

Arizona

● ARIZONA AGRICULTURAL EMPLOYMENT RELATIONS ACT

STATUTORY CITATION: Ariz. Rev. Stat. §§ 23-1381 – 23-1395

GENERAL SUMMARY: Declaring, in part, that agricultural employees are free to organize and enter into collective bargaining contracts establishing their wages and other terms of employment (or to refrain from such activities), the Arizona Agricultural Employment Relations Act sets up a state-administered process for elections to resolve questions concerning representation of agricultural employees, defines the organizational and collective bargaining rights of employees and the management rights of employers, prohibits certain specified unfair labor practices by both employers and labor organizations, and regulates the conduct of contract negotiations between employers and certified representatives of their employees.

The Act applies to agricultural employers that employed 6 or more agricultural employees for a period of 30 days during the preceding six months, as well as to independent contractors (including farm labor contractors or crew leaders) who provide labor and services on one or more farms and employed 6 or more farm employees for 30 days during the preceding six months.

SPECIFIC TERMS AND CONDITIONS

RIGHTS OF EMPLOYEES — Among other rights, agricultural employees are free to self-organize, to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, or to bargain directly for themselves. Farmworkers also have the right to refrain, without interference, from any or all such activities.

RIGHTS OF EMPLOYERS — Among other rights, agricultural employers are entitled to manage, control and conduct their farming operations, to hire, transfer or fire their employees in accordance with the employees' ability, to determine the type of equipment or machinery to be used, and to set the standards and judge the quality of work.

ISSUES SUBJECT TO NEGOTIATION — The terms of employment relating to wages, hours, conditions of work, and matters of worker safety, sanitation and health, as well as the establishment of grievance procedures directly relating to the job, are subject to negotiation between employers and workers or their representatives.

ELECTIONS — If a valid question of representation exists, the state agency administering the Act must call an election by secret ballot whenever:

(1) An agricultural employee, a group of agricultural employees, or a labor organization acting in their behalf presents a petition alleging (a) that at least 30 percent of the agricultural employees in a particular employment unit wish to be represented and that their employer declines to recognize their representative, or (b) that the individual or labor organization currently certified or recognized by the employer as the bargaining representative is no longer a representative; or

(2) An agricultural employer presents a petition alleging (a) that one or more individuals or labor organizations have presented the employer with a claim to be recognized as the employees' representative, or (b) that an individual or labor organization previously certified as the bargaining representative is no longer a representative.

In any representation election, voters must be offered an opportunity to vote "no union."

UNFAIR LABOR PRACTICES BY EMPLOYERS — In addition to other prohibited acts, agricultural employers may not interfere with the exercise of employees' rights under the Act and related provisions, may not discourage or encourage membership in any labor organization, and may not refuse to bargain collectively with certified representatives of their agricultural employees.

UNFAIR LABOR PRACTICES BY LABOR ORGANIZATIONS — Among other prohibited acts, labor organizations and their agents (1) may not intimidate, restrain or coerce agricultural employers in the exercise of their rights under the Act, (2) may not intimidate, restrain or coerce agricultural employees in the exercise or enjoyment of their rights under this law and related provisions, (3) may not refuse to bargain collectively with an agricultural employer, provided the labor organization is the certified representative of the employer's employees, (4) may not engage in a secondary boycott, and (5) may not call a strike unless a majority of the employees within the bargaining unit have first approved such a strike by secret ballot.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by this law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Agricultural Employment Relations Board, Phoenix, Arizona 85007 (602-542-3262)*. The Board is responsible for processing petitions for representation and decertification elections, supervising all such elections, enforcing employee and employer rights under the Act, and enforcing compliance with the Act's unfair labor practices provisions.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

California

● **AGRICULTURAL LABOR RELATIONS ACT OF 1975**

STATUTORY CITATION: Cal. Lab. Code §§ 1140–1166.3

GENERAL SUMMARY: Declaring it a matter of public policy to encourage and protect the right of agricultural employees to organize freely and to negotiate the terms and conditions of their employment without interference, restraint or coercion, the Agricultural Labor Relations Act establishes a state-administered mechanism to assure the exercise of collective bargaining rights by the state's farmworkers. The Act enumerates the rights of agricultural employees, defines various unfair labor practices, outlines the process under which representation elections may be petitioned and under which such elections must be conducted, and prescribes measures for preventing unfair labor practices and enforcing compliance.

