

Labor Information for  
**SEASONAL  
AGRICULTURAL  
EMPLOYERS**  
2024

**WE ARE YOUR DOL**



Division of Compliance and Education  
*(formerly known as Division of Immigrant Policies and Affairs)*  
Agriculture Labor Program

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NEW  
YORK  
STATE

Department  
of Labor

# AGRICULTURE LABOR PROGRAM

## BUSINESSES

Our Compliance and Education Specialists can help you:

- Recruit local workers in time for your harvest
- Screen workers for the right skills and experience
- Find the answers to questions about recruiting and registering workers
- Understand your responsibilities (labor laws and compliance issues)
- Interpret labor market data and employment trends

Under federal labor laws, states must assure that Migrant and Seasonal Farm Workers are served equally as are other job seekers. In New York State, our Agriculture Labor Program assists both agricultural employers and workers.

Our Compliance and Education Specialists are located throughout the state. They can assist you, one on one, with many Department of Labor services designed for agribusiness.

## JOB SEEKERS

Our Compliance and Education Specialists can help you:


- Find a job that fits your skills and experience
- Branch out into related fields
- Explore openings in other locations
- Learn about training options
- Resolve a work-related complaint

Our New York State Career Center system serves everyone. Each location has people who can help you with your job search, as well as computers that can be used by people of most abilities. We also have interpreters. If you need help, ask us.

**1-877-466-9757**

**[doce@labor.ny.gov](mailto:doce@labor.ny.gov)**

**[dol.ny.gov/division-compliance-and-education](https://dol.ny.gov/division-compliance-and-education)**



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## SERVICES FOR BUSINESSES

Supporting Business Needs in New York

In good economic times or bad, the New York State Department of Labor has no-cost programs and services that can save your business time and money. Be it recruiting and training new employees or providing guidance on a variety of labor issues, we can help.

### **JOB POSTINGS**

Post your jobs with the New York State Job Bank ([jobs.ny.gov](http://jobs.ny.gov)) for free! You can use the Indexing feature to copy openings from your own web site, self-post jobs or have Business Services staff assist you. You give us the job description, skills and abilities desired, and we'll find you the best match possible. You also get access to our Talent Bank, which will allow you to search for qualified individuals who meet your hiring needs. Using this service can save an estimated \$8,000 in job posting costs.

### **CAREER FAIRS / CUSTOM RECRUITING**

These no-cost events enable you to meet several qualified candidates face-to-face. We can target events to specific industries or to an individual business. We can hold events at Department of Labor facilities or at your place of business. Participation can save an estimated \$13,000 in recruitment costs.

### **SKILLS MATCHING SERVICES – NY TALENT AND SMART**

NY Talent is a new tool that helps businesses find the most qualified candidates for their job openings. It offers a job order tool and the ability to search resumes. SMART (Skills Matching and Referral Technology) is the sister tool that jobseekers use to build resumes and match to job orders. Both tools use artificial intelligence technology to analyze job orders and resumes using skills matching, rather than keyword matching.

### **CONSULTATIONS WITH LABOR DEPARTMENT STAFF**

If you have questions about your responsibilities as a business in New York State, Labor Department staff are available to meet and review various rules and regulations so you can remain compliant.

### **HUMAN RESOURCES ASSISTANCE**

- Write/review your job descriptions and employee handbooks
- Develop performance evaluations and personnel policies
- Create orientation sessions for new workers
- Hone job interview techniques for efficiency and compliance
- Analyze employee turnover
- Explain labor laws to help you comply with wage/hour and safety/health regulations

### **SAFETY AND HEALTH ASSISTANCE**

Keeping New York's workforce safe is our number one priority. If you have questions about occupational safety and health assistance or are interested in receiving a free consultation, email us at [onsite@labor.ny.gov](mailto:onsite@labor.ny.gov) to schedule an appointment.

More information about our Safety and Health programs can be found on our website: [www.labor.ny.gov/workerprotection/safetyhealth/DOSH\\_INDEX.shtm](http://www.labor.ny.gov/workerprotection/safetyhealth/DOSH_INDEX.shtm)

### **TAX CREDITS**

There are a number of federal and state tax credits available to businesses who hire qualified individuals, which can offer substantial savings to your business:

### **WORK OPPORTUNITY TAX CREDIT (WOTC)**

A federal tax credit to promote hiring individuals from target groups, like veterans and youth.

## WORKERS WITH DISABILITIES TAX CREDIT (WETC)

A New York State tax credit that offers savings for hiring individuals with disabilities.

## EXCELSIOR JOBS PROGRAM

Provides tax credits for job creation in targeted industries, such as biotechnology, pharmaceutical, high-tech, clean-technology, green technology, financial services, agriculture and manufacturing.

## TRAINING

If you need to upgrade the skills of your workers, we can refer you to certified training providers or help you set up an in-house training program. In some cases, there is funding available to help you train your workers. Programs include:

### ON-THE-JOB TRAINING (OJT)

Specialized training that you develop and conduct to bridge skill gaps.

## APPRENTICESHIP TRAINING

A combination of hands-on work experience and classroom instruction to produce a skilled worker.

## LABOR MARKET INFORMATION (LMI)

Looking to locate or expand your existing operations? We have the most current and accurate labor market information available, including data on labor supply, wages, occupational projections, commuting patterns and the latest job figures.

## SHARED WORK

During temporary downturns, the Shared Work program is an ideal alternative to layoffs. You can reduce the hours your employees work and they can collect partial Unemployment Insurance benefits to offset the loss in income. It helps you retain your skilled workforce and ramp up faster once the economy rebounds.

## TO LEARN MORE ABOUT ANY OF THESE PROGRAMS AND SERVICES, CONTACT A BUSINESS SERVICES REPRESENTATIVE

### CAPITAL REGION

Kathleen McCoy  
155 Washington Avenue, Third Floor  
Albany, NY 12210  
**518-457-2483**  
kathleen.mccoy@labor.ny.gov

### LONG ISLAND

Jo Ann McCants  
303 West Old Country Road  
Hicksville, NY 11801  
**516-934-8521**  
joann.mccants@labor.ny.gov

### SOUTHERN TIER

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Binghamton, NY 13905  
**607-778-3004**  
david.croston@labor.ny.gov

### CENTRAL NEW YORK

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Syracuse, NY 13202  
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roy.jewell@labor.ny.gov

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Utica, NY 13501  
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### WESTERN NEW YORK

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Buffalo, NY 14202  
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Rochester, NY 14609  
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### NEW YORK CITY

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Brooklyn, NY 11201  
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scott.gallop@labor.ny.gov

### HUDSON VALLEY

Sheila Davis  
3 Washington Center, 4th Floor  
Newburgh, NY 12550  
**845-568-5322**  
sheila.davis@labor.ny.gov

### NORTH COUNTRY

Melissa Baretzky  
194 US Oval  
Plattsburgh, NY 12901  
**518-561-0430**  
melissa.baretzky@labor.ny.gov



## Farm Workforce Retention Credit

Part RR of Chapter 60 of the Laws of 2016 established the farm workforce retention credit for eligible farm employers taxable under Article 9-A (franchise tax on business corporations) and Article 22 (personal income tax) of the Tax Law.

Part RR of Chapter 60 of the Laws of 2016 established the farm workforce retention credit for farm employers and owners of farm employers.<sup>1</sup> The refundable credit is equal to a fixed dollar amount for each eligible farm employee. The credit may be claimed in a tax year that begins on or after January 1, 2017, and before January 1, 2022.

### Farm employer

For purposes of the farm workforce retention credit, a *farm employer* is a taxpayer subject to tax under Article 9-A or Article 22 that:

- is a corporation (including a New York S corporation), a sole proprietorship, a limited liability company (LLC), or a partnership, **and**
- is also an *eligible farmer*.

### Eligible farmer

An *eligible farmer* is a taxpayer whose federal gross income from farming for the tax year is at least two-thirds of excess federal gross income.

*Excess federal gross income* is the amount of federal gross income from all sources for the tax year in excess of \$30,000. For purposes of this credit, farmers must include payments from the state's Agricultural and Farmland Protection Program administered by the New York State Department of Agriculture and Markets in federal gross income from farming.

