

U.S.

● FAIR LABOR STANDARDS ACT OF 1938

STATUTORY CITATION: 29 USC §§ 201 – 219

RELATED REGULATIONS: 29 CFR Parts 516, 531, and 780

GENERAL SUMMARY: In addition to child labor restrictions, overtime pay requirements, and other workplace protections, the Fair Labor Standards Act establishes a nationwide minimum wage, currently \$7.25 per hour. With some exceptions, employers must pay the federal minimum wage to any of their employees who, in any workweek, are engaged in commerce or in the production of goods for commerce.

Employers subject to the minimum wage provision must also maintain and preserve records regarding the identity of their employees, pay rates, hours worked, earnings, deductions, and dates of payment.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM WAGE — A farm operator or other 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) is required to pay no less than the federal minimum wage to each employee during the current year, unless the employee is statutorily excluded from coverage. The federal minimum wage, applicable in all 50 states and in Puerto Rico, is currently \$7.25 per hour.

COVERAGE EXCLUSIONS — The following categories of farm employees are *not covered* by the minimum wage provision:

- (1) Any parent, spouse, child or other immediate family member of the employer.
- (2) Any person who is employed as a hand harvest worker, is paid on a piece-rate basis in an operation customarily paid by piece rate in the region of employment, commutes daily from his or her permanent residence to the farm where employed, and was employed in agriculture less than 13 weeks the preceding year.
- (3) Any person 16 years of age or under who is employed as a hand-harvest worker, is paid on a piece-rate basis in an operation generally recognized as a piece-rate job in the local area, is employed on the same farm as his or her parent (or person standing in the place of the parent), and is paid the same piece rate as employees over age 16 on the same farm.
- (4) Any person principally engaged in the range production of livestock.

VALUATION OF NON-CASH COMPENSATION — Agricultural employers who are required to pay the federal minimum wage may generally count as part of an employee's wages the reasonable cost of furnishing the worker with food, lodging or other facilities, as long as the employer customarily provides such benefits to all other employees. The U.S. Department of Labor has determined that "reasonable cost" does not include a profit to the employer or the employer's agents, and that the imputed value may not exceed the actual cost to the employer of the food, lodging or other facilities furnished the employee. Any facilities provided employees primarily for the benefit or convenience of the employer may not be counted as wages. Records documenting the cost of furnishing such benefits in lieu of cash wages must be maintained and preserved by the employer.

RECORDKEEPING REQUIREMENTS — Agricultural employers who reasonably anticipate using more than the requisite 500 worker-days of farm labor in any calendar quarter of the current year must keep a record of each employee's name, address, sex and occupation, as well as the number of worker-days of labor employed per week or per month. Those farm employers who actually used more than 500 worker-days of farm labor in any quarter of the preceding year must follow these same recordkeeping requirements for the entire current year, but must also record for each worker the date the employee's workweek begins, the wage rate involved, the number of hours worked per day or per week, total earnings per day or per week, deductions, net wages paid, and dates of payment. An employer who makes deductions from wages for board, lodging or other facilities furnished to the worker by the employer or the employer's designee must maintain and preserve records substantiating the cost of furnishing each type of service or facility.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — The question of who, if anyone, is liable for payment of the minimum wage in cases where workers are represented, supplied, or supervised by a crew leader or labor contractor depends substantially on the balance of control exercised by the crew leader and the farmer over the workers and the work performed. A crew leader who merely assembles a crew of farmworkers and brings them to the farm to be supervised and paid directly by the farm operator, and who does the same work and receives the same pay as crew members, is an employee of the farmer. In such circumstances, it is the farmer's worker-day count — including the labor of the both the crew leader and crew members — that determines whether or not the minimum wage applies; if so, it is the farmer and not the crew leader who is responsible for paying it.

On the other hand, where the farmer only establishes the general manner for the work to be done, and where the contractor or crew leader makes day-to-day decisions regarding the work and has the opportunity for profit through supervision of the crew and its output (especially through the authority to hire, fire and direct the workers, set pay rates, and resolve complaints), the contractor or crew leader is the employer of the workers. To the extent that the contractor or crew leader employs more than the required worker-day volume of labor in a calendar quarter, the contractor is obligated to pay the federal minimum wage.

Whether or not the crew leader is found to be a bona fide independent contractor, however, the workers are considered jointly employed by the crew leader and the farmer who is using their labor if the farmer has the power to direct, control or supervise the work or to determine pay rates or the method of payment. Both the farmer and the crew leader are equally responsible for compliance with the Fair Labor Standards Act, including payment of the minimum wage (if applicable) and recordkeeping.

RETALIATION — An employer may not discharge 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.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210 (202-693-0072).

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The Wage and Hour Division is authorized to investigate complaints of unpaid or sub-minimum wages and, where violations are found to have occurred, to impose civil penalties. In exercising these functions, the agency has authority to enter workplaces, interview employers and employees, and inspect and copy employment records.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

PRIVATE CIVIL ACTION — As an alternative to administrative enforcement, the Act also permits employees claiming unpaid minimum wages to file suit in federal court for back pay and related damages, using a private attorney or public legal service provider. An employer found by the court to have violated the Act's minimum wage requirements is liable to the worker in the amount of the unpaid wages and an additional equal amount as liquidated damages. The court may also award reasonable attorney's fees and court costs.

● IMMIGRATION AND NATIONALITY ACT (*TEMPORARY AGRICULTURAL WORKERS*)

STATUTORY CITATION: 8 USC § 1101(a)(15)(H)(ii)(a) and 8 USC § 1188

RELATED REGULATIONS: 20 CFR Part 655, Subpts. B and N

GENERAL SUMMARY: To protect the well-being of foreign agricultural workers admitted into the U.S. under the so-called "H-2A" program authorized by the Immigration and Nationality Act, and to assure that the importation of temporary labor does not erode job opportunities and working conditions for domestic farmworkers, the U.S. Department of Labor has adopted special wage standards applicable to agricultural establishments that employ U.S. or non-U.S. workers to perform services pursuant to a formal H-2A job offer.

SPECIFIC TERMS AND CONDITIONS

HOURLY WORKERS — Each H-2A worker, and any U.S. worker engaged in comparable employment, who is paid by the hour must be compensated at a rate not less than (1) the federal minimum wage, (2) the state minimum wage, (3) the prevailing hourly wage rate, or (4) the federally prescribed "adverse effect wage rate" for H-2A employment in the state, whichever of the four figures is highest. The adverse effect wage rate is an annually updated hourly wage floor intended to discourage domestic agricultural wage deflation which could otherwise result from the use of foreign labor. As computed for all states except Alaska, the following are the AEWRS established for calendar year 2017:

Alabama—\$10.62, Arizona—\$10.95, Arkansas—\$10.38, California—\$12.57, Colorado—\$11.00, Connecticut—\$12.38, Delaware—\$ 12.19, Florida—\$11.12, Georgia—\$10.62, Hawaii—\$13.14, Idaho—\$11.66, Illinois—\$13.01, Indiana—\$13.01, Iowa—\$13.12, Kansas—\$13.79, Kentucky—\$10.92, Louisiana—\$10.38, Maine—\$12.38, Maryland—\$12.19, Massachusetts—\$12.38, Michigan—\$12.75, Minnesota—\$12.75, Mississippi—\$10.38, Missouri—\$13.12, Montana—\$11.66, Nebraska—\$13.79, Nevada—\$11.00, New Hampshire—\$12.38, New Jersey—\$12.19, New Mexico—\$10.95, New York—\$12.38, North Carolina—\$11.27, North Dakota—\$13.79, Ohio—\$13.01, Oklahoma—\$11.59, Oregon—\$13.38, Pennsylvania—\$12.19, Rhode Island—\$12.38, South Carolina—\$10.62, South Dakota—\$13.79, Tennessee—\$10.92, Texas—\$11.59, Utah—\$11.00, Vermont—\$12.38, Virginia—\$11.27, Washington—\$13.38, West Virginia—\$10.92, Wisconsin—\$12.75, Wyoming—\$11.66.

