

■ **LABOR LAW (*FARM WORKER MINIMUM WAGE*)**

TERMS:

**Coverage and Minimum Wage** — Farm employers that paid at least \$3,000 in farm wages during the preceding calendar year are required to pay their workers no less than \$9.70 for every hour of work in the current calendar year.

**Basis for Payment** — The minimum wage applies whether the wage is paid on an hourly, piecework, commission or some other basis. For any given workweek or pay period, the worker's gross pay may not be less than the minimum hourly rate, multiplied by the number of hours the worker was on the job during that period.

**Allowances for Meals, Housing and Utilities** — With some exceptions, employers who provide meals to a worker may deduct \$1.70 per meal from the worker's gross wages, provided the worker earns no less than \$254 in a two-week period. Likewise, an employer who provides housing and utilities may deduct up to \$12.65 per week for multiple-occupancy housing, up to \$5.00 per day for an individual worker living alone, or \$8.00 a day for an individual worker residing with his or her family.

**Prohibited Deductions** — A covered employer is not allowed to make any deduction from a worker's pay for breakage, spoilage, cash shortages or losses, or fines or penalties for tardiness, misconduct or quitting without notice.

**Pay Statements** — For each pay period, the employer is required to furnish each worker a statement showing (1) the number of hours worked, (2) the worker's hourly or piece-rate wage, (3) the piece-rate unit and number of units produced, if applicable, (4) gross wages, (5) allowances and deductions, and (6) net wages.

**Final Pay** — Workers who are terminated must receive their full, final pay no later than the next regular payday after termination, along with a written statement showing total gross and net earnings and listing all deductions from gross pay.

**Notifications** — At the time of hire, a farm employer subject to these provisions must give each worker a written statement outlining the conditions of employment, including among other items (1) the employer's name, address and phone number, (2) the location and type of work, (3) the housing arrangements, including costs, (4) allowances, if any, to be deducted for meals and housing, (5) any benefits to be provided by the employer, (6) the wages to be paid and the pay schedule, (7) the period of employment, (8) all other planned payroll deductions, and (9) any overtime provisions. This same information must be posted by the employer in plain sight on the farm.

**Employer Records** — Every covered employer must keep a record of the name, address and Social Security number of each farm employee, the worker's total hours per day and week, the number of piecework units produced (if applicable), the wage rate paid, gross wages, deductions and allowances claimed, and any cash advances made to the worker. For any worker under the age of 18 that they employ, employers must document the child's name, address, birthdate, parent or guardian's name and address, and the number of the farm work permit issued to the minor if required.

**Farm Labor Contractors** — For purposes of the minimum wage, if a farm labor contractor recruits or supplies farmworkers for work on a farm, the workers are considered employees of the owner or operator of the farm.

ENFORCEMENT: *Division of Labor Standards, New York State Department of Labor, Albany, New York 12240 (518-457-4256; toll-free 888-469-7365).*

As an alternative to filing a wage claim with the Department, the law gives workers the right to sue the employer in civil court to enforce payment of the minimum wage, using a private attorney or a public legal services program.

SPECIAL NOTE: An employer or farm labor contractor may not fire, discipline or discriminate in any way against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by this provision. A worker subjected to any such retaliation may file a complaint with the Department.