*Farming* includes the operation or management of livestock, dairy, poultry, fish, fruit, fur-bearing animal, and vegetable (commonly referred to as truck) farms. *Farming* also includes the operation or management of plantations, ranches, ranges, and orchards.

For example, *farming* includes, but is not limited to, the raising or production of the following commodities:

- field crops, including corn, wheat, oats, rye, barley, hay, potatoes, and dry beans;

<sup>1</sup> Owners of farm employers include shareholders of a New York S corporation, partners in a partnership, members of an LLC, or beneficiaries of an estate or trust.

- fruits, including apples, peaches, grapes, cherries, and berries;
- vegetables, whether raised conventionally or hydroponically, including tomatoes, snap beans, cabbage, carrots, beets, and onions;
- horticultural specialties, including nursery stock, ornamental shrubs and ornamental trees, and flowers;
- livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, farmed deer, farmed buffalo, ostrich, emus, fur-bearing animals, milk, and eggs;
- aquaculture products, including fish, fish products, water plants, and shellfish (provided the aquaculture products are grown and raised as opposed to merely being harvested or caught); **and**
- honey and beeswax produced from the farmer's own bees.

### **Eligible farm employee**

An *eligible farm employee* is an individual who is employed for 500 hours or more per tax year by a farm employer in New York State, but excluding general executive officers of the farm employer. Workers who are part of the H-2A Temporary Agricultural Worker Program that meet the definition of an eligible farm employee may be included in the computation of this credit.

If an individual employed by a farm employer in New York State becomes unable to work due to a documented illness or disability, the farmer may combine the hours the individual was employed during the tax year with the hours of another individual hired to replace the ill or disabled individual in the same tax year when determining the 500 hour per tax year threshold for an eligible farm employee. The ill or disabled worker and the worker hired to replace him or her are considered one eligible farm employee for purposes of computing the credit.

The farm employer must obtain proof of illness or disability for the ill or disabled worker in the form of a written statement from a physician or other health care provider licensed, certified, or otherwise permitted by law to diagnose or treat the physical or mental condition that led to the claimed illness or disability. The statement must include:

- the name and a description of the farm employee's illness or disability;
- the physician's or health care provider's medical opinion that the illness or disability prevented the individual from working;
- to the best of the physician's or health care provider's knowledge, the specific time period during which the individual is or was unable to work due to illness or disability; and
- the following certification signed by the physician or health care provider: "*I hereby certify that, to the best of my knowledge and belief, the above representations are true, correct, and complete.*"

**Note:** A farm employer must retain documentation of the hours worked (and proof of illness or disability, if applicable) for all eligible farm employees and make it available to the Tax Department upon request.

**Amount of credit**

The farm workforce retention credit is equal to a fixed dollar amount per eligible farm employee. The credit amounts per eligible farm employee by tax year are shown in the table below:

<b>Tax years beginning on or after</b>	<b>Credit amount per eligible farm employee</b>
January 1, 2017	\$250
January 1, 2018	\$300
January 1, 2019	\$500
January 1, 2020	\$400
January 1, 2021, and before January 1, 2022	\$600

A farm employer may not use any farm employees used in the computation of the farm workforce retention credit to claim any other tax credit.

**Rules for New York S corporation shareholders, partners, members of limited liability companies (LLCs), and beneficiaries of estates and trusts.**

A shareholder, partner, LLC member, or beneficiary of an estate or trust that is taxable under Article 9-A or Article 22 is allowed to claim a pro-rata share of the credit passed through from a New York S corporation, partnership, LLC, estate, or trust that is a farm employer eligible for the credit. The credit amount is determined at the entity level.

**Credit limitation**

For Article 9-A taxpayers, the credit cannot reduce the tax due to less than the applicable fixed dollar minimum tax under Tax Law section 210(1)(d). However, if the credit allowed for any tax year reduces the tax to the minimum amount, any excess credit may be treated as an overpayment of tax to be credited or refunded. However, no interest will be paid on the refund.

For Article 22 taxpayers, the credit may reduce the tax to zero. If the credit allowed exceeds the tax, the excess may be treated as an overpayment of tax to be credited or refunded. However, no interest will be paid on the refund.

(Tax Law sections 42, 210-B(51), 606(i)(1)(B)(xli), and 606(fff))

**Note:** A TSB-M is an informational statement of existing department policies or of changes to the law, regulations, or department policies. It is accurate on the date issued. Subsequent changes in the law or regulations, judicial decisions, Tax Appeals Tribunal decisions, or changes in department policies could affect the validity of the information presented in a TSB-M.



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## Farm workforce retention credit

### Who is eligible?

For tax years beginning on or after January 1, 2017, and before January 1, 2026, you are entitled to this refundable credit if you:

- are a farm employer or an owner of a farm employer, **and**
- you have an eligible farm employee.

### How much is the credit?

The farm workforce retention credit is equal to a fixed dollar amount per eligible farm employee. The credit amounts per eligible farm employee by tax year are shown in the table below:

Tax years beginning on or after	Credit amount per eligible farm employee
January 1, 2017, and before January 1, 2018	\$250
January 1, 2018, and before January 1, 2019	\$300
January 1, 2019, and before January 1, 2020	\$500
January 1, 2020, and before January 1, 2021	\$400
January 1, 2021, and before January 1, 2022	\$600
January 1, 2022, and before January 1, 2026	\$1,200

A farm employer may not use any farm employees used in the computation of the farm workforce retention credit to claim any other tax credit.

### Additional information

- [TSB-M-16\(7\)C.\(5\)](#), *Farm Workforce Retention Credit*
- [Form CT-647](#), *Farm Workforce Retention Credit*, and its [instructions](#) (for corporations)
- [Form IT-647](#), *Farm Workforce Retention Credit*, and its [instructions](#) (for all others)

To learn about other New York State tax credits available to businesses, see [Business incentives](#).

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## AGRICULTURAL RECRUITMENT SYSTEM

The Agricultural Recruitment System (ARS) provides agricultural employers a mechanism to recruit qualified US workers for temporary or seasonal agricultural work (less than a year-round basis). ARS is a process for handling of local, intrastate and interstate agricultural job orders through the New York State Career Center. An employer can request to use the ARS system at any time, however, the employer should be cognizant of the time frame workers will be needed for the season. Employers should request workers no later than 10-12 weeks prior to the date of need to provide enough time to go through the entire process (Local, Intrastate, and Interstate recruitment).

### LOCAL

Employer submits a local job order with the local Career Center/AgLS staff. If housing is provided, it must be inspected and approved by the appropriate agency. Approval of the job order is the responsibility of the Career Center or AgLS staff. The local job order is then entered into the One Stop Operating System (OSOS) for local recruitment.

### INTRASTATE

If labor needs not met through local efforts, the employer has the option to clear the job order to extend recruitment area by filing an Intrastate Clearance Order (ICO). This allows employers to recruit outside of the local workforce area but recruit only within the state of NY. Employer along with the Career Center or AgLS staff assistance, fills out the ETA 790 Form requesting permission to recruit outside the local workforce area.

Employer must agree to some assurances to participate in the ARS process. The following language is included in the job order and the employer must agree to:

1. Pay highest rate of pay among state, federal or prevailing practice wage.
2. Register with state as a Farm Labor Contractor.

3. Provide Outreach workers reasonable access to workers.
4. Provide housing for workers unable to return home the same day.
5. Provide or pay transportation cost.
6. The Intrastate job order is then forwarded to and approved by the NY State Monitor Advocate (SMA).

### INTERSTATE

If Intrastate recruitment is unsuccessful, the employer can request to expand the search for workers to supply states, this is known as the Interstate Clearance Order (ICO). Employer requests the job order be submitted to the next level. The ETA 790 form includes everything mentioned above under Intrastate Clearance Order. The SMA submits the signed ETA 790 to Regional Monitor Advocate (RMA) for review and approval. RMA has 10 days to approve or deny the job order.

### FREQUENTLY ASKED QUESTIONS

#### HOW IS THE H-2A PROCESS DIFFERENT FROM ARS?

The ARS, a free program, is intended to recruit only US domestic workers. The H-2A foreign guest worker program allows employers to expand recruitment to workers internationally. Under the H-2A foreign guest worker program, employers pay an application fee and pay costs associated with recruiting workers from other countries.