PIECE-RATE WORKERS — Workers who are paid on a piece-rate basis and whose piecework earnings at the end of the pay period are below what they would have been had the workers been paid at the appropriate hourly rate for each hour worked, must be given supplemental pay at that time to make up the difference. In no instance may an H-2A employer pay a piece rate for a given crop operation that is less than the prevailing piece rate in the local area for the same operation. Minimum productivity standards used by employers as a condition for job retention by piece-rate workers are subject to certain regulatory restrictions.

GUARANTEED PAID WORKDAYS — In general, each U.S. and foreign worker hired under an H-2A work contract is guaranteed employment for at least 3/4 of the workdays in all periods during which the contract is in effect. If work is not available for the minimum number of guaranteed days, and for the full number of hours of daily work time defined in the contract, the employer must pay the worker the amount that would have been earned had the individual actually worked the guaranteed number of defined workdays. In computing the amount due under the guarantee for a worker paid by the hour, the employer must use the worker's regular hourly pay rate; in the case of a pieceworker, the guarantee is figured using the worker's average hourly piece-rate earnings or the adverse effect wage rate, whichever is higher.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against a worker because the worker has consulted with an attorney or legal services program personnel, filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Reports of unlawful retaliation should be filed with the Wage and Hour Division.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210 (202-693-0072).* It is the duty of the Wage and Hour Division to enforce compliance with the wage standards and all other elements in the required work contract between H-2A employers and their foreign and U.S. workers. Any person may report a suspected violation of H-2A contract provisions by contacting the nearest Wage and Hour office. Each violation of the work contract committed against a worker carries a maximum civil penalty of \$1,500.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *Office of Foreign Labor Certification, Employment and Training Administration, U.S. Department of Labor, Washington, D.C. 20210 (202-693-3010).* It is OFLC's role to assure that prospective H-2A employers have fulfilled their obligation to recruit and hire eligible domestic farmworkers prior to certifying the need for foreign labor, and that the wage rate offered to the workers and other aspects of the associated job offers comply with statutory requirements.

Alaska

○ ALASKA WAGE AND HOUR ACT (*MINIMUM WAGE*)

STATUTORY CITATION: Alaska Stat. §§ 23.10.050 – 23.10.150

GENERAL SUMMARY: With certain exceptions, the Alaska Wage and Hour Act prescribes a state minimum wage equal to \$9.80 an hour effective January 1, 2017, with the rate adjusted for inflation on September 30 each year and applied to the calendar year that follows. The state minimum wage applies to covered employees whether compensation is paid by the hour, on a piecework basis, or otherwise.

PROVISIONS APPLICABLE TO AGRICULTURE: The Alaska Wage and Hour Act **does not apply** to individuals employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Wage and Hour Administration, Division of Labor Standards and Safety, Department of Labor and Workforce Development, Juneau, Alaska 99811.*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Arizona

● ARIZONA MINIMUM WAGE LAW

STATUTORY CITATION: Ariz. Rev. Stat. §§ 23-362 – 23-365

GENERAL SUMMARY: Under a measure approved by the voters of Arizona in 2006, most employers in the state are required to pay no less than the state minimum wage for every hour of employment. A similar ballot initiative approved by voters in November 2016 raises the minimum wage in four steps:

Effective January 1, 2017: \$10.00 per hour

Effective January 1, 2018: \$10.50 per hour

Effective January 1, 2019: \$11.00 per hour

Effective January 1, 2020: \$12.00 per hour

On January 1 each year beginning in 2021, the existing minimum wage will be adjusted to account for inflation.

PROVISIONS APPLICABLE TO AGRICULTURE: The Arizona minimum wage applies to agricultural and non-agricultural employees alike.

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 these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *State Labor Department, Industrial Commission of Arizona, Phoenix, Arizona 85007 (602-542-4515)*. An employee who has not received the state minimum wage may file a wage claim with the state labor department. A wage claim form may be downloaded from the agency's website, at <http://test-az-ica.pantheonsite.io/forms/labor3303>.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

PRIVATE CIVIL ACTION — As an alternative to administrative enforcement, an employee may take legal action in civil court to recover unpaid wages and in such an action is entitled to recover an amount equal to *three times* the amount of the unpaid wages, plus interest. A civil suit to recover unpaid wages generally must be commenced no later than 2 years after the violation last occurred.

Arkansas

● MINIMUM WAGE ACT OF THE STATE OF ARKANSAS

STATUTORY CITATION: Ark. Code §§ 11-4-201 – 11-4-220

RELATED REGULATIONS: Ark. Code R. 010.14-001 – 010.14-113

GENERAL SUMMARY: The state minimum wage law generally requires employers with 4 or more employees in any work week to pay no less than \$8.50 an hour for every hour of work that week, effective January 1, 2017.

Among other exceptions, an employer who is otherwise obligated to pay the state minimum wage may apply to the state labor department for a certificate authorizing the employer to pay no less than 85 percent of the minimum wage to full-time students, for not more than 20 hours a week when school is in session and not more than 40 hours a week when school is not in session.

PROVISIONS APPLICABLE TO AGRICULTURE: The state minimum wage law applies only to large agricultural establishments, **excluding from coverage** the following categories of employees:

- (1) Workers employed by an agricultural establishment which did not use more than 500 worker-days of farm labor in any calendar quarter during the preceding calendar year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination).
- (2) Workers employed as hand-harvest laborers who are paid on a piecework basis, commute daily from their permanent residence to the farm where they work, and have been employed in agriculture less than 13 weeks during the preceding calendar year.
- (3) Migrant workers 16 years old or younger who are employed as hand-harvest laborers, paid on a piecework basis, work on the same farm as their parents, and are paid the same piecework wage as employees over the age of 16 on the same farm.

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 these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Labor Standards Division, Arkansas Department of Labor, Little Rock, Arkansas 72205 (501-682-4500)*. Employees who believe that they have not received the wages they are entitled to under the state minimum wage law may file a claim with the Department, which is authorized to investigate and take administrative or court action against the employer to collect the unpaid wages if a violation is found to have occurred. The Department also has authority to assess civil money penalties of up to \$1,000 for each violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

PRIVATE CIVIL ACTION — As an alternative to filing a wage claim with the Department of Labor, a worker may bring civil action against the employer directly, using a private attorney or a public legal service provider. If the worker prevails, the employer is liable for the full amount of unpaid wages, court costs and attorney's fees, and the worker may be entitled to an additional amount as liquidated damages.

California

● WAGE AND HOUR LAWS (*MINIMUM WAGE*)

STATUTORY CITATION: Cal. Lab. Code §§ 1171–1206

RELATED REGULATIONS: Cal. Code Regs. Title 8, §§ 11130 & 11140

GENERAL SUMMARY: The California state minimum wage is prescribed by statute through the year 2023 and applies to most workers in most industries, depending only on the size of each employer's workforce.

