

# Vermont Farm Employee Fact Sheet



**Information provided through the collaborative effort of these organizations:**

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Vermont Department of Labor

Vermont Department of Health

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Vermont Division of Fire Safety

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# Labor Laws

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***If you are a farm owner who employs agricultural/farm employees, there are several labor laws to be aware of.***

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## **Fair Labor Standards Act (FLSA): [29 USC Ch. 8: Fair Labor Standards Act](#)**

The agricultural provisions of the Fair Labor Standards Act are enforced by the United States Department of Labor.

"Agriculture" includes farming in all its branches and among other things includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities, the raising of livestock, bees, fur-bearing animals, or poultry, and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market.



Virtually all employees engaged in agriculture are covered by the Fair Labor Standards Act in that they produce goods for interstate commerce. There are, however, some exemptions which exempt certain employees from the [minimum wage](#) provisions, the [overtime pay](#) provisions, or both.

Please see [§ 780.305 500 man-day provision](#) for additional details about such exemptions. Section 3(u) of the Act defines *man-day* to mean “any day during which an employee performs agricultural labor for not less than 1 hour.” 500 man-days is approximately the equivalent of seven employees employed full-time in a calendar quarter. However, a farmer

who hires temporary or part-time employees during part of the year, such as the harvesting season, may exceed the man-day test even though he may have only two or three full-time employees.

In cases where State law exempts certain types of employees from the State minimum wage, FLSA will act as a “floor” or “safety net” ensuring that employees receive at least the federal minimum wage of **\$7.25** per hour.

**Vermont’s minimum wage is \$13.18 per hour effective January 1, 2023**

“Value – Added” processing activities may **not** be considered “agriculture” for purposes of exemptions. Employers should be aware that an employee engaging in manufacturing or processing of agricultural products may **not** be considered an agricultural employee and thus, may likely be entitled to overtime or the potentially higher minimum wage provided by Vermont law.

Please contact the Department of Labor’s Wage & Hour Division at **802-828-0267** with any questions.

**Workers' Compensation and Safety:** [Vermont's workers' compensation law](#) covers employees working for agricultural employers that have an aggregate payroll greater than \$10,000 in a calendar year. The value of housing is included in aggregate payroll.

- ✓ Employers must report all workplace injuries to the Department of Labor within 72 hours. Any questions regarding Workers' Compensation can be addressed by calling 802-828-2286
- ✓ Employers must provide employees with reasonable opportunities to eat and use toilet facilities during work periods.



**Payment of Wages:** Agricultural Employees are required to be paid weekly or bi-weekly pursuant to [21 V.S.A. § 342](#) and are required to be paid within 72 hours if discharged.

Vermont's minimum wage rules require that an employer deliver a **wage statement** to each employee at the time he or she receives their paycheck. The statement is required to set forth the employee's gross pay, hours worked, hourly rate, and all itemized deductions.

It is a **criminal act to withhold, destroy or confiscate any actual or purported passport, immigration document, or any other government identification document from another person** (worker). [13 V.S.A. § 2651](#)

**Protective Clothing:** An employer may neither deduct from an employee's wages, nor require an employee to pay, any amount for personal protective equipment required by occupational safety & health regulations, except as allowed by sections 1910.132(h) & 1926.95(d) of [Title 29](#) of the Code of Federal Regulations.

**Family Medical Leave Act (FMLA):** Employees are eligible for FMLA if they have worked for a covered employer for at least 12 months, have 1,250 hours of service in the previous 12 months, and if at least 50 employees are employed by the employer within 75 miles.

**Vermont Parent and Family Leave Act (PFLA):** Vermont also has its own parental and family leave act ([21 V.S.A. § 470](#)) that may cover some employees who would not be eligible for FMLA. Under Vermont law, all employers who employ ten or more persons (15 or more for family leave) for an average of at least 30 hours per week per year must offer eligible employees parental leave. In Vermont, employees who have worked an average of 30 hours per week and have been employed at the company for at least 12 months are eligible for parental leave.