#### HOW DO I SUBMIT A LOCAL JOB ORDER?

Employers can submit a job order at a Career Center nearest them. The Agricultural Job Order Form may be used at the Career Center to post a job order. Employers can also worker with their local AgLS who will fill out the AL515 ARS Job Order Form and place the job order on NYS Job Bank.

### **CAN I USE THE ARS PROCESS AND SUBMIT AN H-2A JOB ORDER AT THE SAME TIME?**

Although the H-2A process and the ARS look similar, they cannot be used at the same time. The moment an employer decides to supplement labor with the H-2A guest worker program, additional steps and paper work must be completed. The ETA 790 Form is submitted to NYSDOL's Foreign Labor Certification Unit for processing and sent to USDOL's Office of Foreign Labor Certification for approval. However, the ARS can be used prior to applying under the H-2A program to test for domestic worker availability in the area of intended employment or surrounding supply states.

### **IS THERE A COST TO USING THE ARS?**

Although, there no required fees or costs that must be paid by the employer to use ARS, there are required assurances that may have a financial impact on worker recruitment. For example, the employer may have to pay to repair worker housing prior to inspection or pay for worker transportation.

### **DOES THE SWA SCREEN APPLICANTS FOR WORK AUTHORIZATION?**

Career Center and AgLS staff do not verify work authorization. Staff match available job seekers currently registered in OSOS and refer qualified candidates to your job order. It is the responsibility of the employer to complete the required Federal and State paperwork to successfully onboard workers.

### **AM I REQUIRED TO HIRE REFERRALS FROM THE NYSDOL?**

No, an employer is not required to hire a referral from the NYSDOL. However, if a screened applicant is not hired, we may follow-up with the employer to determine the reason for not hiring a referral.

### **WHO SHOULD I CONTACT IF I HAVE QUESTIONS?**

Contact the State Monitor Advocate (SMA) with any questions regarding the ARS process. The SMA can be reached at [labor.sm.State.Monitor.Advocate@labor.ny.gov](mailto:labor.sm.State.Monitor.Advocate@labor.ny.gov).



NYS Minimum Wage	LOCATION	1/1/24
	New York City	\$16.00
	Long Island and Westchester	\$16.00
	Remainder of New York State	\$15.00

## EFFECTIVE JANUARY 1, 2024:

### WAGES AND OVERTIME

All farmworkers, including Foreign Visa workers, must now be paid one and a half times the regular rate of pay for hours worked over 56 in a calendar week. For more information, please contact the NYS Department of Labor at **877-466-9757** or visit [Department of Labor Home Page](#) | [Department of Labor \(ny.gov\)](#).

## EFFECTIVE JANUARY 1, 2020:

### DAY OF REST

Employers must provide at least one day (24 consecutive hours) of rest in every calendar week. The employer must designate, and notify the worker in advance of, their day of rest and, whenever possible, ensure that the day off coincides with a traditional day for religious worship. Farmworkers are permitted to voluntarily work on the day of rest, provided the employer pays them at the overtime rate. Employers must keep a weekly record of hours and days worked. For more information, please contact the NYS Department of Labor at **877-466-9757** or [www.labor.ny.gov/FarmLabor](http://www.labor.ny.gov/FarmLabor).

### UNEMPLOYMENT INSURANCE

Farm employers, and farm crew leaders under certain conditions, are required to provide unemployment insurance coverage for their employees. H-2A Foreign Guest Workers are excluded from unemployment insurance coverage. For more information, please contact the NYS Department of Labor at Unemployment Insurance Employer Hotline **888-899-8810**.

### WORKERS' COMPENSATION

Farm employers, owners and operators are required to provide workers' compensation coverage for their employees, regardless of their annual payroll, and all employers are required to post the mandatory workers' compensation notice of compliance poster in both English and Spanish. Additionally, farm labor contractors, forepersons and supervisors who receive notice of an injury must notify the employer, owner or operator of the farm where the injury occurred, and employers are prohibited from discriminating against farm laborers who request workers' compensation claim forms. For more information, please contact the Workers' Compensation Board at **877-632-4996** or [wcb.ny.gov](http://wcb.ny.gov).\*

## **DISABILITY INSURANCE AND PAID FAMILY LEAVE**

Farm employers, owners and operators are required to provide New York's disability benefits (DB) and Paid Family Leave (PFL) insurance coverage to eligible farm laborers. See [PaidFamilyLeave.ny.gov](https://www.paidfamilyleave.ny.gov) for information on PFL employee eligibility and opt-out waivers that employers must give to those who qualify. All employers are prohibited from discriminating against employees who request DB or PFL claim forms. For more information, please call **844-337-6303**.\*

\*For more information and employer resources related to workers' compensation, disability benefits and paid family leave, please see the Workers' Compensation Board's Toolkit for Farm Employers at [www.wcb.ny.gov/farmtoolkit](https://www.wcb.ny.gov/farmtoolkit).

## **RIGHT TO ORGANIZE**

Farmworkers possess the right to organize, which includes forming, joining, or assisting labor organizations, and the right to bargain collectively through representatives of their own choosing. This includes the right to engage in concerted activities (any activity, discussion, or meeting directed at improving terms and conditions of employment, or the group interests of employees), for the purpose of collective bargaining or other mutual aid or protection, free from interference, restraint, or coercion of employers. However, farmworkers do not have the right to strike. Farmworkers are protected from retaliation, including termination, if they are speaking to each other about labor conditions and organizing. For more information, please contact the Public Employment Relations Board at 518-457-6410 or see [perb.ny.gov](https://perb.ny.gov).

## **EFFECTIVE JANUARY 1, 2021:**

### **MIGRANT FARMWORKER HOUSING PERMIT**

Employers are required to contact the NYS Department of Health (or local County Health Department) and apply for a permit to operate a farm or processing labor camp which will be occupied by one or more migrant workers. For information on the permitting process, please contact the NYS Department of Health at **518-402-7600**. Find your county health department at: [www.health.ny.gov/contact/contact\\_information/](https://www.health.ny.gov/contact/contact_information/)

## CONTACT THE DEPARTMENT OF HEALTH

### Bureau of Community Environmental Health and Food Protection

Contact your local county Health Department  
or

### Bureau of Community Environmental Health and Food Protection

Empire State Plaza  
Corning Tower  
Room 1395  
Albany, NY 12237  
518-402-7600

### Helpful links:

[health.ny.gov/environmentalcontacts](https://health.ny.gov/environmentalcontacts)

[health.ny.gov/regulations/nycrr/title\\_10/part\\_15/](https://health.ny.gov/regulations/nycrr/title_10/part_15/)

[health.ny.gov/environmental/water/drinking/  
doh\\_pub\\_contacts\\_map.htm](https://health.ny.gov/environmental/water/drinking/doh_pub_contacts_map.htm)

## CONTACT THE DEPARTMENT OF LABOR

### Division of Compliance and Education

*(formerly known as Division of Immigrant Policies and Affairs)*

#### Statewide locations

Contact your local Compliance and Education  
Specialist by calling:  
877-466-9757

#### Foreign Labor Certification Unit (H-2A)

290 Main Street, Suite 213  
Buffalo, NY 14202  
716-803-0402  
H2A@labor.ny.gov

### Helpful links:

[dol.ny.gov/services-agricultural-employers-0](https://dol.ny.gov/services-agricultural-employers-0)

[dol.ny.gov/h-2a-employers-and-agents](https://dol.ny.gov/h-2a-employers-and-agents)



## MIGRANT SEASONAL FARMWORKER HOUSING

### Inspection and Permitting Requirements in New York State

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The New York State Department of Labor is an Equal Opportunity Employer/Program.  
Auxiliary aides and services are available upon request and free of charge to individuals  
with disabilities TTY/TDD 711 or 1-800-662-1220 (English) / 1-877-662-4886.

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## STATE AND FEDERAL REGULATORY AGENCIES AND REQUIREMENTS

Farmers and other employers providing housing to migrant seasonal farmworkers may be required to comply with the requirements of State and/or Federal agencies. These agencies are responsible for ensuring regulatory compliance regarding the safety of farmworker housing. Farm owners providing housing may be required to submit information about their employment activities, obtain permits and allow for inspection of their housing facilities.