Employers with 25 Employees or Fewer — Workers employed by an establishment with no more than 25 employees must be paid no less than the following during the indicated time period:

January 1, 2017—December 31, 2017: \$10.00 per hour

January 1, 2018—December 31, 2018: \$10.50 per hour

January 1, 2019—December 31, 2019: \$11.00 per hour

January 1, 2020—December 31, 2020: \$12.00 per hour

January 1, 2021—December 31, 2021: \$13.00 per hour

January 1, 2022—December 31, 2022: \$14.00 per hour

January 1, 2023—December 31, 2023: \$15.00 per hour

Employers with 26 Employees or More — Workers employed by an establishment with more than 25 employees must be paid no less than the following during the indicated time period:

January 1, 2017—December 31, 2017: \$10.50 per hour

January 1, 2018—December 31, 2018: \$11.00 per hour

January 1, 2019—December 31, 2019: \$12.00 per hour

January 1, 2020—December 31, 2020: \$13.00 per hour

January 1, 2021—December 31, 2021: \$14.00 per hour

January 1, 2022—December 31, 2023: \$15.00 per hour

Beginning in 2023, on or before August 1 each year and subject to certain economic conditions, the state finance director will increase the minimum wage by the *lesser* of (a) 3.5 percent, or (b) the rate of change in the consumer price index for urban wage earners and clerical workers, but in no case will the existing rate be lowered. The adjusted minimum wage will become effective the following January 1.

The state industrial welfare commission has authority to investigate wages, hours and working conditions in any occupation, trade or industry, and if the wages paid are inadequate to maintain a proper living standard, the commission must appoint a wage board, composed of an equal number of representatives of employers and employees, to consider the commission's findings and other information, and to recommend an appropriate minimum wage higher than the wage floor set by the legislature.

PROVISIONS APPLICABLE TO AGRICULTURE: The following minimum wage provisions applicable to agricultural employment have been adopted by the industrial welfare commission:

PLANTING, CULTIVATION, AND HARVEST OPERATIONS — The wage order regulating pay in planting, cultivation and harvest operations currently specifies an hourly rate that is below the statutory minimum set by the legislature. Workers in these occupations, therefore, are generally entitled to receive at least the minimum rate specified above for each hour of work.

ON-FARM PREPARATION OF CROPS FOR MARKET — The wage order regulating pay for persons engaged in on-farm preparation of crops for market currently specifies an hourly rate that is below the statutory minimum set by the legislature. Workers in these occupations, therefore, are generally entitled to receive at least the minimum rate specified above for each hour of work.

MEALS AND LODGING — Provided there is a voluntary written agreement for such an arrangement between the employer and the worker, the cost of adequate, well-balanced meals and decent, sanitary housing supplied by an agricultural employer and actually utilized by an agricultural employee may be credited against the minimum wage. However, the credit for each meal may not exceed \$2.45 for breakfast, \$3.35 for lunch, or \$4.50 for dinner, and the housing credit is limited to \$31.75 per week for a room occupied alone, \$26.20 a week for a shared room, and 2/3 of the ordinary rental value for an apartment. The maximum credit for an apartment is \$563.90 per month where a couple are both employed by the employer, and \$381.20 for all others.

SPECIAL NOTES OR ADVISORIES

PIECE-RATE WORKERS — In accordance with a provision in the state wage payment laws, employees who are paid on a piece-rate basis must be paid for rest periods and other non-productive time separate from their piece-rate compensation. The required pay statement must show the total number of hours of rest periods and other non-productive time, the pay rate for those hours, and the amount of pay for those hours. In general, the pay rate for rest periods cannot be less than (1) the average hourly rate determined by dividing the total amount of non-overtime pay for the workweek by the total hours worked not counting rest periods, or (2) the applicable minimum wage, whichever is higher.

RETALIATION — A person may not discharge an employee, or discriminate or retaliate 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.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Division of Labor Standards Enforcement, California Department of Industrial Relations, Oakland, California 94612 (510-285-2118)*. The Division is authorized to investigate the wages being paid to any employee in the state and to enforce compliance with the wage orders adopted under the wage and hour laws. With the consent of the worker or

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workers affected, the agency may commence civil action to recover unpaid minimum wages. The Division is responsible for supervision of the payment of unpaid minimum wages owing to any employee under these provisions. Violation of a wage order by an employer is a misdemeanor, punishable by a fine, imprisonment or both. Workers who require information concerning these provisions, or who wish to file a claim or complaint, should contact the nearest district office of the Division, or email DLSE2@dir.ca.gov.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - *None.*

PRIVATE CIVIL ACTION — Any worker who receives less than the legal minimum wage may file a private suit to recover the unpaid balance of the full amount, together with costs of the lawsuit, but if the worker accepts payment of any sums found to be due on demand of the Division, such acceptance constitutes a waiver on the worker's part of his or her right to sue.

Colorado

MINIMUM WAGE LAW

STATUTORY CITATION: Colo. Rev. Stat. §§ 8-6-101 – 8-6-119; Colo. Const. Art. XVIII, § 15

RELATED REGULATIONS: 7 Code Colo. Regs. 1103-1 (*Colorado Minimum Wage Order No. 32*)

GENERAL SUMMARY: A ballot initiative approved by Colorado voters in November 2016 raises the existing state minimum wage in four steps between 2017 and 2020, as follows:

Effective January 1, 2017: \$9.30 per hour

Effective January 1, 2018: \$10.20 per hour

Effective January 1, 2019: \$11.10 per hour

Effective January 1, 2020: \$12.00 per hour

Each year thereafter, the existing minimum wage will be adjusted to account for inflation.

Article XVIII, Section 15, of the state constitution extends the applicability of the state minimum wage to any Colorado employee who is covered by the minimum wage provisions of the federal Fair Labor Standards Act (*see entry, U.S. — Wages & Hours — Minimum Wage*).

PROVISIONS APPLICABLE TO AGRICULTURE: Under the constitutional provision referred to above, only those farmworkers in the state who work in agricultural establishments 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) are covered. However, since the federal minimum wage is currently lower than Colorado's current minimum wage, those workers are entitled to receive at least the minimum rate specified above for each hour of work.

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 these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Division of Labor Standards and Statistics, Colorado Department of Labor and Employment, Denver, Colorado 80202 (303-318-8441)*. Any worker who is entitled to the state minimum wage and who has not been paid accordingly may file a complaint with the Division, which is required to investigate and take action to enforce payment if the charge is determined valid.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

PRIVATE CIVIL ACTION — As an alternative to filing an administrative wage claim, a worker may bring civil action against the employer directly, using a private attorney or a public legal service provider. If the worker prevails, the employer is liable for the full amount of unpaid wages, plus court costs and attorney's fees.

Connecticut

● CONNECTICUT MINIMUM WAGE ACT

STATUTORY CITATION: Conn. Gen. Stat. §§ 31-58 – 31-69b

RELATED REGULATIONS: Conn. Agencies Regs. §§ 31-60-1 – 31-60-16

GENERAL SUMMARY: The Connecticut Minimum Wage Act makes it unlawful for any employer subject to the Act to pay less than the state minimum fair wage, which is \$10.10 per hour beginning January 1, 2017. The law provides that whenever the federal minimum wage is increased, the state minimum fair wage must be increased to a level equal to one-half of one percent above the federal floor. The Act also authorizes special rates for minors and certain other special categories of workers.

PROVISIONS APPLICABLE TO AGRICULTURE

ADULT EMPLOYEES — To the same extent as most other classes of workers, adults employed in agricultural labor are entitled to receive at least \$10.10 for every hour of work.

MINORS — Persons between the ages of 14 and 18 employed in agriculture must be paid (1) no less than 85 percent of the state minimum wage, or \$8.59 per hour, when working for an agricultural employer who employed 8 or more workers at any one time during the preceding calendar year, or (2) no less than 70 percent of the state minimum wage, or \$7.07 an hour, when working for an employer who did not employ 8 or more workers at any one time in the preceding year.

