



BEFORE READING FURTHER:

This brochure only pertains to the Maryland Wage and Hour Law, which does not exempt employers from the requirements of the Federal Fair Labor Standards Act. For more information on the requirements of the Fair Labor Standards Act please visit: www.dol.gov.



Department of Labor, Licensing and Regulation
Division of Labor and Industry
Employment Standards Service

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Maryland Wage and Hour Agriculture Exemptions

- ▶▶▶ Helping agricultural employers know which employees are exempt from minimum wage and overtime requirements under Maryland law.



Learn more about Maryland's Wage
and Hour Law by going to:

<http://www.dllr.maryland.gov/labor/wages/wagehrfacts.shtml>

Employees are exempt from both minimum wage and overtime requirements if:

- employed by an employer who is engaged in canning, freezing, packing, or first processing of perishable or seasonal fresh fruits, vegetables, or horticultural commodities, poultry, or seafood.
- employed in agriculture if the employer used no more than 500 agricultural-worker days per quarter during the preceding year. An agricultural worker day is any day that an employee works at least 1 hour.
- engaged principally in the range production of livestock.
- employed as a hand-harvest laborer and is paid on a piece-rate basis in an operation that has been and is customarily recognized as having been paid on that basis, if:
 - A. the individual commutes daily from their permanent residence to the farm where he or she is employed and if during the preceding calendar year, was employed in agriculture less than 13 weeksOR
 - B. the individual is under the age of 17, is employed on the same farm as a parent or guardian, and is paid at the same rate as an employee who is at least 17 years old on the same farm. (Reminder: teen workers must have a minor work permit to work in Maryland)



Other employees are entitled to over time after 60 hours per week if:

- engaged in agriculture and exempt from the overtime provisions of the federal Act.
 - ⇒ Agriculture means work performed by a farmer or on a farm as incidental to or in conjunction with farming operations.

Additional Information:

For additional information about the Maryland Wage and Hour Law exemptions for agricultural workers or to ask specific questions about your eligibility for an exemption, please contact the Employment Standards Unit of the Division of Labor and Industry under the Maryland Department of Labor, Licensing and Regulation. Our contact information can be found on the back of this brochure.



09.12.41.02

.02 Agriculture.

"Agriculture" means work performed by a farmer or on a farm as an incident to or in conjunction with farming operations, such as:

- A. The cultivation and tillage of soil, including grading, rock removal, building terraces, irrigation, and fertilization;
- B. The production, growing, cultivation, or harvesting of agricultural or horticultural products or commodities;
- C. Breeding, fattening, feeding, or the general care of livestock, bees, fur-bearing animals whose fur has marketable value, or poultry, including poultry hatchery operations;
- D. Dairying, including:
 - (1) Caring for and milking of milk-giving animals,
 - (2) Containing, cooling, and storage of milk when done on the farm, and
 - (3) Farm-based manufacturing operations directly and closely related to dairying, such as separating cream or making butter;
- E. Farming activities on experimental farms or nurseries, or in greenhouses or mushroom cellars; or
- F. Duties directly and closely related to farming operations, including the:
 - (1) Preparation of products or commodities for market, or
 - (2) Delivery of products or commodities to storage, market, or carriers for transportation to market.

Zawitoski, John

To: Criss, Jeremy
Subject: RE: Minimum Wage for Ag workers

Item 14

From: Criss, Jeremy
Sent: Monday, July 18, 2016 2:38 PM
To: 'Rock Hill Orchard'; Charles Frederick Schuster
Subject: RE: Minimum Wage for Ag workers

Hello John and Chuck,

I am responding to the message below and I agree with your findings.

If a farmer employees more than 6.4 employees that work 6 days per week for a quarter of the year, then the minimum wage is required to be paid.

Thank you for this research as it is helpful to make sure everyone understands how the Federal and State regulations apply to agricultural workers.

J

Jeremy V. Criss
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CONNECT WITH The Office of Agriculture



From: Rock Hill Orchard [<mailto:rockhillorchard@gmail.com>]
Sent: Thursday, July 14, 2016 8:09 AM
To: Criss, Jeremy; Charles Frederick Schuster
Subject: Minimum Wage for Ag workers

I did a little research on the minimum wage and the ag worker exemption. I am quoting from the Federal version, the state has the same language...

Any employer in agriculture who did not utilize more than 500 "man days" of agricultural labor in any calendar quarter of the preceding calendar year is exempt from the minimum wage and overtime pay provisions of the FLSA for the current calendar year. A "man day" is defined as any day during which an employee performs agricultural work for at least one hour.

<https://www.dol.gov/whd/regs/compliance/whdfs12.pdf>

365 days per year / 4 Quarters per year = 91 days in a Quarter
52 weeks per year / 4 Quarter per year = 13 weeks in a Quarter
Six days per week X 13 weeks per Quarter = 78 days in quarter
500 man days / 78 days worked= 6.4 employees in a Quarter

So my understanding is that if a crew works 6 days per week for a quarter, if more than 6.4 people are employed, then minimum wage is required to be paid.

John Fendrick