This brochure lists the responsibilities of the Department of Labor and the Department of Health regarding the inspection of housing for migrant seasonal farmworkers in New York State and outlines requirements of each agency.

## NEW YORK STATE DEPARTMENT OF HEALTH REQUIREMENTS

The Department of Health is responsible for inspecting and permitting seasonal farmworker housing facilities occupied by one or more persons. An annual operating permit must be obtained for both on-site and off-site housing provided by the employer. A pre-operational inspection must be conducted by State/County Department of Health staff prior to any occupancy of the facility by workers as described above. The Department of Health also routinely inspects this housing during the operating season to ensure it meets the requirements contained in Part 15, "Migrant Farmworker Housing," of the New York State Sanitary Code.



## REGISTERING A NEW LABOR CAMP?

The Department of Health process for obtaining a labor camp permit for a new facility can range from six months to a year or longer. The permitting process requires the review of a detailed permit application and an evaluation of the following items:

- Structural integrity and maintenance
- Fire safety
- Water supply
- Sewage treatment system
- Laundry facilities
- Food service
- General sanitation and trash disposal

## HOW CAN AN EMPLOYER HELP THE PROCESS?

To expedite the permitting process, the employer should provide the following information regarding the facility (if known):

- Type, on-site location and any treatment of the private water supply serving the facility (drilled well vs. dug well)
- Components and location of sewage disposal system
- Engineered plans detailing the water supply and sewage treatment system, and a Copy of the Certificate of Occupancy or Certificate of Compliance issued by local Code Enforcement may be required
- Employers are required to schedule the mandatory pre-operational inspection when the permit application and engineered plans (when required) have been approved, construction is complete, and the facility meets all requirements of Part 15

## NEW YORK STATE DEPARTMENT OF LABOR REQUIREMENTS

The Agricultural Recruitment System requires that all housing offered to workers on all local, intrastate and interstate job orders be inspected and approved. Housing offered as a benefit with local job orders for recruitment and intrastate job orders for statewide recruitment must be inspected by the appropriate agency. Additionally, the Department of Labor assists New York employers by processing job orders for the H-2A temporary labor program. The H-2A job order process is part of Interstate recruitment. All employers must demonstrate that they will provide suitable housing for their H-2A and domestic farmworkers.

For H-2A purposes, the Department of Labor works with the Department of Health to coordinate housing inspections, utilizing Part 15 regulations. The Department of Labor will advise the Department of Health of the H-2A job order application and Federal regulatory timeline. During the course of processing the H-2A job order, the Department of Labor also advises the employer to contact the Department of Health to schedule the inspection. Housing regulations also require that water available to workers for drinking, cooking and bathing be potable. Therefore, employers must provide compliant well-water testing results as part of the housing inspection process.

Employers seeking foreign guest workers under the H-2A program must submit their initial paperwork to the United States Department of Labor's FLAG system 60-75 days prior to the start of work. They must have an approved housing inspection no less than 32 days prior to the start of work.



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Department  
of Labor

# LACTATION

## INFORMATION FOR EMPLOYERS

### Rights Of Nursing Employees To Pump Breast Milk At Work

### **EMPLOYEES HAVE THE RIGHT TO PUMP BREAST MILK AT WORK**

New York State Labor Law Section 206-c guarantees employees paid break time to pump breast milk at work.

### **BUSINESSES COVERED**

This law applies to all public and private employers in New York State, regardless of the size or nature of the business.

### **EMPLOYER NOTICE REQUIREMENT**

All employers are required to inform all employees about the right to take paid leave for the purpose of pumping breast milk. Employees must be informed when they are hired, and once a year thereafter. Employers must also remind every employee returning to work following the birth of a child of these rights. As an employer, you can inform your employees of this right by providing them with the New York State Department of Labor's (NYSDOL) policy through email or printed copy. The policy is available here [on.ny.gov/breastmilkexpression](https://on.ny.gov/breastmilkexpression). Employers must also notify all employees when a space has been designated for breast milk expression.

### **EMPLOYEE NOTICE REQUIREMENT**

Employees who want to pump breast milk at work must notify their employers in advance – preferably before they return to work from maternity leave. Employees must notify employers in writing. This request can be sent through email, text message, written correspondence or any chat-based app regularly used by the organization for correspondence that allows for the retention of messages. Employers should advise employees to include the following information in their written notification: anticipated return date, details regarding how many breaks they anticipate needing during the work day, and potential preferred times to express breast milk. Upon receiving a request, employers must respond in writing within five (5) days to the employee.

### **DURATION OF THE RIGHT TO PUMP BREAST MILK**

An employee may take break time to pump breast milk at work for up to three years following the birth of a child.

### **LENGTH OF BREAKS**

Employers must give their employees a 30 minute paid break when the employee has a need to express breast milk. Employees may take shorter breaks if they choose. This paid time is in addition to any regularly scheduled break time or meal time. Employees may use their regularly scheduled break times or meal time for milk expression should they need additional time in excess of 30 minutes.

### **FREQUENCY AND SCHEDULING OF BREAKS DURING THE WORKDAY**

Employers must allow employees to take breaks as often as they reasonably need to express breast milk. Each employee is different, and employers must accommodate employees based on each individual's needs.

### **EFFECT OF BREAKS ON OTHER BREAK TIME**

As an employer, you cannot deduct paid break time for breast milk expression from the employee's regular paid break or meal time. The paid time for breast milk expression is in addition to any regularly paid break or meal time. Employees can also choose to take breast milk expression breaks right before or after their regularly scheduled paid break or meal periods.

### **MAKING UP BREAK TIME PROHIBITED**

An employee is not required to make up the time spent expressing breast milk. You cannot require an employee to stay beyond their regularly scheduled work hours because they used paid break time to pump at work.

## BREAKS OF 30 MINUTES OR LESS MUST BE PAID

Employers must pay employees for up to 30 minutes of break time to pump breast milk. Employees also have the option of using their regular paid break or meal time to pump breast milk, but they are not required to do so. Employers must continue to pay any customarily paid regular break time for an employee who pumps breast milk. Employers cannot require an employee to complete work tasks while expressing breast milk, however, an employee may voluntarily decide to do so.

## PROVIDING A PLACE TO PUMP BREAST MILK

Employers are required to provide employees with a private room or other location close to the employees' work area where they can pump breast milk. If the employer can't provide a dedicated lactation room, a temporarily vacant room may be used instead. As a last resort, a cubicle can be used, but it must be fully enclosed with walls at least seven feet tall. Please review the NYSDOL's breast milk expression policy for more details regarding specific space requirements [on.ny.gov/breastmilkexpression](https://on.ny.gov/breastmilkexpression). You should consult with NYSDOL's Division of Labor Standards if you believe you cannot provide any place for an employee to pump breast milk.

## BATHROOMS PROHIBITED

The room for location provided by an employer to pump breast milk cannot be a restroom or toilet stall.

## LACTATION ROOM REQUIREMENTS

The place where employees pump breast milk must contain a chair and small table or other flat surface, an electrical outlet (if the workplace has electricity), good natural or artificial light, and access to a clean water supply. If there is a refrigerator, employees must be allowed to use the space to store pumped milk.

## PRIVACY OF THE LACTATION ROOM

The room or place provided by the employer cannot be open to other employees, customers, or members of the public while an employee is pumping breast milk. It should have a door with a functional lock, or, in the case of a cubicle, a sign warning the location is in use and not accessible to others. If the space has windows, those windows must be covered.

## DISCRIMINATION AND RETALIATION PROHIBITED

Employers may not discriminate or retaliate in any way against any employee who chooses to pump breast milk in the workplace or who files a complaint with the NYSDOL. The Department takes allegations of retaliation very seriously and will investigate promptly.

## COMPLAINT PROCESS

Any party may file a confidential complaint with NYSDOL's Division of Labor Standards alleging non-compliance with this law.

## SIMILAR FEDERAL LAW

Recent amendments to the Fair Labor Standards Act also protect the rights of nursing mothers to pump breast milk at work. For more information, contact the Wage and Hour Division of the U.S. Department of Labor at **1-866-4USWAGE**. The federal PUMP Act went into effect in 2023, expanding protections for almost all employees pumping breast milk at work. Under the PUMP Act, any covered workers not provided with breaks and adequate space for up to a year after the birth of a child are able to file a complaint with the U.S. Department of Labor or file a lawsuit against their employers. For more information please visit [dol.gov/agencies/whd/pump-at-work](https://dol.gov/agencies/whd/pump-at-work).