SPECIFIC TERMS AND CONDITIONS

WORKERS' RIGHTS — Agricultural employees have the right to self-organize, to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection. Workers also have the right to refrain from any or all such activities, except to the extent that this right may be affected by a valid agreement requiring membership in a labor organization as a condition of continued employment.

UNFAIR LABOR PRACTICES BY EMPLOYERS — Among other prohibited acts, it is unlawful for an agricultural employer (1) to interfere with or coerce agricultural employees in the exercise of the rights listed above, (2) to dominate or interfere with the formation or operation of a labor organization, or contribute support to it, (3) to encourage or discourage membership in any labor organization by discrimination in hiring or setting terms and conditions of employment, (4) to fire or otherwise discriminate against a worker in retaliation for the worker's having filed charges or given testimony under the Act, (5) to refuse to negotiate in good faith with a labor organization that has been certified as the exclusive representative of the workers for collective bargaining purposes, or (6) to recognize, bargain with or sign a collective bargaining agreement with any labor organization not certified as the representative of the workers.

UNFAIR LABOR PRACTICES BY LABOR ORGANIZATIONS — Among other prohibited acts, it is unlawful for a labor organization or its agents (1) to interfere with agricultural employees in the exercise of the rights outlined above, or to interfere with employers in the selection of their collective bargaining representatives, (2) to engage in or promote discrimination against employees for reasons related to their membership or non-membership in a labor organization, (3) to refuse to bargain in good faith with an agricultural employer whose employees the labor organization is certified to represent, or (4) to engage in certain types of strikes, picketing and boycotts.

ELECTIONS — Any agricultural employee or group of employees, or any person or labor organization acting in their behalf, may file a petition with the state administering agency requesting an election for the purpose of determining the workers' wishes with regard to union representation, provided (1) the petition is signed by, or accompanied by authorization cards signed by, a majority of the current employees in the bargaining unit, (2) the number of agricultural workers currently employed is not less than 50 percent of the employer's peak agricultural employment for the current calendar year, (3) no election has been conducted among the employer's workers within the most recent 12 months, (4) no labor organization is currently certified as the workers' representative, and (5) the petition is not barred by an existing collective bargaining agreement. If the Board's investigation determines that a bona fide question of representation exists, the Board must arrange for a secret-ballot election within 7 days of the filing of the petition (or, if possible, within 48 hours if the majority of the workers are on strike). Any other labor organization that presents authorization cards signed by at least 20 percent of the workers in the bargaining unit within 24 hours of the election must also appear on the ballot. Except in the case of runoff elections between competing unions, employees must be given an opportunity to vote against being represented by a labor organization at all.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Agricultural Labor Relations Board, Sacramento, California 95814 (800-449-3699)*. The Board is responsible for determining the appropriate unit or units of agricultural employees among which each secret ballot election will be held, for conducting such elections, and for monitoring compliance with the unfair labor practice provisions of the Act. The Board must respond to all complaints of unfair labor practices, through investigation and hearing. In conducting these functions, the Board and its agents have the right of free access to all workplaces and the right to subpoena witnesses and documents.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

Kansas

● **AGRICULTURAL EMPLOYMENT RELATIONS LAW**

STATUTORY CITATION: Kan. Stat. §§ 44-818 – 44-830

RELATED REGULATIONS: Kan. Admin. Regs. §§ 12-1-1 – 12-2-17

GENERAL SUMMARY: To eliminate obstructions to the free flow of commerce, while protecting the right of agricultural workers in Kansas to organize without undue injury to the public interest, the agricultural employment relations law (1) clarifies the labor rights of farmworkers and the corresponding rights of agricultural employers, (2) prescribes procedures for certification or recognition of employee bargaining representatives, (3) defines certain prohibited practices by employers, workers and worker organizations, and (4) creates a state board to resolve representational questions, mediate bargaining disputes, and process unfair labor practice complaints.