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 these provisions. A worker who believes that he or she has been discharged, disciplined, penalized or otherwise discriminated against by any person in violation of this section may file a complaint with the state labor department.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Division of Wage and Workplace Standards, Connecticut Department of Labor, Wethersfield, Connecticut 06109 (860-263-6791)*. Any worker who receives less than the applicable minimum wage may file a complaint with the Department, which is authorized to take assignment of the claim and bring legal action against the employer to collect the unpaid wages.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

PRIVATE CIVIL ACTION — As an alternative to administrative enforcement by the state labor department, workers may recover unpaid minimum wages through civil court action, utilizing private legal counsel or a public legal service provider.

Delaware

○ MINIMUM WAGE ACT OF THE STATE

STATUTORY CITATION: Del. Code Title 19, §§ 901–914

GENERAL SUMMARY: The Minimum Wage Act establishes a state minimum wage, payable to most categories of employees in Delaware. The current state minimum wage is \$8.25 an hour.

PROVISIONS APPLICABLE TO AGRICULTURE: Delaware's minimum wage law **does not apply** to any individual employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Office of Labor Law Enforcement, Division of Industrial Affairs, Delaware Department of Labor, Wilmington, Delaware 19802.*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Florida

● FLORIDA MINIMUM WAGE ACT

STATUTORY CITATION: Fla. Const. Art. X, § 24; Fla. Stat. § 448.110

GENERAL SUMMARY: In 2004, the Florida constitution was amended via public initiative to establish a state minimum wage, sufficient to provide a decent and healthy life for all working Floridians and their families. The amendment authorized the state administering agency to adjust the initial minimum wage rate for inflation on September 30 each year, applicable to the subsequent calendar year.

Effective January 1, 2017, Florida's minimum wage is \$8.10 per hour.

PROVISIONS APPLICABLE TO AGRICULTURE: Inasmuch as the Florida minimum wage applies only to workers covered by the minimum wage provisions of the federal Fair Labor Standards Act (*see entry, U.S.—Wages & Hours—Minimum Wage*), a farmworker's right to receive the state minimum wage applies only if he or she is employed by a farm 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).

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is illegal for an employer to discriminate or retaliate in any way against a worker for filing a complaint under these provisions, or for informing another worker of his or her rights under the Florida Minimum Wage Act.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *None.* Workers who believe they have been denied their right to receive the state minimum wage must file suit in civil court to enforce compliance, using a private attorney or public legal service provider. Prior to filing suit, however, a worker must notify the employer involved of the intent to sue and identify the minimum wage rate, the dates and hours of work, and the total amount of unpaid wages claimed. A worker who prevails in court is entitled to collect the full amount of unpaid wages, plus an equal amount in damages, plus court costs and attorney's fees. Likewise, an employer found in willful violation is subject to a fine payable to the state in the amount of \$1,000 for each violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *Bureau of Labor Market Statistics, Florida Department of Economic Opportunity, Tallahassee, Florida 32399 (850-245-7205).* This agency is responsible for annual adjustment of the state minimum wage rate.

Georgia

○ GEORGIA MINIMUM WAGE LAW

STATUTORY CITATION: Ga. Code §§ 34-4-1 – 34-4-6

GENERAL SUMMARY: The Georgia Minimum Wage Law (1) establishes a minimum wage of \$5.15 an hour, applicable to most classes of employment in the state and generally affecting employers with more than 5 employees or sales exceeding \$40,000 per year, (2) requires subject employers to keep certain payroll records, and (3) gives covered employees a private cause of action for recovery of unpaid wages, an equal amount in liquidated damages, and attorney's fees and court costs.

PROVISIONS APPLICABLE TO AGRICULTURE: The state minimum wage law **does not apply** to any employer who is a farm owner, sharecropper or land renter.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *None.*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

PRIVATE CIVIL ACTION — Payment of the state minimum wage may be enforced only through civil action in state court.

Hawaii

● WAGE AND HOUR LAW (*MINIMUM WAGE*)

STATUTORY CITATION: Haw. Rev. Stat. §§ 387-1 – 387-15

GENERAL SUMMARY: Among its other purposes, Hawaii's wage and hour law establishes a state minimum wage, along with recordkeeping and posting requirements which every employer subject to the law is obligated to observe. The state minimum wage is currently \$9.25 an hour, but is scheduled to rise to \$10.10 beginning January 1, 2018.

The state minimum wage generally applies only to employees who are not covered by the minimum wage provisions of the federal Fair Labor Standards Act (*see entry, U.S. — Wages & Hours — Minimum Wage*). But in any workweek when the state minimum is higher than the federal rate, workers who would otherwise be excluded by this provision are entitled to the state minimum wage that week also. Since the current \$7.25 federal minimum wage is less than Hawaii's current rate of \$9.25, this provision effectively extends the state minimum wage to otherwise covered workers here regardless of their coverage under FLSA.

PROVISIONS APPLICABLE TO AGRICULTURE

APPLICABILITY OF MINIMUM WAGE —

Agriculture Generally — During any workweek in which the employer has at least 20 employees, a worker engaged in any agricultural service other than coffee harvesting is entitled to no less than the state minimum wage.

Coffee Harvesting — The state wage and hour law, and thus the minimum wage, **does not apply** to workers employed in any workweek in the harvesting of coffee.

RECORDKEEPING — Every employer who has any employee covered by the wage and hour law must record and safeguard certain data for each covered worker, including name, address, occupation, the amount of wages paid each pay period, the hours worked each day and each week, and the pay rate and basis thereof.

POSTING — Every subject employer must keep posted, in conspicuous locations at each workplace, prescribed notices regarding the provisions and coverage of the wage and hour law, to inform workers of their rights and entitlements under the statute.

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 these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Wage Standards Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-8777)*. Agents of the Department are authorized to enter any establishment or place of employment, to inspect and copy payroll and related employer records, and to question any employee in an investigation of a wage complaint or any other suspected violation of the wage and hour law. A worker who believes he or she has not received full pay in accordance with these provisions may file a claim with the nearest district office of the Department. In addition to restitution of unpaid wages, an employee found to have been underpaid as a result of a willful violation of the law is entitled to an equal amount as liquidated damages. Violators are also subject to criminal charges.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

PRIVATE CIVIL ACTION — As an alternative to administrative enforcement by the Department, a worker has the right to take direct civil action against an employer to recover unpaid wages and damages under the wage and hour law, utilizing a private attorney or public legal service provider.

Idaho

● MINIMUM WAGE LAW

STATUTORY CITATION: Idaho Code §§ 44-1501 – 44-1509

GENERAL SUMMARY: The Minimum Wage Law establishes a state minimum wage, applicable to most employers in Idaho and their employees. The minimum wage rate is set in the statute to conform to and track the federal minimum wage, which is currently \$7.25 per hour.

PROVISIONS APPLICABLE TO AGRICULTURE: With the notable exceptions explained below, most workers employed in agricultural labor are entitled to the state minimum wage.

Exceptions — The Idaho minimum wage law does not apply to any individual older than 16 years of age who (1) is employed as a hand harvest worker, (2) is paid on a piecework basis, in an operation customarily paid on a piecework basis in the region of employment, (3) commutes to the farm daily from his or her permanent residence, and (4) was employed in agriculture less than 13 weeks during the preceding calendar year.