## ADDITIONAL INFORMATION

NYSDOL has issued a policy on the rights of employees to express breast milk in the workplace. The policy, which employers must provide to all employees, is available online at [on.ny.gov/breastmilkexpression](https://on.ny.gov/breastmilkexpression). In addition, you may call NYSDOL at **1-888-52-LABOR**, email NYSDOL at [LSAsk@labor.ny.gov](mailto:LSAsk@labor.ny.gov), or come in to the nearest Division of Labor Standards office for more information. A list of offices is available at [labor.ny.gov/workerprotection/laborstandards/workprot/lstdists.shtm](https://labor.ny.gov/workerprotection/laborstandards/workprot/lstdists.shtm).

WE ARE YOUR DOL



# NEW YORK STATE PAID SICK LEAVE FOR FARMWORKERS

All private sector agriculture workers in New York State, including seasonal workers, are now covered under the state's new sick and safe leave law, regardless of industry, occupation, part-time status, and overtime exempt status.

The law requires employers with five or more employees to provide their employees with paid sick and safe leave. Businesses with fewer than five employees and a net income of \$1 million or less must provide unpaid sick and safe leave to employees.

## KEY DATES

- **September 30, 2020:** Covered employees in New York State will start to accrue leave at a rate of one hour for every 30 hours worked.
- **January 1, 2021:** Employees may start using accrued leave.

## AMOUNT OF LEAVE

Employees will receive an amount of sick leave depending on the size of their employer:

Number of Employees	Employer Sick Leave Requirements
0 - 4	If net income is <b>\$1 million or less</b> in the previous tax year, the employer is required to provide up to 40 hours of <b>unpaid</b> sick leave per calendar year.
0 - 4	If net income is <b>greater than \$1 million</b> in the previous tax year, the employer is required to provide up to 40 hours of <b>paid</b> sick leave per calendar year.
5 - 99	Up to <b>40</b> hours of <b>paid</b> sick leave per calendar year.
100+	Up to <b>56</b> hours of <b>paid</b> sick leave per calendar year.

*A January 1 – December 31 calendar year must be used for purposes of counting employees. Small employers who reported net income of less than \$1million do not need to pay their employees sick leave, but must provide the additional allotted leave time. For other purposes, including use and accrual of leave, employers may set a calendar year to mean any 12-month period.*

## IF A BUSINESS WITH 15 FULL-TIME, YEAR-ROUND EMPLOYEES ALSO HIRES SEASONAL PART-TIME WORKERS, MUST THE EMPLOYER PROVIDE SICK LEAVE TO THESE PART-TIME SEASONAL WORKERS AS WELL?

Yes. For the purposes of this law, an employee is defined as “any person employed for hire by an employer in any employment.” If an employer has five or more employees but fewer than 100, all employees, including part-time seasonal workers, are entitled to accrue one paid sick hour for every 30 hours they work.

## IS THERE A MINIMUM PERIOD OF EMPLOYMENT BEFORE AN EMPLOYEE CAN USE THEIR ACCRUED SICK LEAVE?

No. Employees are immediately eligible to accrue leave under the law.

## **IS THERE A MINIMUM PERIOD OF EMPLOYMENT BEFORE AN EMPLOYER IS RESPONSIBLE FOR PROVIDING SICK LEAVE?**

No. For purposes of determining the number of employees under the law, it is the number of employees in any calendar year, regardless of the number of hours or days worked. For example, if an employer had three full-time employees work from January 1 to December 31, and two part-time employees who only worked part time for two weeks in December of the same year, that employer has five employees within the calendar year and would be required to provide up to 40 hours of paid sick leave to employees. Note that the employees in the above scenario would only accrue paid sick leave commensurate with the number of hours worked (e.g. if an employee worked 30 total hours during the calendar year, they would accrue 1 hour of paid sick leave).

## **DOES AN EMPLOYEE'S IMMIGRATION STATUS AFFECT WHETHER THEY ARE ENTITLED TO SICK LEAVE UNDER THE LAW?**

No. An employee's immigration status has no effect on their eligibility for sick leave benefits under this law.

## **CAN AN EMPLOYER FRONT-LOAD ACCRUAL FOR PART-TIME EMPLOYEES?**

Yes. At the beginning of each calendar year, an employer can provide part-time employees with the hours of sick leave they would accrue based on the hours they are anticipated to work at the accrual rate of one hour of sick leave for every 30 hours the employee is anticipated to work. However, if the employer frontloads fewer than 40 hours, the employer must still track the employee's hours worked and accrual of sick leave because a part-time worker may work more hours than anticipated. If the employee works more hours than anticipated, the employer must allow the employee to accrue leave at the rate of one hour for every 30 hours worked until the total amount of front-loaded plus accrued sick leave in a calendar year equals 40 hours. Employees who are front-loaded less than 40 hours in a calendar year must be allowed to use up to 40 hours of sick leave in a calendar year if they have accrued it. An employer who front-loads fewer than 40 hours must allow employees to carry over up to 40 hours of unused sick leave into the new calendar year, in addition to front-loading the amount of time the employer expects the employee to earn in the new calendar year. Reminder: If the employer has not calculated employees' use and accruals, the employer cannot change the policy in the new calendar year since employees are entitled to carry over unused sick leave and use those hours at the beginning of the new calendar year.

## **DO EMPLOYERS NEED TO PAY EMPLOYEES FOR UNUSED LEAVE AT THE END OF THE EMPLOYMENT RELATIONSHIP?**

Unless required by another agreement or policy, including the employer's own written leave policy, employers are not required under this law to pay employees for unused sick leave at the end of an employment relationship. Seasonal employees who maintain an ongoing employment relationship with their employer maintain their leave accruals through such breaks in employment.

## **IF AN EMPLOYEE USES LEAVE DURING HOURS THAT WOULD HAVE BEEN OVERTIME IF WORKED, DOES THE EMPLOYER HAVE TO PAY THE OVERTIME RATE OF PAY?**

No. Employees are required to be paid their normal pay for leave time under the law.

## **CAN AN EMPLOYER REQUIRE THAT AN EMPLOYEE LOCATE A REPLACEMENT WORKER TO COVER A SHIFT/JOB IF THE EMPLOYEE ELECTS TO USE THEIR SICK LEAVE?**

No. So long as an employee is using the sick leave for one of the reasons prescribed under the law, an employer may not require any additional preconditions.

## **WHAT DO I DO IF MY EMPLOYER ISN'T PROVIDING ME WITH SICK LEAVE AS REQUIRED BY THE LAW?**

Employees may file a complaint with the Department of Labor by calling **888-469-7365**.

For more information about New York State's Paid Sick Leave, including additional FAQs, regulations, and more, please visit [ny.gov/paidsickleave](https://ny.gov/paidsickleave).

New York State Paid Family Leave provides you with a structure to help your employees care for their families in times of need. Paid leave has been shown to increase workplace morale and employee retention. Fully funded by employee payroll contributions, New York State Paid Family Leave provides job-protected, paid time off to employees who need time away from work to:



### **BOND**

with a newly born, adopted, or fostered child



### **CARE**

for a family member with a serious health condition



### **ASSIST**

loved ones when a family member is deployed abroad on active military service



**SUPPORT** themselves or a minor dependent child in the event of a COVID-19 quarantine

## What coverage do employers need?

Most private employers with one or more employees in New York State are required to have Paid Family Leave insurance in place. Generally, this coverage is added to your existing disability benefits policy. The insurance policy provides payment of the Paid Family Leave benefit to your employees. Public employers may choose to offer Paid Family Leave to their employees. Public employers with union-represented employees may offer Paid Family Leave if it is negotiated through a collective bargaining agreement.

## What if you already offer Paid Family Leave?

You must ensure that your Paid Family Leave benefit offers what the law requires, at minimum; however, you may choose to supplement with a more generous leave policy. Covered employers are required to purchase an insurance policy or provide Paid Family Leave benefits directly if approved as a self-insured employer. If you pay full wages to your employees while they are on Paid Family Leave, you may seek reimbursement from your insurance carrier for the amount payable under your Paid Family Leave policy.