These provisions generally apply only to agricultural employers who employed 6 or more workers for 20 or more days of any calendar month during the six months preceding the filing of a petition for recognition by such workers.

SPECIFIC TERMS AND CONDITIONS

RIGHTS OF WORKERS — Agricultural employees have the right to form, join and participate in the activities of labor organizations of their own choosing, for the purpose of meeting and conferring with agricultural employers concerning grievances and employment conditions. Farmworkers also have the right to refrain from such activities, and no worker may be required to join a labor organization as a condition of employment.

RIGHTS OF EMPLOYERS — Agricultural employers have the right to manage their own production operations, which includes directing the work of their employees, making decisions regarding the hiring, promotion, demotion, suspension, and discharge of their employees, and determining what crops will be produced and how they will be grown and marketed.

CERTIFICATION OR RECOGNITION OF LABOR ORGANIZATIONS — Upon filing of a petition for certification or investigation of a bargaining representative, accompanied by the names of at least 30 percent of the workers in an appropriate bargaining unit, or when a question concerning representation is raised by an employer, the state board is required to determine voting eligibility and conduct an election. Recognition will be granted only to a labor organization that has been selected by secret ballot by a majority of the eligible workers in an appropriate unit who vote in the election. Each worker must be given an opportunity to vote for the labor organization of his or her choice, or to choose no representation. A certified labor organization is obligated to fully and equally represent all employees in the unit involved, irrespective of their membership in the organization.

If the board has certified a labor organization in a particular unit, it is generally not required to consider the matter again for a period of one year. Furthermore, no election may be ordered if a valid contract is in effect, for a duration not exceeding 3 years, unless a petition is received from at least 70 percent of the unit's employees seeking decertification.

PROHIBITED PRACTICES BY EMPLOYERS — Agricultural employers and their representatives are forbidden from engaging in the following acts, among others:

- (1) Interfering with, restraining or coercing farmworkers in the exercise of the rights outlined above.
- (2) Dominating, interfering with or assisting in the formation or administration of an agricultural labor organization.
- (3) Encouraging or discouraging membership in a labor organization or similar association, by discriminating in hiring, tenure or other conditions of employment.
- (4) Refusing to meet and confer in good faith with representatives of certified or recognized labor organizations.

PROHIBITED PRACTICES BY WORKERS AND LABOR ORGANIZATIONS — Among others, the following activities are forbidden of agricultural workers and agricultural labor organizations:

- (1) Interfering with, restraining or coercing farmworkers in the exercise of the worker rights mentioned above.
- (2) Interfering with the management rights of agricultural employers, as discussed above.
- (3) Conducting organizational picketing at an employer's residence or place of business.
- (4) Refusing to meet and confer in good faith with an agricultural employer as required.
- (5) Engaging in a strike during a critical period of production or harvesting, or during mediation, fact-finding or arbitration proceedings.
- (6) Engaging in a secondary boycott.

RETALIATION — An employer may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

SPECIAL NOTES OR ADVISORIES

ENFORCEMENT LIMITATION — The agency created to enforce the agricultural employment relations law is activated only when a complaint is filed with the state Secretary of Agriculture alleging the existence of a controversy. Within 15 days of such a filing, the Secretary of Labor, the Secretary of Administration, and the Secretary of Agriculture must submit to the Governor the names of potential appointees, representing agricultural workers, agricultural employers, and the general public, respectively. Within 10 days after receiving the names, the Governor is required to appoint one person from each list to comprise the Agricultural Labor Relations Board. The agency is deactivated when the agriculture secretary determines there is no pending or threatened controversy under the law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Agricultural Labor Relations Board, Kansas Department of Labor, Topeka, Kansas 66603.* This agency is currently inactive.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *Secretary of Agriculture, Kansas Department of Agriculture, Manhattan,*

Labor Relations & Collective Bargaining — Agricultural Labor Relations — Kansas

Kansas 66502 (785-564-6700). As described in the special note above, the Secretary of Agriculture has authority to activate and deactivate the Agricultural Labor Relations Board, in response to labor conflicts submitted to the Secretary's office and in the absence of such conflicts.