Hand-harvest workers 16 years old and younger working piecework on the same farm as their parents, and on the same piecework basis as workers over age 16, are also excluded from the state minimum wage.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is illegal for an employer to fire or in any other manner discriminate against a worker because the worker made a claim, testified in a proceeding, or discussed or consulted with anyone concerning the worker's rights under this law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Wage and Hour Bureau, Idaho Department of Labor, Boise, Idaho 83735 (208-332-3570)*. This agency is responsible for enforcing compliance with the state minimum wage law. The agency has broad authority to investigate wage claims filed by workers under this law and the state wage payment laws. Workers who have not received the minimum wage to which they believe they are entitled should contact the Department's nearest labor compliance officer.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

Illinois

● MINIMUM WAGE LAW

STATUTORY CITATION: 820 Ill. Comp. Stat. §§ 105/1 – 105/15

GENERAL SUMMARY: The Minimum Wage Law establishes a state minimum wage, currently \$8.25 an hour for covered adults and \$7.75 an hour for covered workers under the age of 18, generally applicable to individuals who work for an employer with 4 or more employees. The law also dictates that employers observe certain recordkeeping and posting requirements.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM WAGE — With two major exceptions, outlined below, every employer who used more than 500 worker-days of agricultural labor in any calendar quarter during the preceding calendar year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any similar combination) is required to pay adult workers no less than \$8.25 for every hour of labor. Likewise, most workers under 18 years of age employed by such an employer are entitled to receive at least \$7.75 an hour.

EXCEPTIONS — The Minimum Wage Law *does not apply* to agricultural workers in the following categories:

(1) Any worker who (a) is employed as a hand-harvest laborer on a piece-rate basis, in an operation historically regarded as a piecework operation in the region, (b) commutes daily from his or her permanent place of residence to the worksite, and (c) was employed in agriculture less than 13 weeks during the preceding calendar year.

(2) Any worker 16 years of age or younger who (a) is employed as a hand-harvest laborer on a piece-rate basis, in an operation historically regarded as a piecework operation in the region, (b) is employed on the same farm as his or her parent, or person standing in the place of a parent, and (c) is paid the same piece rate as workers over the age of 16 are paid on the same farm.

RECORDKEEPING — Illinois employers are required to keep and retain for at least 3 years true and accurate payroll records with respect to each employee covered by the minimum wage. Records must include, at a minimum, (1) the name, address and occupation of each worker, (2) the wage rate, (3) the amount paid each pay period to each worker, and (4) the hours worked each day in each workweek by each worker.

POSTING — Subject employers must post a summary of the Minimum Wage Law and the associated regulations in a conspicuous location accessible to covered employees.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Fair Labor Standards Division, Illinois Department of Labor, Chicago, Illinois 60601 (312-793-2810)*. The Department is charged with the responsibility to investigate and gather data regarding the wages, hours and other conditions of employment in agriculture and other industries subject to the Minimum Wage Law. Agents of the Department may enter all workplaces in the state, inspect payroll records, question employees, and investigate any matter pertaining to reported or suspected violations. A worker who has not received full wages in accordance with the law may file a claim with the Department. In addition to liability for unpaid wages, an employer found to have failed to pay the lawful minimum wage, or to make and keep required records, is subject to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

PRIVATE CIVIL ACTION — Employees may elect to enforce their right to the minimum wage in court, through legal counsel of their own choosing. A worker paid less than the wage to which he or she is entitled under this act may generally recover in a civil action the unpaid wages, plus punitive damages in the amount of 2 percent of the unpaid wages per month or an amount equal to the unpaid wages, whichever is less.

○ WAGES OF WOMEN AND MINORS ACT

STATUTORY CITATION: 820 Ill. Comp. Stat. §§ 125/0.01 – 125/17

GENERAL SUMMARY: The Wages of Women and Minors Act declares it to be against public policy for employers to employ any woman or minor at an oppressive and unreasonable wage. The statute grants the state labor department authority to investigate the wages of women and minors in any covered occupation in Illinois, and to adopt minimum fair wage rates applicable to women or minors in that field if investigation finds that existing wages are less than the fair and reasonable value of the services rendered and less than sufficient to meet the minimum cost of living necessary for health.

PROVISIONS APPLICABLE TO AGRICULTURE: The Wages of Women and Minors Act **does not apply** to farm labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Fair Labor Standards Division, Illinois Department of Labor, Chicago, Illinois 60601*.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

Indiana

○ MINIMUM WAGE LAW OF 1965

STATUTORY CITATION: Ind. Code §§ 22-2-2-1 – 22-2-2-13

GENERAL SUMMARY: Declaring that employment of workers at insufficient rates of pay threatens the health and well-being of the people of Indiana and injures the economy of the state, the Minimum Wage Law establishes a state wage floor equal to the federal minimum wage, which is currently \$7.25 an hour. The state minimum wage law generally applies to employers who have 2 or more employees and who are not otherwise required to pay the federal minimum wage.

PROVISIONS APPLICABLE TO AGRICULTURE: The Minimum Wage Law **does not apply** to workers engaged in agricultural labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Wage and Hour Division, Indiana Department of Labor, Indianapolis, Indiana 46204.*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Iowa

● MINIMUM WAGE LAW

STATUTORY CITATION: Iowa Code § 91D.1

GENERAL SUMMARY: Iowa's minimum wage law requires covered employers to pay their covered employees either the state or the federal minimum wage, whichever is greater. The law applies to employers and employees as those terms are defined in the federal Fair Labor Standards Act (*see entry, U.S. — Wages & Hours — Minimum Wage*) but generally does not apply to any establishment with an annual gross volume of sales less than \$300,000.

Both the state and federal minimum wages are currently \$7.25 per hour.

PROVISIONS APPLICABLE TO AGRICULTURE: Since the federal minimum wage exempts all but the largest farming operations, Iowa farmworkers are entitled to the state minimum wage only if they are employed by a farm operator or other agricultural establishment that (1) used more than 500 worker-days of agricultural labor during any calendar quarter of the preceding calendar year and (2) has a gross annual sales volume of at least \$300,000.

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 these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Division of Labor, Iowa Workforce Development, Des Moines, Iowa 50319 (515-281-3606; toll free 800-562-4692).* This agency is authorized to investigate complaints related to the state minimum wage, and to take action to enforce payment of the minimum wage when evidence shows there has been a violation. The Division may bring action in state court against employers who violate the law, and courts may order payment of back wages.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Kansas

○ MINIMUM WAGE AND MAXIMUM HOURS LAW

STATUTORY CITATION: Kan. Stat. § 44-1201 – 44-1213

GENERAL SUMMARY: The Minimum Wage and Maximum Hours Law requires all Kansas employers not covered by the federal minimum wage law and not otherwise exempted from the state statute, to pay their employees at least \$7.25 for every hour of employment.

PROVISIONS APPLICABLE TO AGRICULTURE: The Minimum Wage and Maximum Hours Law **does not apply** to individuals employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Employment Standards Division, Kansas Department of Labor, Topeka, Kansas 66603.*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Kentucky

○ MINIMUM WAGE LAW

STATUTORY CITATION: Ky. Rev. Stat. §§ 337.275 – 337.405 and § 337.010

GENERAL SUMMARY: Kentucky's minimum wage law establishes a wage floor of \$7.25 an hour, applicable to most industries and occupational classifications in Kentucky. The law prescribes an automatic increase in the state minimum wage to match the federal minimum wage, whenever the federal rate increases and effective the same date.