If you have questions about FMLA please call the **Attorney General's Civil Rights Unit. (888) 745-9195.**



**Interns - A private “for-profit” employer may use unpaid interns if all of the following criteria are met:**

- ✓ The internship, even though it includes actual operation of the facilities of the employer, is similar to training which would be given in an educational environment;
- ✓ The internship experience is for the benefit of the intern;
- ✓ The intern does not displace regular employees, but works under the supervision of existing staff;
- ✓ The employer that provides the training derives no immediate advantage from the activities of the intern, & on occasion its operations may actually be impeded;
- ✓ The intern is not necessarily entitled to a job at the conclusion of the internship; and
- ✓ The employer & the intern understand that the intern is not entitled to wages for the time spent in the internship.

**It is a high standard to meet all of the criteria - If the employer cannot show that the internship meets all of these criteria, the intern must be paid wages.**



**Apprenticeships:** Questions about apprenticeships should be directed to the Apprenticeship Office at the Vermont Department of Labor. 1-802-828-5250.

**Volunteers:** Generally, an individual can only volunteer for public agencies such as a state government, or a non-profit corporation. An individual that volunteers for a for-profit business must be paid the applicable minimum wage.

**Retaliation Protections:** It is unlawful for any employer to fire, demote, or otherwise discriminate against any employee who files a complaint with the Vermont Department of Labor or the United States Department of Labor.

It is unlawful for an employer to discriminate against an employee based on the employee’s race, color, religion, national origin, sex, sexual orientation, gender identity, ancestry, place of birth, age, or physical or mental condition.

**Complaints of discrimination may be made to the Attorney General’s Civil Rights Unit. (888) 745-9195.**

# Farm Employee Housing

The Rental Housing Health Code defines a “dwelling” as “a rented building or structure, excluding tents or similar structures used for the express purpose of camping, that is wholly or partly used or intended to be used as a primary residence for living or sleeping by human inhabitants. This includes rented mobile homes and ‘housing provided as a benefit of farm employment’ as defined in [9 VSA § 4469 \(a\)\(3\)](#).”

For contact information for a Town Health Office in a specific town: [Town Health Officers](#)



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***If you are providing housing on your farm to your employees, housing must meet the Rental Housing Health Code.***

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Below are the categories the Town Health Officer will use to assess habitability of a dwelling:

### **Life Safety**

- ✓ Working smoke alarms (photoelectric type) on every floor
- ✓ Working carbon monoxide alarm
- ✓ All stairways must have handrails securely mounted.
- ✓ All exits must be usable and free of obstructions.
- ✓ Each bedroom must have a window that can be easily opened and is large enough for emergency rescue or escape.
- ✓ Each dwelling must have two ways out.
- ✓ Each dwelling must have a working fire extinguisher provided.

### **Sanitation/Kitchen Facilities**

- ✓ Kitchen sink and space to store and prepare food.
- ✓ Counters and floors in the kitchen of dwelling units and rooming houses shall be smooth, noncorrosive, nonabsorbent, and waterproof covering.

### **Bathrooms**

- ✓ At least 1 bathroom that has a working sink, toilet, and shower or bathtub for every 10 people.
- ✓ The bathroom is separate from other habitable space in the unit and affords privacy.
- ✓ Counters and floors shall be smooth, noncorrosive, nonabsorbent, and waterproof covering.

### **Water**

- ✓ Clean, potable water always supplied.
- ✓ Private well water must meet Vermont Department of Health's Drinking Water Guidance
- ✓ Water at sinks, showers, & bathtubs must be able to reach 100° F (37° C) but no more than 120°F (48°C) at the faucet.
- ✓ Wastewater system (septic system) functions properly

### **Trash, Recyclables and Food Scrap Removal**

- ✓ Durable, covered, and watertight containers for trash and food scraps
- ✓ Durable container for recyclables
- ✓ Removal of trash, recyclables, and food scraps from inside unit at least once a week

### **Pests (Insects & Rodents)**

- ✓ Free from infestation of insects (cockroaches, ants, moths, spiders, bedbugs, etc.),
- ✓ Free from infestation of rodents (rats, mice) and other vermin/pests (bats, pigeons, squirrels, etc.)