## How is Paid Family Leave funded?

Paid Family Leave is funded through employee payroll contributions that are set each year to match the cost of coverage. The contribution rate is reviewed annually and is subject to change by the New York State Department of Financial Services. Visit [PaidFamilyLeave.ny.gov/cost](https://www.dol.ny.gov/cost) for the current contribution rate and annual maximum contribution.

## What are the benefits?

Eligible employees can take up to 12 weeks of Paid Family Leave and receive 67% of their average weekly wage (AWW), capped at 67% of the New York State Average Weekly Wage (NYSAWW). Generally, an employee's AWW is the average of their last eight weeks of pay prior to starting Paid Family Leave. The NYSAWW is updated annually and published on the New York State Department of Labor's website. See [dol.ny.gov](https://www.dol.ny.gov).

## Who is eligible for Paid Family Leave?

Covered employees are eligible to take Paid Family Leave for a qualifying event once they have met the minimum requirements:

- **Full-time employees:** Employees who work a regular schedule of 20 or more hours per week are eligible after 26 consecutive weeks of employment with their employer.
- **Part-time employees:** Employees who work a regular schedule of less than 20 hours per week are eligible after working for their employer for 175 days, which do not need to be consecutive.

Citizenship and/or immigration status is not a factor in employee eligibility.



## How can Paid Family Leave help your employees' families?

- **Bonding with a child:** An employee can take time to bond with a newly born, adopted, or fostered child within the first 12 months of birth or placement.
- **Caring for a family member:** An employee can take time to care for a spouse, domestic partner, child/stepchild, sibling\* (biological, adopted, half, and step), parent/stepparent, parent-in-law, grandparent, or grandchild with a serious health condition.
- **Assisting a service member:** An employee can take time to assist when their spouse, domestic partner, child, or parent is called to active military service abroad.
- **Support when under quarantine:** An employee may also be able to take leave in situations when they or their minor dependent child are under an order of quarantine or isolation due to COVID-19. See [PaidFamilyLeave.ny.gov/COVID19](https://PaidFamilyLeave.ny.gov/COVID19) for full details.

## Can employees opt out?

Paid Family Leave coverage is not optional for most employees. Some part-time or seasonal employees may qualify for a waiver to opt out of coverage. Employees can only waive coverage if they:

- regularly work fewer than 20 hours per week and won't work 175 days in a year, or
- regularly work 20 or more hours per week but won't be in employment 26 consecutive weeks.

If an employee meets the criteria for waiving coverage, you must provide them with a waiver form (available at [paidfamilyleave.ny.gov/pfl-waiver-form](https://paidfamilyleave.ny.gov/pfl-waiver-form)). If an employee chooses to waive coverage, they will not make contributions and will not be eligible for Paid Family Leave benefits. You must keep a copy of their waiver on file.

## Can waivers be revoked?

If an employee's schedule changes and they no longer qualify for a waiver, it will be automatically revoked within eight weeks of the schedule change. An employee may voluntarily revoke a waiver at any time.

If an employee's waiver is revoked, you can begin taking Paid Family Leave contributions and collect any retroactive amounts due back to the date the waiver was signed. Keep in mind, however, that any amounts collected in excess of the Paid Family Leave premium charged by your carrier must be promptly returned to employees.

## What is the employer's role in the request process?

Employees are responsible for submitting Paid Family Leave requests to your insurance carrier; it is not your responsibility as the employer. Your role is simple:

- **Employees notify you:** Employees must notify you (as their employer) at least 30 days before the start of leave if it's foreseeable; otherwise, they must notify you as soon as possible.
- **Provide request forms:** You should have Paid Family Leave request forms available to give employees upon request. They can also get these forms from your insurance carrier or directly from [PaidFamilyLeave.ny.gov/forms](https://PaidFamilyLeave.ny.gov/forms).
- **Complete the employer's portion of request forms:** The *Request for Paid Family Leave (Form PFL-1)* includes an "Employer Information" section (*Part B*) to be completed by the employer. When employees give you this form, you have three business days to complete *Part B* and return the form to them. If there is a delay, employees do not have to wait to proceed. They can send the *Form PFL-1* that they have filled out, along with the rest of their request package, directly to the insurance carrier. Their request cannot be considered incomplete solely because you did not fill out *Part B* of *Form PFL-1* within three business days.

Employees must submit their completed request package to the insurance carrier within 30 days after the start of their leave to avoid losing benefits. In most cases, the insurance carrier must pay or deny benefits within 18 days of receiving a completed request or the employee's first day of leave, whichever is later.

*\*New in 2023. Check with your insurance carrier for details on when this goes into effect for your policy.*



## Employer's Checklist

New York State designed Paid Family Leave to be easy for employers to implement. Below is a checklist of your responsibilities under the law.

### Ensure you have Paid Family Leave insurance.

- If you are required to carry disability benefits insurance, you are also required to carry Paid Family Leave.
- For a list of insurers offering disability benefits and Paid Family Leave policies, search “PFL” on the Department of Financial Services website [dfs.ny.gov](https://dfs.ny.gov).

### Inform your employees about Paid Family Leave.

- Employee handbooks and/or other written guidance to employees must include information on Paid Family Leave.
- Model language for these materials is available to download in the “Employers” section of [PaidFamilyLeave.ny.gov](https://PaidFamilyLeave.ny.gov). You can customize it, or just fill in a few blanks and print it as is.
- Have a *Statement of Rights (Form PFL-271S)* available for employees. This form is also available in the “Employers” section of [PaidFamilyLeave.ny.gov](https://PaidFamilyLeave.ny.gov).

### Collect employee payroll contributions to pay for the insurance.

- You may withhold employee contributions at the rate set by DFS each year to pay for the cost of the insurance until employees reach their annual maximum contributions.
- Details on the current deduction rate and annual maximum contribution, along with a deduction calculator, are available at [PaidFamilyLeave.ny.gov/cost](https://PaidFamilyLeave.ny.gov/cost).
- It is strongly recommended you notify employees before withholding any contributions. A model notification is available in the “Employers” section of [PaidFamilyLeave.ny.gov](https://PaidFamilyLeave.ny.gov).

### Offer waivers to those who qualify.

- Identify all employees who regularly work fewer than 20 hours per week and won't work 175 days in a year, or who regularly work 20 or more hours per week but won't be in employment for 26 consecutive weeks.
- You must offer these employees a waiver form, which is available at [paidfamilyleave.ny.gov/pfl-waiver-form](https://paidfamilyleave.ny.gov/pfl-waiver-form).
- Keep all employee waivers on file.

### Post an employee notice.

- Your insurance carrier provides you with a *Notice of Compliance (Form PFL-120)* — also known as *Notice to Employees* — stating that you have Paid Family Leave insurance and key information about the benefit.
- If you are self-insured, you can get this notice by contacting the NYS Workers' Compensation Board at [certificates@wcb.ny.gov](mailto:certificates@wcb.ny.gov).
- Post and maintain this notice in plain view, similar to how the signage for workers' compensation and disability benefits insurance is displayed.

### Handle requests.

- When an employee applies for leave, they will give their *Request for Paid Family Leave (Form PFL-1)* to you so that you may complete the employer's part of the form (*Part B*).
- Complete *Part B* and return the form to the employee within three business days.

For more information, visit [PaidFamilyLeave.ny.gov](https://PaidFamilyLeave.ny.gov) or call (844) 337-6303.



Paid Family  
Leave



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**BASIC MINIMUM HOURLY RATE (per hour)**

...as of 12/31/19 12/31/20 12/31/21 12/31/22 01/01/24

**BASIC MINIMUM HOURLY RATE**

NYC - Large Employers (of 11 or more)	\$15.00	\$15.00	\$15.00	\$15.00	\$16.00
NYC - Small Employers (10 or less)	\$15.00	\$15.00	\$15.00	\$15.00	\$16.00
Long Island & Westchester	\$13.00	\$14.00	\$15.00	\$15.00	\$16.00
Remainder of New York State	\$11.80	\$12.50	\$13.20	\$14.20	\$15.00

**MEAL ALLOWANCE\* (per meal)****ALL EMPLOYEES**

NYC - Large Employers (of 11 or more)	\$1.70
NYC - Small Employers (10 or less)	\$1.70
Long Island & Westchester	\$1.70
Remainder of New York State	\$1.70

\*No allowance for meals shall be considered as part of the minimum wage if a migrant seasonal employee earns less than \$254.00 in a two week period.