PROVISIONS APPLICABLE TO AGRICULTURE: The state minimum wage **does not apply** to employment in farmwork.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Division of Employment Standards, Apprenticeship, and Mediation, Department of Workplace Standards, Frankfort, Kentucky 40601.*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Maine

○ MINIMUM WAGE LAW

STATUTORY CITATION: Me. Rev. Stat. Title 26, §§ 661 – 672

GENERAL SUMMARY: With some exceptions, the state minimum wage law declares it unlawful for employers in Maine to employ any worker at a wage rate less than the state minimum wage. Under a ballot measure approved by voters in November 2016, the minimum wage is set to increase in four steps, as follows:

Effective January 1, 2017: \$9.00 per hour

Effective January 1, 2018: \$10.00 per hour

Effective January 1, 2019: \$11.00 per hour

Effective January 1, 2020: \$12.00 per hour

The existing rate will be adjusted each year thereafter, to reflect increases in the cost of living. The minimum wage statute provides further that whenever the federal minimum wage is increased above the existing state minimum, the state rate will automatically rise to the same amount, but in no case more than \$1.00 per hour above the statutory state minimum in effect at that time.

PROVISIONS APPLICABLE TO AGRICULTURE: The state minimum wage law **does not apply** to any individual employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Bureau of Labor Standards, Maine Department of Labor, Augusta, Maine 04333.*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Maryland

● MARYLAND WAGE AND HOUR LAW

STATUTORY CITATION: Md. Code, Lab. & Empl. §§ 3-401 – 3-431

RELATED REGULATIONS: Md. Code Regs. 09.12.41

GENERAL SUMMARY: Among other provisions, the Wage and Hour Law establishes a state minimum wage of \$8.75 an hour beginning July 1, 2016. The minimum wage is scheduled to rise to \$9.25 on July 1, 2017, and \$10.10 on July 1, 2018.

With some exceptions, the requirement to pay the minimum wage applies to most employers in Maryland. The right to receive the minimum wage applies to most employees, but it does not apply, among other exceptions, to any child under the age of 16 who is employed no more than 20 hours in a week.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM WAGE — Farm operators and other agricultural establishments that used more than 500 worker-days of agricultural labor in each 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) are generally required to pay their agricultural workers no less than the state minimum wage for every hour of employment.

EXCEPTIONS — Subject employers, as described above, are not obligated to pay the minimum wage to workers in either of the following exempt classifications:

(1) Individuals who (a) are employed as hand-harvest workers and paid on a piece-rate basis in an operation generally recognized as a piecework operation in the region, (b) commute to the farm daily from their permanent residence, and (c) were employed in agriculture for less than 13 weeks in the preceding calendar year.

(2) Workers 16 years of age or younger who are (a) employed as hand-harvest piece-rate workers in a recognized piecework operation, (b) employed on the same farm as their parent or a person standing in the place of their parent, and (c) paid at the same piece rate paid to workers over age 16 on the same farm.

RECORDKEEPING AND POSTING — Every farm employer subject to any provision of the Wage and Hour Law must make, and retain for a period of at least 3 years, a record of the name, address and occupation of each employee, the worker's rate of pay, the amount paid each pay period, and the hours worked each day and each workweek. The employer is also required to post a summary of the law and its associated regulations in a conspicuous and accessible location in or about the workplace.

SPECIAL NOTES OR ADVISORIES

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 the Wage and Hour Law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Employment Standards Service Unit, Division of Labor and Industry, Maryland Department of Labor, Licensing and Regulation, Baltimore, Maryland 21201 (410-767-2357)*. The law requires the Division of Labor and Industry to vigorously enforce the policies embodied in it and grants agents of the Division the authority to enter any workplace in the state, examine and copy payroll records, and question employees. Any worker who has not received full wages in accordance with the law may file a wage claim with the Division, which is authorized to take assignment of the claim and bring court action to collect the claim on the worker's behalf. Employers who pay less than the required minimum wage may be fined up to \$1,000 for each violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

PRIVATE CIVIL ACTION — Workers have the option of bringing private suit against an employer for recovery of unpaid wages under the Wage and Hour Law, as an alternative to enforcement by the Division of Labor and Industry. A judgment in the plaintiff's favor may, in addition to the wages involved, include court costs and attorney's fees.

Massachusetts

● MINIMUM FAIR WAGE LAW

STATUTORY CITATION: Mass. Gen. Laws Ch. 151, §§ 1 – 22

GENERAL SUMMARY: The Minimum Fair Wage Law declares it against public policy for employers to employ workers in most occupations in Massachusetts at an oppressive and unreasonable wage. In general, a wage rate is conclusively presumed to be oppressive and unreasonable if it is less than \$11.00 an hour, effective January 1, 2017. With few exceptions, any contract, agreement or understanding providing for an hourly wage below this level is null and void.

Notwithstanding the foregoing, in no case may the state minimum wage be less than 50 cents an hour higher than the federal minimum wage.

PROVISIONS APPLICABLE TO AGRICULTURE: In contrast with the fair wage floor prescribed for most other industries in the state, farm operators and other agricultural employers are not presumed to be paying an oppressive and unreasonable wage as long as they pay their agricultural employees at least \$8.00 an hour.

The minimum agricultural wage *does not apply* to workers 17 years of age or under.

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 these provisions. Such retaliatory action is deemed a criminal offense.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Massachusetts Department of Labor Standards, Boston, Massachusetts 02114 (617-626-6952).* The Department has authority to enter the premises of any employer, to review payroll records and question employees regarding reported or suspected violations of the minimum wage provision. A worker who has not received the applicable minimum fair wage may file a complaint with the Department, which must investigate the claim and may, with the worker's authorization, take assignment of the claim and bring legal action to collect it. In addition to liability for unpaid wages, court costs and attorney's fees, an employer who violates the minimum wage provision is subject to criminal prosecution, leading to a fine, imprisonment, or both.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Michigan

● 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.

Minnesota

● MINNESOTA FAIR LABOR STANDARDS ACT

STATUTORY CITATION: Minn. Stat. §§ 177.21 – 177.35

GENERAL SUMMARY: Among other provisions, the Minnesota Fair Labor Standards Act requires employers in the state to pay their covered employees no less than the specified minimum hourly wage applicable to their respective operations. The Act establishes two distinct minimum wage rates, one for workers employed by large establishments and one for workers in small establishments. There is also a designated rate for workers under the age of 20, applicable to hours worked during the first 90 days on the job.

In addition to the minimum wage provisions, the Act also prescribes recordkeeping and posting requirements.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM WAGE — With four exceptions, described further on, agricultural employers must comply with the state minimum wage provisions outlined below.

Large Employers — Farm operators and other agricultural establishments that have an annual gross sales volume of \$500,000 or more must pay their workers age 20 and over no less than \$9.50 for every hour of work. For the first 90 consecutive days of employment, workers under the age of 20 may be paid no less than \$7.75 an hour.

Small Employers — Farm employers with gross annual sales of less than \$500,000 must pay all their workers no less than \$7.75 for every hour of work.

Beginning in 2017, these rates are expected to be increased annually, either (1) by 2.5 percent, or (2) by a percentage rate determined by the state labor commissioner using prescribed inflation data. However, the commissioner may order an increase not to take effect if economic conditions suggest an impending downturn in the state's economy.

EXCEPTIONS — Agricultural employers are not required to pay any of the minimum wage rates shown above to:

(1) A farmworker who receives a salary (that is, the worker is not paid by the hour) and works on a farming unit or operation where no more than 2 such workers are employed.

(2) A farmworker who receives a weekly salary (that is, the worker is not paid by the hour), and the salary is greater than the equivalent of 48 hours at the state minimum wage plus 17 hours at time-and-a-half. At the current minimum wage, this excludes any worker who receives a weekly salary of roughly \$698 or more on a large farm, or \$569 or more on a small farm.