### **Heating**

- ✓ Heat provided when outside temperature is less than 55° F (13° C)
- ✓ Heating system able to maintain temperature in all habitable space at minimum of 65° F (18°) without overheating portions of the unit.
- ✓ All fuel-fired heating systems properly vented to the outside of the building.
- ✓ The heating system must be serviced at least every two years by a qualified technician.

### **Ventilation**

- ✓ All habitable rooms have at least 1 functioning window with screens – 20 X 24 inches in size minimum & not more than 44 inches above the floor.
- ✓ Bathrooms have either mechanical vent or functioning window with screen.
- ✓ Clothes dryers (when provided) properly vented to the outside of the building.

### **Lighting & Electricity**

- ✓ Each habitable room has at least 2 electrical outlets OR 1 electrical outlet & 1 permanent light fixture
- ✓ All electrical systems are working.

- ✓ Unit entrance has adequate and safe lighting.
- ✓ Electrical outlets in kitchens and bathrooms are Ground Fault Circuit Interrupter (GFCI) protected.

### **Structure**

- ✓ Foundation, floors, walls, doors, windows, ceilings, roof, staircases, chimney & structural elements are maintained to be weather/watertight, rodent proof, and in good repair.
- ✓ No standing water or excessive moisture that may cause mold growth.
- ✓ Compliance with VT Lead Law for pre-1978 units – some towns may require pre-1980 units.

### **Other Best Practices:**

- ✓ Farm owners should monitor housing for proper maintenance, cleanliness, and safety on a regular basis.
- ✓ When a new employee comes on board, farm owners should clean the property prior to the next occupant.
- ✓ Farm employees often do not have the means or the time to properly clean and maintain a property. Invest in your property by providing a basic weekly cleaning service and stay on top of minor repairs before they become larger issues.
- ✓ Keep employee housing a safe distance from any manure, fuel, chemical fertilizer, cleaning chemicals or animal health product storage.
- ✓ Provide laundry facilities either in the housing unit or at a central location on the farm.
- ✓ Any newly constructed housing should be at least 100 feet from livestock housing.
- ✓ Integrated Pest Management (IPM) should be used to deal with common pests like bedbugs and cockroaches.
- ✓ Pay extra attention to ventilation & egresses when structure is a 'Barn Apartment.'
- ✓ Give proper notice prior to entering farm employee housing. Respect farm employee privacy.
- ✓ Visitors to employee housing have the right to visit occupants in the housing units without interference from employer.

**Farm Employee Housing:** Statute can be found here: [9 V.S.A. § 4469a](#)

**Permissible Deductions** for employer provided meals and lodging. An employer is entitled to deduct from the wages earned an allowance for meals and lodging actually furnished and accepted, in the amounts indicated in the Vermont Minimum Wage Rules.



## Effective January 1, 2023

**An employer shall be entitled to deduct from the wages earned an allowance for meals and lodging actually furnished and accepted as follows:**

Breakfast	\$3.59 daily
Lunch	\$4.04 daily
Dinner	\$4.48 daily
Full Board	\$12.11 daily or \$84.77 per week
Nightly Lodging	\$4.95 daily
Full Room	\$29.77 daily
Full room and board	\$102.78 per week

### [Meals and Lodging Allowance](#)

*This fact sheet is intended to provide a basic overview of fair housing and labor laws as they pertain to farm/agricultural employees in Vermont. It should not be interpreted as legal advice.*

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### Additional Resources

Vermont Rental Housing Health Code can be found here: [Vermont Rental Housing Health Code](#)

Vermont Rental Housing Inspection Report can be found here: [Town Health Officer: Rental Housing Inspection Report](#)

For detailed life safety code requirements or special assistance in code enforcement, please see further information on the Division of Fire Safety website:

- [Home Page | Division of Fire Safety](#)
- [Fact Sheet : Agricultural Employers Under the Fair Labor Standards Act](#)
- [Summary of Vermont Wage and Hour Laws](#)

