

● WORKFORCE OPPORTUNITY WAGE ACT

STATUTORY CITATION: Mich. Comp. Laws §§ 408.411 – 408.424

RELATED REGULATIONS: Mich. Admin. Code R. 408.701 – 408.787

GENERAL SUMMARY: The Workforce Opportunity Wage Act generally forbids any Michigan employer who (1) has 2 or more employees, and (2) is not subject to the minimum wage provisions of the federal Fair Labor Standards Act, from paying wages at a rate less than \$8.90 an hour beginning January 1, 2017, and \$9.25 beginning January 1, 2018.

Beginning in January 2019 and every January thereafter, the state treasurer will adjust the minimum wage to reflect the average annual percentage change in the consumer price index, provided that an annual increase may not exceed 3.5 percent. The revised rate will take effect on April 1 each year.

PROVISIONS APPLICABLE TO AGRICULTURE

APPLICABILITY OF MINIMUM WAGE — Because this law *does not apply* to employees who are not covered by the FLSA minimum wage provisions, farmworkers are entitled to the state minimum wage only if they are employed by an agricultural establishment that used more than 500 worker-days of agricultural labor during any calendar quarter of the preceding calendar year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination).

Other Exceptions — The state minimum wage also *does not apply* to (1) local hand harvest laborers who commute daily from their permanent residence, are paid on a piece-rate basis in traditionally piece-rate occupations, and were engaged in agriculture less than 13 weeks during the preceding calendar year, and (2) non-local minors, 16 years of age or under, who are hand harvesters, paid on a piece-rate basis in traditionally piece-rate occupations, employed on the same farm as their parent, and paid the same piece rate as those over 16.

PIECE RATE WORKERS — Under rules adopted by the director of the state licensing and regulatory affairs department, the piecework wage scale applicable to the harvesting of fruits and vegetables must be equivalent to the state hourly minimum wage specified above. Thus, if the payment by unit of production is applied to a worker of average ability and diligence in harvesting a particular commodity, he or she must receive an amount not less than the hourly minimum wage.

PAY STATEMENTS AND POSTING — Every employer subject to the Workforce Opportunity Wage Act must furnish each worker with a statement of hours worked, wages paid and deductions for each pay period. Subject employers must also keep a summary of the Act, its regulations and orders conspicuously posted at the workplace.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — *Wage and Hour Division, Michigan Department of Licensing and Regulatory Affairs, Lansing, Michigan 48909 (517-284-7800; toll-free 855-464-9243)*. At any time within 3 years after a minimum wage violation, the worker may file a claim with the Department. If the Department's investigation finds reasonable cause to believe the employer has violated the law and the Department is unable to obtain voluntary compliance within a reasonable time, the agency must take action in court to collect the claim.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — *None*.

PRIVATE CIVIL ACTION — Subject to the same 3-year time limitation applicable to administrative claims, a worker may file suit directly against an employer to recover unpaid wages, utilizing a private attorney or public legal service provider. A judgment in the worker's favor may include court costs, attorney's fees and liquidated damages, in addition to the unpaid wages.