(3) A worker under 18 who is employed to perform hand field work when one or both of the worker's parents are also hand field workers.

(4) A worker under 18 who is employed as a corn detasseler.

DEDUCTIONS — To the extent that the resulting wages would amount to less than the applicable minimum, no direct or indirect deductions may be made for any of the following items:

(1) Special clothing which is required by the employer, by the nature of the job, or by law as a condition of the job, and which is not generally appropriate for use except on that job.

(2) Purchased or rented equipment used on the job, except for tools, vehicles or other equipment which may be used outside the employment.

(3) Consumable supplies required in the course of work.

(4) Travel expenses in the course of employment, except those incurred in traveling between the worker's residence and the workplace.

RECORDKEEPING — Every employer subject to the Act must make and keep a record of (1) the name, address and occupation of each worker, (2) the rate of pay and amount paid each pay period to each worker, and (3) the hours worked each day and each workweek by the worker.

POSTING — Every employer subject to the Act must post summaries of the Act and the associated regulations in a conspicuous location accessible to each covered worker.

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 these provisions. Such violations are subject to a fine of from \$700 to \$3,000.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Labor Standards Division, Minnesota Department of Labor and Industry, St. Paul, Minnesota 55155 (651-284-5070)*. Representatives of this agency are responsible for assuring employer compliance with the state Fair Labor Standards Act, and for that purpose are authorized to examine payroll records, books and other documents related to wages, hours and working conditions at any place of business or employment. The Department may investigate wage claims or complaints by any worker against an employer if failure to pay a wage may violate state law or an agency regulation. In addition to the unpaid wages involved, an employer who pays a worker less than the required minimum wage may also be liable to the worker for an additional equal amount as liquidated damages.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

PRIVATE CIVIL ACTION — As an alternative to enforcement action by the Department, a worker may take private civil action to collect a minimum wage claim, using legal counsel of the worker's own choice. A judgment against the employer may include court costs and attorney's fees.

Missouri

● MINIMUM WAGE LAW

STATUTORY CITATION: Mo. Rev. Stat. §§ 290.500 – 290.530

RELATED REGULATIONS: Mo. Code Regs. Title 8, §§ 30-4.010 – 30-4.060

GENERAL SUMMARY: Missouri's minimum wage law requires most employers in the state to pay their employees no less than (1) the state minimum wage, or (2) the applicable federal minimum wage, whichever is higher.

The state minimum is currently \$7.70 an hour.

The state minimum wage rate may be increased or decreased on January 1 each year, according to the percentage increase or decrease in the cost of living, as determined by the state labor department.

PROVISIONS APPLICABLE TO AGRICULTURE: Agricultural workers 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 a calendar quarter in the current or preceding calendar year. That volume of labor is equivalent to, for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination.

Exceptions — In addition to excluding farmworkers on smaller farms that do not meet the 500 worker-day threshold, the state minimum wage law generally *does not apply* to workers in either of these two categories:

(1) Workers who (a) are employed as hand harvest laborers, (b) are paid on a piecework basis in a traditionally piecework-paid operation in the local area, (c) commute daily from their permanent residence to the farm, and (d) were employed in agriculture less than 13 weeks during the preceding calendar year.

(2) Workers 16 years of age or younger who (a) are employed as hand harvest laborers, (b) are paid on a piecework basis in a traditionally piecework-paid operation in the local area, (c) are employed on the same farm as their parents, and (d) are paid the same piece rate as workers over the age of 16 are paid on the same farm.

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 claim, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Division of Labor Standards, Missouri Department of Labor and Industrial Relations, Jefferson City, Missouri 65102 (573-751-3403).* A worker who believes he or she is entitled to the state minimum wage and who has not been paid accordingly may file a claim with the Department, which has authority to investigate and make findings as to an employer's compliance.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

PRIVATE CIVIL ACTION — An employee may bring a civil suit against an employer to collect unpaid minimum wages, using a private attorney or public legal service provider. An employer found to have paid less than the required wages under this law is liable for the full amount of the wages, plus an additional equal amount as liquidated damages, less any amount actually paid, plus court costs and reasonable attorney's fees.

Montana

● MONTANA MINIMUM WAGE AND OVERTIME COMPENSATION ACT

STATUTORY CITATION: Mont. Code §§ 39-3-401 – 39-3-409

GENERAL SUMMARY: Chapter 3, Part 4 of the state labor laws requires most Montana employers who have annual gross sales above \$110,000 to pay their employees no less than either the state minimum wage (currently \$8.05 an hour) or the federal minimum wage (\$7.25), whichever is greater. Employers with sales not exceeding \$110,000 are generally required to pay their employees no less than \$4.00 an hour.

On or before September 30 each year, the state minimum wage rate may be adjusted, to reflect any changes in the August-to-August cost of living. The adjusted minimum wage takes effect on January 1 of the following year.

PROVISIONS APPLICABLE TO AGRICULTURE: Farmworkers in Montana are generally subject to the same minimum wage standards as other workers in the state, as summarized above, with one variation. In the case of a worker employed for part of a calendar year that includes periods requiring working hours in excess of 8 hours a day and other seasonal periods requiring working hours substantially less than 8 hours a day, a subject employer has three options:

- (1) Pay the worker by the hour, at or above the applicable minimum specified above.
- (2) Pay the worker at a fixed rate of compensation, but guarantee the applicable minimum wage for every hour of actual employment by keeping a record of the hours worked. The total wages paid to the worker may not be less than the applicable minimum, multiplied by the total number of hours worked.
- (3) Pay a monthly salary in lieu of the minimum wage, but in no case less than \$635 a month. The employer is authorized to include as part of the worker's salary the reasonable cost of furnishing the worker with lodging or other facilities, provided such benefits are customarily furnished by the employer to his or her workers, and that the costs for these benefits do not exceed 40 percent of the worker's total salary.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage and Hour Unit, Labor Standards Bureau, Employment Relations Division, Montana Department of Labor and Industry, Helena, Montana 59604 (406-444-5600). A worker who has been paid wages at a rate less than the wage or salary required under the minimum wage law may file a complaint with the Department, which is authorized to assist in collection of the unpaid amount as a wage claim action under the state wage payment law.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Nebraska

WAGE AND HOUR ACT

STATUTORY CITATION: Neb. Rev. Stat. §§ 48-1201 – 48-1209

GENERAL SUMMARY: The Wage and Hour Act requires most employers in Nebraska who have 4 or more employees at any one time to pay each of their employees at a rate no less than \$9.00 for every hour on the job.

PROVISIONS APPLICABLE TO AGRICULTURE: The Wage and Hour Act **does not apply** to individuals employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Office of Labor Standards, Nebraska Department of Labor, Lincoln, Nebraska 68508.*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Nevada

● MINIMUM WAGE LAWS

STATUTORY CITATION: Nev. Const. Art. 15, § 16 and Nev. Rev. Stat. §§ 608.250 – 608.290

RELATED REGULATIONS: Nev. Admin. Code §§ 608.100 – 608.108

GENERAL SUMMARY: Under provisions in the state constitution, most Nevada employers who provide their employees with certain defined health benefits are required to pay their employees who are age 18 and over no less than \$7.25 per hour. Employers who do not provide such benefits must pay their adult employees at least \$8.25 an hour.

These rates are adjusted annually to track changes in the federal minimum wage or the cost of living, whichever is greater. The revised rates are published on April 1 each year and take effect on the following July 1.

PROVISIONS APPLICABLE TO AGRICULTURE: Agricultural workers age 18 and over are entitled to the applicable minimum wage, but only if they work for an employer who used more than 500 worker-days of agricultural labor in one or more calendar quarters of the preceding calendar year.

