member of the armed forces of the United States.</p> <p>An employer may not require an employee to use compensatory, sick, or vacation leave when taking leave under this section.</p>
Crime Victim and Witness Leave ¹⁸	YES	Employers cannot fire an employee for responding to a subpoena to serve as a witness or to attend proceedings the employee has a right to attend, as defined by Maryland law; a victim and a victim's representative have the right to attend any proceeding in which the right to appear has been granted to a defendant.
Jury Duty Leave ¹⁹	YES	An employer cannot discharge, threaten to discharge, coerce, or intimidate an individual for responding to a jury summons or serving on a jury. An employer may not require an employee to use the employee's annual, sick, or vacation leave to respond to a summons under this title for jury service. If an employee serves 4 or more hours in jury service, including travel time, an employer cannot require the individual to work a shift on or after 5pm the date of the jury service; or before 3 am on the day following the jury service.
Voting Leave ²⁰	YES	Maryland law requires employers to give employees up to two (2) hours of paid leave to vote. The law applies if the employee does not have two (2) hours of continuous off-duty time while the polls are open.
School Activity Leave	NO	Maryland law does not address leave for private sector employees to attend a child's school activity.

HEALTH AND SAFETY

TOPIC	ANSWER	DETAILS
Workers' Compensation ²¹	YES	<p>Agricultural employers with three or more employees and an annual payroll of at least \$15,000 for full-time employees must have workers' compensation coverage.</p> <p><u>If an accident occurs</u> to an employee that results in disability for a period of more than 3 days or death, it shall be the responsibility of the employer to report this accident to the Workers' Compensation Commission on a 'First Report of Injury' form within 10 days after receiving oral or written notice of such accident. Copies of this report must also be sent to the insurance carrier. The <u>Employer's First Report of Injury</u> form can be filed online.</p>
OSHA ²²	YES	<p>Maryland has an approved OSHA 'state-plan', which means it is at least as effective as federal OSHA. Similar to federal OSHA, MOSH 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>MOSH has adopted the federal OSHA Standards for Agriculture, 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	Maryland 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.

HUMAN RIGHTS

TOPIC	ANSWER	DETAILS
Employment Discrimination ²³	YES	<p>Maryland law <u>prohibits employment discrimination</u> based on race, color, religion, national origin, ancestry, sex, age, marital status, sexual orientation, gender identity, physical or mental disability, genetic information, and 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 discriminate in wages on the basis of the protected classes above (race, color, religion, etc.) by paying 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 race, color, religion, sex, age, national origin, and the other protected classes are permitted.</p> <p>It is illegal to retaliate against employees for filing or otherwise aiding with the filing of a discrimination complaint.</p>
Harassment/ Sexual Harassment ²⁴	YES	<p>Harassment based on the protected classes above is unlawful in Maryland. 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 or pervasive 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 the filing of a harassment complaint.</p>
Forced Labor	YES	<p>Human trafficking for labor is illegal under federal law. Trafficking for labor means: recruiting, luring, enticing, harboring, transporting, provisioning, obtaining, or maintaining, or any attempt to do any of the aforementioned, a person for involuntary servitude by any means, such as 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>

CHILD LABOR

TOPIC	ANSWER	DETAILS
Child Labor ²⁵	YES/NO	Farm work performed outside of school hours is exempt from <u>Maryland child labor laws</u> , as long as the work does not <u>entail a hazardous occupation</u> .

References

1. Md. Code Ann., Labor and Employment §3-504
 2. Md. Code Ann., Labor and Employment §8-626.1
 3. Md. Code Ann., Labor and Employment §3-502
 4. Md. Code Ann., Labor and Employment §3-505
 5. Md. Code Ann., Labor and Employment §3-403; §3-415; §3-420
 6. Md. Code Ann., Labor and Employment §3-403; §3-413
 7. Md. Code Regs. 09.12.41.10

8. Md. Code Ann., Labor and Employment §3-504
 9. Md. Code Ann., Tax - General §10-104, Md. Code Ann., Labor and Employment §8-215, §8-207
 10. Md. Code Ann., Labor and Employment §3-503; Md. Code Regs. 09.12.41.18
 11. Md. Code Ann., Labor and Employment §3-501
 12. Md. Code Ann., Labor and Employment §3-424
 13. Md. Code Ann., Labor and Employment §8-625, §8-626; Md. Code Regs. 09.32.01.06

14. Md. Code Regs. 10.15.06.03
 15. Md. Code, State Gov’t §§ 20-609, 20-601 (2013).
 16. Md. Code Ann., Labor and Employment §3-801, §3-802, §3-1201 et seq., §3-1301
 17. Md. Code Ann., Public Safety §13-794, Labor and Employment §3-803
 18. Md. Code Ann. Crim. Proc. § 11-102 & Md. Code Ann. Cts. & Jud. Proc. § 9-205
 19. Md. Code Ann., Courts §8-501; §8-502
 20. Md. Code Ann., Election §10-315

21. Md. Code Ann., Labor and Employment §9-210; §9-707
 22. Md. Code Ann., Labor and Employment §5-104; Md. Code Regs. 09.12.31
 23. Md. Code Ann., State Gov’t §20-601 et seq.
 24. See above
 25. Md. Code Ann., Labor and Employment §3-203