### Contact Information:

**State of Vermont Offices are open Monday – Friday 7:45 a.m. to 4:30 p.m.**

<b>Vermont Department of Labor</b> -Language Line will be accessed on this number	802-828-4301
Wage and Hour	802-828-0267
Worker’s Compensation	802-828-2286
VOSHA	802-828-2765
Foreign Labor Certification/ Migrant Seasonal Farmworker	802-828-3920
<b>Vermont Department of Health</b>	802-951-0107
<b>Vermont Agency of Agriculture, Food and Markets</b>	802-828-1619



Vermont Division of Fire Safety	800-640-2106
UVM Extension, Migrant Education Program	802-223-2389 x 208
Migrant Justice	802-658-6770
U.S. Department of Labor Wage & Hour Division toll-free help line:	1-866-4-USWAGE (487-9243)

For Housing Concerns, please contact the Local [Town Health Officers](#)  
 Provided by the Vermont Agency of Agriculture, Food and Markets – Updated 5/10/2023.

## DOCUMENT LINKS

### 29 USC Ch. 8: Fair Labor Standards Act:

<https://uscode.house.gov/view.xhtml?path=/prelim@title29/chapter8&edition=prelim>

#### Minimum Wage Provisions:

<https://www.dol.gov/agencies/whd/minimum-wage/state>

#### Overtime Pay Provisions:

<https://www.dol.gov/agencies/whd/overtimepay>

#### Vermont Workers Compensation Law

<https://legislature.vermont.gov/statutes/chapter/21/009>

#### 21 V.S.A. § 342:

<https://legislature.vermont.gov/statutes/section/21/005/00342>

#### Title 29:

[https://www.dol.gov/general/cfr/title\\_29](https://www.dol.gov/general/cfr/title_29)

#### Family Medical Leave Act:

<https://www.dol.gov/agencies/whd/fmla>

#### Vermont Parent and Family Leave Act:

<https://legislature.vermont.gov/statutes/section/21/005/00470>

#### Farm Employee Housing Statute

<https://legislature.vermont.gov/statutes/section/09/137/04469a>

#### Farm Employee Housing Benefit

[https://legislature.vermont.gov/statutes/section/09/137/04469a#:~:text=\(3\)%20%E2%80%9CHousing%20provided%20as,than%20the%20farm%20employee%27s%20labor.](https://legislature.vermont.gov/statutes/section/09/137/04469a#:~:text=(3)%20%E2%80%9CHousing%20provided%20as,than%20the%20farm%20employee%27s%20labor.)

#### Vermont Town Health Officers

<https://www.healthvermont.gov/environment/town-health-officers>

#### Meals and Lodging Allowance

[https://labor.vermont.gov/sites/labor/files/doc\\_library/Meals\\_n\\_Lodging.pdf](https://labor.vermont.gov/sites/labor/files/doc_library/Meals_n_Lodging.pdf)

#### Vermont Rental Housing Health Code

[https://www.healthvermont.gov/sites/default/files/documents/pdf/REG\\_Rental\\_Housing\\_Code.pdf](https://www.healthvermont.gov/sites/default/files/documents/pdf/REG_Rental_Housing_Code.pdf)

#### Rental Housing Inspection Report

[https://www.healthvermont.gov/sites/default/files/documents/pdf/Env\\_THORental-Inspection.pdf](https://www.healthvermont.gov/sites/default/files/documents/pdf/Env_THORental-Inspection.pdf)

#### Fire Safety Code Enforcement Resources

[https://www.healthvermont.gov/sites/default/files/documents/pdf/Env\\_THORental-Inspection.pdf](https://www.healthvermont.gov/sites/default/files/documents/pdf/Env_THORental-Inspection.pdf)

#### Fact Sheet : Agricultural Employers Under the Fair Labor Standards Act

<https://www.dol.gov/agencies/whd/fact-sheets/12-flsa-agriculture#:~:text=Any%20employer%20in%20agriculture%20who,for%20the%20current%20calendar%20year>

#### Vermont Wage and Hour Laws Summary

[https://labor.vermont.gov/sites/labor/files/doc\\_library/WH-13-Wage-and-Hour-Laws-2019.pdf](https://labor.vermont.gov/sites/labor/files/doc_library/WH-13-Wage-and-Hour-Laws-2019.pdf)