**LODGING AND UTILITIES ALLOWANCES\*\*****SINGLE OCCUPANCY (per week)**

NYC - Large Employers (of 11 or more)	\$18.95
NYC - Small Employers (10 or less)	\$18.95
Long Island & Westchester	\$18.95
Remainder of New York State	\$18.95

**MULTIPLE OCCUPANCY (per week)**

NYC - Large Employers (of 11 or more)	\$12.65
NYC - Small Employers (10 or less)	\$12.65
Long Island & Westchester	\$12.65
Remainder of New York State	\$12.65

**EMPLOYER-FURNISHED HOUSE/APT INDIVIDUAL (per day)**

NYC - Large Employers (of 11 or more)	\$5.00
NYC - Small Employers (10 or less)	\$5.00
Long Island & Westchester	\$5.00
Remainder of New York State	\$5.00

**EMPLOYER-FURNISHED HOUSE/APT FAMILY (per day)**

NYC - Large Employers (of 11 or more)	\$8.00
NYC - Small Employers (10 or less)	\$8.00
Long Island & Westchester	\$8.00
Remainder of New York State	\$8.00

\*\*The lodging and utilities allowance is for all employees except migrant seasonal. No allowance for lodging and utilities shall be considered as part of the minimum wage for a migrant seasonal employee.

**TBD.** To be determined administratively prior to the dates indicated.

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**SALARIO MÍNIMO BÁSICO POR HORA (por hora)**

	...al día	31/Dic/19	31/Dic/20	31/Dic/21	31/Dic/22	1/Ene/24
<b>SALARIO MÍNIMO BÁSICO POR HORA</b>						
Ciudad de NY – Grandes empleadores (11 o más)		\$15.00	\$15.00	\$15.00	\$15.00	\$16.00
Ciudad de NY – Pequeños empleadores (10 o menos)		\$15.00	\$15.00	\$15.00	\$15.00	\$16.00
Long Island y Westchester		\$13.00	\$14.00	\$15.00	\$15.00	\$16.00
Resto del estado de Nueva York		\$11.80	\$12.50	\$13.20	\$14.20	\$15.00

**ASIGNACIÓN POR COMIDAS\* (por comida)**

<b>TODOS LOS EMPLEADOS</b>	
Ciudad de NY – Grandes empleadores (11 o más)	\$1.70
Ciudad de NY – Pequeños empleadores (10 o menos)	\$1.70
Long Island y Westchester	\$1.70
Resto del estado de Nueva York	\$1.70

\*Ninguna asignación por comidas se considerará parte del salario mínimo si un empleado migrante estacional gana menos de \$254.00 en un período de dos semanas.

**ASIGNACIÓN POR ALOJAMIENTO Y SERVICIOS BÁSICOS\*\***

<b>OCUPACIÓN INDIVIDUAL (por semana)</b>	
Ciudad de NY – Grandes empleadores (11 o más)	\$18.95
Ciudad de NY – Pequeños empleadores (10 o menos)	\$18.95
Long Island y Westchester	\$18.95
Resto del estado de Nueva York	\$18.95
<b>OCUPACIÓN MÚLTIPLE (por semana)</b>	
Ciudad de NY – Grandes empleadores (11 o más)	\$12.65
Ciudad de NY – Pequeños empleadores (10 o menos)	\$12.65
Long Island y Westchester	\$12.65
Resto del estado de Nueva York	\$12.65
<b>CASA O DEPARTAMENTO INDIVIDUAL PROPORCIONADO POR EL EMPLEADOR (por día)</b>	
Ciudad de NY – Grandes empleadores (11 o más)	\$5.00
Ciudad de NY – Pequeños empleadores (10 o menos)	\$5.00
Long Island y Westchester	\$5.00
Resto del estado de Nueva York	\$5.00
<b>CASA O DEPARTAMENTO FAMILIAR PROPORCIONADO POR EL EMPLEADOR (por día)</b>	
Ciudad de NY – Grandes empleadores (11 o más)	\$8.00
Ciudad de NY – Pequeños empleadores (10 o menos)	\$8.00
Long Island y Westchester	\$8.00
Resto del estado de Nueva York	\$8.00

\*\*La asignación de alojamiento y servicios básicos es para todos los empleados, excepto los migrantes estacionales. Ninguna prestación de alojamiento y servicios básicos se considerará parte del salario mínimo de un empleado migrante estacional.

**NOTAS**

TBD. Por definir de manera administrativa antes de las fechas indicadas.

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Pay Notice and Acknowledgement for Farm Workers

This notice, when properly completed, satisfies the:

- Pay notice provisions of Section 195 of the NYS Labor Law
Written work agreement provisions of Part 190, the Farm Minimum Wage Order

1. Employer Information

Name: Phone:

Doing Business As (DBA) Name(s):

Physical address:

Mailing address:

Federal Employer Identification Number (FEIN) (optional):

2. Notice given: At hiring Before a change in pay rates, allowances claimed, or payday

3. Specific location where worker will work:

4. Types of work to be performed:

Empty box for types of work to be performed

5. Hours:

6. Describe employer provided housing arrangements, if any, including number of rooms and cooking facilities:

Empty box for housing arrangements

7. Employee's regular hourly rate(s) of pay and overtime rate of pay:

Indicate basis; per hour, shift, day, week, salary, or per unit. (Give capacity of unit.)

Rate: per: Overtime rate:

Rate: per: Overtime rate:

The Overtime Rate must be at least time and one-half the regular pay rate. If the pay rate is not hourly based, the overtime rate must be at least 1 1/2 times the worker's weighted average of the multiple rates of pay for the week, with few exceptions.

8. Payday: For week ending:

9. Frequency of pay: Weekly: Other:

10. Allowances, if any, to be credited towards minimum wage:

Number of meals per day: Amount per meal: \$

\*No allowance for meals shall be considered as part of the minimum wage if a migrant seasonal employee earns less than \$254.00 in a two-week period.

Lodging and utilities: \$

The lodging and utilities allowance is for all employees except migrant seasonal. \*No allowance for lodging and utilities shall be considered as part of the minimum wage for a migrant seasonal employee.

Payments in kind \$ Specify:

11. All planned payroll deductions (e.g., health insurance, retirement contributions, other):

[Empty box for payroll deductions]

12. Employer provided Paid Sick Leave

[Empty box for Paid Sick Leave]

13. Employer provided benefits (e.g. vacation, personal days, holidays, bereavement leave, other):

[Empty box for employer provided benefits]

14. Approximate period of employment: Start date: \_\_\_\_\_ End date: \_\_\_\_\_

15. Non-economic terms and conditions of employment (e.g., transportation availability, medical service, childcare, schooling, etc.):

[Empty box for non-economic terms and conditions]

16. Union affiliation and Representative contact information, if any: \_\_\_\_\_.

**In NYS, farm workers possess the right to organize, which includes forming, joining, or assisting labor organizations, and the right to bargain collectively through representatives of their own choosing. Farm workers are protected from retaliation, including termination, if they are speaking to each other about labor conditions and organizing. However, farm workers do not have the right to strike.**

17. Day-of-rest: \_\_\_\_\_

Employers may not compel farm laborers to work on their day-of-rest. Farm Laborers must be paid time and one-half their regular rate of pay for choosing to work on their day-of-rest.

Nothing in this provision prevents a farm laborer from working on the day-of-rest provided the employer compensates the employee at a rate of at least time and one-half of the employees' regular rate of pay for all hours worked on the day-of-rest (if total has not exceeded overtime threshold).

