

Basics in Farm Employment Law: West Virginia

Minimum Wage: West Virginia farm and ranch businesses that assign non-agricultural labor in any week must pay at least the minimum wage to employees for all hours worked in that week. Exactly what that minimum wage depends on the size of the business. If the business employs 6 or more people in that week, the farm must pay at least the state minimum wage of \$8.75 an hour. If the business employs 5 or fewer people in that week, the farm must pay at least the federal minimum wage of \$7.25 per hour.

West Virginia farm and ranch businesses that assign exclusively agricultural labor in a workweek may still be obligated to pay at least the minimum wage for that week. It depends on the size of the operation, again. If the farm business employed more than 500 man-days in any calendar quarter of the previous year, the business must pay at least the federal minimum wage of \$7.25 per hour for all hours worked in the current year. If the farm business employed fewer than 500 man-days in any calendar quarter of the previous year, the farm business is not obligated to pay at least the minimum wage, state or federal.

A “man day” is any day during which an employee performs agricultural work for at least one hour (e.g., if two workers perform at least one hour of agricultural work in a day, the employer has two-man days).

Overtime: West Virginia farm and ranch businesses are not obligated to pay overtime wages to workers so long as the worker performs exclusively agricultural labor. If the worker performs non-agricultural labor, non-agricultural rules apply and the employee is owed overtime pay for all hours worked over 40 in that week. Employees with salary-based pay may qualify for an exemption if they make at least \$684 per week (regardless of time spent working) AND have managerial authority.

Meal and Rest Breaks: Farm businesses in West Virginia are required to offer employees who work six or more hours a day a meal break of at least twenty minutes unless the employee is permitted to eat lunch while working.

Workers’ compensation: West Virginia farm and ranch businesses are not obligated to secure workers’ compensation so long as they have 5 or fewer full-time employees. Farms may still choose to secure coverage.

Unemployment Insurance: Farms and ranches in West Virginia must begin paying unemployment insurance tax for agricultural workers through the Federal Unemployment Tax Act (FUTA) and state unemployment program when either of the following occurs: 1) during any calendar quarter of the current or preceding calendar year the farm paid wages of \$20,000 or more, OR 2) the farm employed 10 or more individuals in agricultural labor during at least some part of a day (whether or not at the same time) during any 20 or more different weeks of the current or previous year.

Disclaimer: This is a highly-abbreviated selection of specific agricultural employment laws and is not an encompassing list of obligations or detailed description of rules. It is intended for educational use only and is not to be construed as legal advice. Other obligations and rules may apply, particularly when a worker performs non-agricultural labor or is a sole proprietor, owner, manager, or family member of the farm business. For information, specific to an individual situation, a person must consult a qualified attorney licensed to practice in their state.