

Workers Compensation & Farm Businesses

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THE FARM LABOR DASHBOARD

This bulletin provides information to help farm businesses estimate the cost of workers compensation in labor and business planning. It is for educational and informational purposes only and is not legal counseling. No attorney-client relationship is created, nor is there any offer to provide legal services by the distribution of this resource. Sidebar information is specifically geared to users of the Farm Labor Dashboard's "Employee Cost Estimator" online tool at <https://www.uvm.edu/aglabor/dashboard/>.

Do I need Workers Compensation?

Most businesses need a workers' compensation policy in effect on the first day an employee arrives for work. However, some states allow the smallest businesses to go without workers' compensation for a time. Further, some farms have an exemption from workers' compensation based on the size of their operation, determined based on total payroll, number of employees, or another metric. But farm exemptions are only available for employees who only perform only farm labor. If an employee does work related to agritourism, value-added processing, education, or other non-farm tasks, the regular, non-farm rules apply, which generally means workers' compensation is required immediately.

Figuring out if and when workers' compensation is required is an essential first step to assessing the costs of hiring employees. Employers who are required to carry workers compensation but do not may find themselves paying the full costs for the medical care employees need as a result of workplace injuries. In addition, the state may charge penalties that run from \$100 to \$1000 per day that workers' compensation was not secured. It's worth it to get the right answer, right away!

In most states, workers compensation is purchased from private insurance agents. You may get a good answer about when workers' compensation is required from an insurance agent. However, insurance agents are not legal experts, and farm rules can be nuanced. A phone call to your state agency in charge of workers' compensation enforcement is a better source for accurate information. You can also consult an attorney or nonprofit legal education provider. For example, Farm Commons annually updates their information sheet that covers the workers' compensation thresholds for farmers in each state annually. Their resource is called the "Selected Essentials in Farm Employment Law" and members can access it online, anytime.

What will workers' compensation cost me?

Workers' comp rates are determined based on three factors:

1. Payroll (the amount of money you're paying to employees),
2. The risk classification of the activities engaged in by employees; and,
3. Whether the business has had workers' compensation claims in the past.

These factors create a system where businesses with the most dangerous work and with more accidents pay the highest rates.

Rates for farm work vary widely based on the specific type of farming tasks being performed. Jobs that involve animals and machinery tend to have higher risk, and thus the policies are more expensive. Each state may have slightly different job classifications available and the risk of injury in one state may be different than in another. This makes it challenging to generalize a workers' compensation pay rate.

However, variable rate factors also give opportunity for farmers to control their workers' compensation costs. If the premium cost you're being quoted is too high for your budget, ask the provider about ways you might reduce the cost. Are there parts of the job description you can take away from employees to reduce their risk exposure? For necessary but risky tasks, can you consolidate them with one employee so that the other employees can have a lower risk classification? Writing effective job descriptions can help reduce risk in many ways, and managing workers' comp costs is one.

Workers' compensation premium rates can rise and fall each year, as rates respond to changing risk levels. If workers file a claim, that will also cause the business's future rates to increase. **If workers' compensation is the employer's obligation, the business may not charge employees for the cost of workers' compensation nor withhold it from workers' paychecks.** The state of Washington does assess part of the costs of workers' compensation to employees, but this is rare case.

I know I don't need workers' compensation insurance. Should I put \$0 in the Farm Labor Dashboard cost estimator?

Farms that do not carry workers compensation are not immune from the risk of employee injuries. In fact, farms without workers' compensation can be sued by employees who suffer injuries. By comparison, workers covered by workers' compensation cannot sue their employer. Navigating a lawsuit is expensive and unpredictable, even if the business wins. If the business loses, there's also the judgment to pay. Liability insurance that covers workers is an essential line of defense for farm businesses that do not have workers' compensation. The cost of a policy that covers workers varies widely by state, and farmers should request a quote from an insurance agent to get started.

Find the Farm Labor Dashboard "Employee Cost Estimator" online tool at <https://www.uvm.edu/aglabor/dashboard/>.

How do I get a quote and/or buy worker's compensation?

Workers' compensation is purchased from private insurance agents in all but four states. Thus, calling an agent is the first step. The agent will ask several questions about your work positions, pay rates, and more to generate a quote. In some states, different companies offer different workers' compensation premium rates so it's worth it to shop around. California is the most notable of these states. In Ohio, Washington, North Dakota, and Wyoming, coverage comes from the state's workers' compensation fund. In these states, workers' compensation rates are set in coordination with the state agency and all companies offer the same premium. In these states, insurance companies compete on the level of service they provide to customers.

How do I move forward?

1. Determine if you are legally required to purchase workers' compensation.
2. If you are, reach out to your insurance agent or state agency for a quote.
3. If you are not, reach out to your insurance agent for a quote on adding employees to your liability coverage.

For more information about how workers' compensation works, consider accessing the Farm Commons guide titled [Farmers' Guide to Hiring Obligations](#), available to members at their website.

Rachel Armstrong is the founder and executive director of Farm Commons, a nonprofit organization that provides legal workshops, timely resources, and a community for farmers, ranchers, and their service providers.

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