18. Employee Acknowledgment and Affirmation:

On this day, I have been notified of my pay rate, overtime rate, day-of-rest, allowances, and payday. I affirm that I told my employer what my primary language is. Check one:

- I have been given this pay notice in English because it is my primary language, or
- I have been given this pay notice in English only, because the Department of Labor does not yet offer a pay notice form in my primary language, which is: \_\_\_\_\_

Employee's name (print): \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

19. Preparer's name (print): \_\_\_\_\_ Title: \_\_\_\_\_

**The employee must receive a signed copy of this document. The employer must preserve a copy for 6 years.**

### **Additional Information:**

Section 195 NYS Labor Law: Employers must give the information on this notice in writing to all employees at the time of hiring.

Employers must notify employees in writing of any changes to the information in this notice at least seven calendar days prior to the time of such changes, unless such changes are reflected on the employee's wage statement. However, even if the change will be reflected on the employee's wage statement, employers may not lower an employee's rate(s) of pay without notifying the employee before the work is performed.

Employers must notify their employees in writing or by publicly posting their policy on sick leave, vacation, personal leave, holidays and hours.

Employers must preserve their payroll records for 6 years.

NYS Minimum Wage Order for Farm Workers: Employers must post, in a conspicuous place on the farm:

- a copy of any generally applicable work agreement **and**
- a posting issued by the NYS Department of Labor summarizing the Farm Minimum Wage provisions.

It is unlawful for an employee to be paid less than an employee of the opposite sex or because the employee is in a protected class.

Employers may not prohibit employees from discussing their wages with co-workers.

Employers may not enquire about an employee's salary history.



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# WE ARE YOUR DOL



División de Normas Laborales

## Aviso y aceptación de pago para trabajadores agrícolas

Este aviso, cuando se llena correctamente, satisface:

- Las disposiciones sobre aviso de pago de la Sección 195 de la Ley del Trabajo del Estado de NY
- Las disposiciones sobre contrato de trabajo por escrito de la Parte 190 de la Orden de Salario Mínimo Agrícola

### 1. Información del empleador

Nombre: \_\_\_\_\_ Teléfono: \_\_\_\_\_

Operando bajo el nombre: \_\_\_\_\_

Dirección física: \_\_\_\_\_

Dirección postal: \_\_\_\_\_

Número de Identificación Federal del Empleador (FEIN) (opcional): \_\_\_\_\_

2. **Aviso dado:**  Al ser contratado  Antes de un cambio en el sueldo, las prestaciones o el día de pago

3. **Lugar específico en donde trabajará el trabajador:** \_\_\_\_\_

### 4. Tipos de trabajo que hará:

5. **Horario:** \_\_\_\_\_

6. **Describe los arreglos de vivienda provistos por el empleador, de haberlos, incluyendo la cantidad de**

**habitaciones y las instalaciones para cocinar:**

7. **Sueldos regulares y sueldos por tiempo extra del empleado:** \_\_\_\_\_

Indique la base: por hora, turno, día, semana, salario, o por unidad. (Incluya la capacidad de la unidad).

Sueldo: \_\_\_\_\_ por: \_\_\_\_\_ Sueldo por tiempo extra: \_\_\_\_\_

Sueldo: \_\_\_\_\_ por: \_\_\_\_\_ Sueldo por tiempo extra: \_\_\_\_\_

El sueldo por tiempo extra debe ser al menos una y media veces el sueldo regular. Si el sueldo no es por horas, el sueldo por tiempo extra debe ser al menos 1½ veces el promedio ponderado de los múltiples sueldos del trabajador durante la semana, con pocas excepciones.

8. **Día de pago:** \_\_\_\_\_ Para la semana que terminó el: \_\_\_\_\_

9. **Frecuencia de pago:** Semanal: \_\_\_\_\_ Otra: \_\_\_\_\_

10. **Prestaciones, si las hay, para acreditar para el salario mínimo:**

Número de comidas al día: \_\_\_\_\_ Cantidad por comida: \$ \_\_\_\_\_

\*Ninguna prestación de comida se considerará parte del salario mínimo si un empleado migrante estacional gana menos de \$254.00 en un período de dos semanas.

Alojamiento y servicios básicos: \$ \_\_\_\_\_

La asignación de alojamiento y servicios es para todos los empleados, excepto los migrantes estacionales. \*Ninguna prestación de alojamiento y servicios básicos se considerará parte del salario mínimo de un empleado migrante estacional.

Pagos en especie \$ \_\_\_\_\_ Especifique: \_\_\_\_\_

11. **Todas las deducciones de nómina planeadas** (por ejemplo, seguro de salud, aportaciones para jubilación, otras):

12. **Permiso por enfermedad pagado provisto por el empleador**

13. **Beneficios provistos por el empleador** (por ejemplo, vacaciones, días por motivos personales, feriados, permiso por duelo, otros.):

14. **Período aproximado de empleo:** Fecha de inicio: \_\_\_\_\_ Fecha de terminación: \_\_\_\_\_

15. **Términos y condiciones no económicos de empleo** (por ejemplo, disponibilidad de transporte, servicio médico, guardería, escuelas, etc.):

16. **Afiliación a sindicato e información de contacto del representante, si lo hay:** \_\_\_\_\_.

**En el estado de NY los trabajadores agrícolas tienen derecho a organizarse, lo que incluye formar, afiliarse o ayudar a las organizaciones sindicales, y el derecho a negociar colectivamente mediante representantes de su elección. Los trabajadores agrícolas están protegidos de represalias, incluido el despido, si hablan entre sí sobre las condiciones de trabajo y organización. Sin embargo, los trabajadores agrícolas no tienen el derecho de hacer huelga.**

17. **Día de descanso:** \_\_\_\_\_

Los empleadores no pueden obligar a los trabajadores agrícolas a trabajar en su día de descanso. Los trabajadores agrícolas deben recibir pago a razón de una y media veces su sueldo regular por decidir trabajar en su día de descanso.

Nada de lo expresado en esta disposición impide que un trabajador agrícola trabaje en su día de descanso, siempre y cuando su empleador remunere al empleado con un sueldo que sea al menos una y media veces el sueldo regular del empleado por todas las horas trabajadas en el día de descanso (si el total no ha excedido el límite de tiempo extra).

18. **Aceptación y declaración del empleado:**

En este día se me han notificado mi sueldo, mi sueldo por tiempo extra, mi día de descanso, mis prestaciones y mi día de pago. Declaro que le he dicho a mi empleador cuál es mi idioma principal.

Mi idioma principal is \_\_\_\_\_,

y me han entregado este aviso de pago en mi idioma principal.

**Nombre del empleado** (en letra de molde): \_\_\_\_\_

**Firma:** \_\_\_\_\_ **Fecha:** \_\_\_\_\_

19. **Nombre de quien contestó** (en letra de molde): \_\_\_\_\_ **Puesto:** \_\_\_\_\_

**El empleado debe recibir una copia firmada de este documento. El empleador debe conservar una copia durante 6 años.**

## Información adicional:

Sección 195 de la Ley de Trabajo del Estado de New York: Los empleadores deben entregar la información de este aviso por escrito a todos los empleados al momento de su contratación.

Los empleadores deben notificar por escrito a los empleados sobre cualquier cambio en la información en este aviso al menos siete días calendario antes del momento del cambio, salvo cuando dichos cambios se reflejen en el recibo de pago del empleado. Sin embargo, incluso si el cambio se reflejará en el recibo de pago del empleado, los empleadores no pueden reducir el sueldo de un empleado sin notificarlo al empleado antes de que desempeñe el trabajo.

Los empleadores deben notificar a sus empleados sobre sus políticas de permiso por enfermedad, vacaciones, permisos personales, días feriados y horas trabajadas, ya sea por escrito o publicándolas en un lugar prominente.

Los empleadores deben conservar sus registros de nóminas durante 6 años.

Orden sobre el salario mínimo para trabajadores agrícolas en el estado de NY: Los empleadores deben publicar, en un lugar prominente de la granja:

- una copia de todos los acuerdos de trabajo aplicables en general **y**
- una publicación expedida por el Departamento de Trabajo del Estado de NY que resuma las disposiciones referentes al salario mínimo agrícola.

Es ilegal que un empleado reciba un pago menor que el de un empleado del sexo opuesto o debido a que el empleado forma parte de una clase protegida.

Los empleadores no pueden prohibir a los empleados que hablen sobre sus sueldos con sus compañeros de trabajo.

Los empleadores no pueden hacer preguntas sobre la historia salarial de un empleado.

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