SPECIAL NOTES OR ADVISORIES

RETALIATION — Employers are prohibited from discharging an employee, reducing an employee's wages, or otherwise discriminating against an employee for using any civil remedies to enforce these provisions, or for asserting any other rights under these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Office of the Labor Commissioner, Nevada Department of Business and Industry, Carson City, Nevada 89706 (775-684-1890).* Any worker who has been paid less than the minimum wage applicable to the job performed may file a claim with the Commissioner, who is responsible for enforcing payment of the minimum wage by the employer. The Commissioner must report all violations to the respective district attorneys, who in turn must prosecute the employers involved.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

PRIVATE CIVIL ACTION — At any time within 2 years of an employer's failure to pay the required minimum wage, a worker may, through a private attorney or public legal service provider, bring suit to recover the unpaid wages.

New Hampshire

MINIMUM WAGE LAW

STATUTORY CITATION: N.H. Rev. Stat. §§ 279:1 – 279:29

GENERAL SUMMARY: With some exceptions, no person, firm or corporation may employ any worker at an hourly pay rate lower than the federal minimum wage, which is currently \$7.25 per hour. Employers subject to the state minimum wage law are also required to keep true and accurate records of the hours and wages of their employees.

PROVISIONS APPLICABLE TO AGRICULTURE: The state minimum wage **does not apply** to employees engaged in farm labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Inspection Division, New Hampshire Department of Labor, Concord, New Hampshire 03301.*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

New Jersey

● NEW JERSEY STATE WAGE AND HOUR LAW

STATUTORY CITATION: N.J. Rev. Stat. §§ 34:11-56a – 34:11-56a30

RELATED REGULATIONS: N.J. Admin. Code 12:56, Subch. 3

GENERAL SUMMARY: The New Jersey State Wage and Hour Law declares the employment of workers in any occupation at an oppressive and unreasonable wage to be contrary to public policy. Under rulemaking authority granted by the statute, the state labor commissioner has adopted regulations requiring an annual cost-of-living adjustment in the state minimum wage rate last prescribed in the Wage and Hour Law, based on August-to-August changes (if any) in the consumer price index.

Effective January 1, 2017, the state minimum wage is \$8.44 per hour, which generally applies to workers 18 years of age and over.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM WAGE — Like their counterparts in other covered occupations, farmworkers in New Jersey who are 18 years of age and older are generally entitled to at least \$8.44 for every hour on the job. Workers paid on a piecework basis must receive for their labor no less than the minimum hourly wage rate multiplied by the total number of hours worked.

RECORDKEEPING — Farm operators and other employers subject to the Wage and Hour Law must keep a true and accurate record of the hours worked by and the wages paid to each covered worker.

POSTING — Employers must keep a summary of the law and any applicable wage orders and regulations posted in a conspicuous and accessible place on the premises where any covered worker is employed.

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 these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Division of Wage and Hour Compliance, New Jersey Department of Labor and Workforce Development, Trenton, New Jersey 08625 (609-292-2305).* Authorized representatives of the Department may enter any place of business where workers are employed, for the purpose of examining payroll records, inspecting working conditions, and questioning employees to ascertain the employer's compliance with the Wage and Hour Law and any associated wage orders or regulations. The Department may act either in response to a worker's claim for unpaid wages or on its own initiative. At the request of any employee paid less than the minimum wage to which the employee is entitled under the statute, the Department may take assignment of a wage claim and bring legal action on the worker's behalf to collect it.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

PRIVATE CIVIL ACTION — As an alternative to administrative enforcement, an employee may take legal action in civil court to recover unpaid wages and in such an action is entitled to recover the unpaid wages, plus court costs and attorney's fees.

New Mexico

● MINIMUM WAGE ACT

STATUTORY CITATION: N.M. Stat. §§ 50-4-19 – 50-4-30

GENERAL SUMMARY: The Minimum Wage Act requires most New Mexico employers who have at least one employee to pay their workers no less than \$7.50 for every hour of employment.

PROVISIONS APPLICABLE TO AGRICULTURE

COVERED EMPLOYEES — In general, farmworkers employed on a farm or other establishment that used more than 500 worker-days of agricultural labor during any calendar quarter in the preceding calendar year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination) are entitled to the state minimum wage of \$7.50 an hour. Subject employers who furnish food, supplies, housing or utilities to an employee engaged in agriculture may count the reasonable value of such furnished items as wages in meeting their minimum wage liability.

EXCEPTIONS — The minimum wage does not apply to any worker who (1) is employed as a hand-harvest laborer paid on a piecework basis in a crop activity traditionally regarded as a piecework operation in the local region, (2) commutes daily from home to the worksite, and (3) was employed in agriculture for less than 13 weeks during the preceding year. Also exempt are workers 16 years of age or younger who are employed as hand-harvest workers in traditionally piecework operations, employed on the same farm as their parents or guardian, and paid the same piece rate as adult workers on the same farm.

SPECIAL NOTES OR ADVISORIES

PERSONS WITH A DISABILITY — In order to prevent curtailment of opportunities for employment, the enforcement agency may issue special certificates providing for the employment of individuals whose earning or productive capacity is impaired by disability or injury, at wages that are lower than the state minimum wage, but not less than 50 percent of such wage.

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 these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Wage and Hour Section, New Mexico Department of Workforce Solutions, Albuquerque, New Mexico 87103 (505-841-4400)*. A subject employer who violates any provision of the Minimum Wage Act is liable to the employees affected in the amount of their unpaid minimum wages and an additional equal amount as liquidated damages. A worker may recover unpaid minimum wages by filing a claim with the Department, which is obligated to investigate the claim and is authorized to collect it if investigation confirms a violation. Independent of civil liability, employers found to have violated the Act are also subject to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

PRIVATE CIVIL ACTION — In lieu of filing an administrative claim with the Department of Workforce Solutions, a worker may recover wages, damages, court costs and reasonable attorney's fees in a private civil suit against the employer, utilizing outside legal assistance.

New York

○ MINIMUM WAGE ACT

STATUTORY CITATION: N.Y. Labor Law §§ 650 – 665

GENERAL SUMMARY: The Minimum Wage Act establishes a general wage floor for every hour of employment, applicable to virtually all employers in New York whose employees are not explicitly excluded from coverage. The minimum wage currently varies by area; the rates effective during 2017 are shown here:

New York City — Establishments with 10 or Fewer Employees, \$10.50 per hour

New York City — Establishments with 11 or More Employees, \$11.00 per hour

Nassau, Suffolk and Westchester Counties — \$10.00 per hour

Remainder of the State — \$9.70 per hour

The minimum wage will rise to \$15.00 an hour statewide by 2021.

PROVISIONS APPLICABLE TO AGRICULTURE: The Minimum Wage Act **does not apply** to workers who are employed in labor on a farm.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Division of Labor Standards, New York State Department of Labor, Albany, New York 12240.*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

● LABOR LAW (*FARM WORKER MINIMUM WAGE*)

STATUTORY CITATION: N.Y. Labor Law §§ 670 – 683

RELATED REGULATIONS: N.Y. Comp. Codes R. & Regs. Title 12, Part 190

GENERAL SUMMARY: Article 19-A of the state labor statutes establishes a statewide agricultural minimum wage, defined to equal the state minimum wage described in the previous entry, which is currently \$9.70 per hour outside the New York City metropolitan area. The agricultural minimum wage applies to farmworkers employed on farms with an annual agricultural payroll of at least \$3,000.

SPECIFIC TERMS AND CONDITIONS

COVERAGE AND MINIMUM WAGE — Every farm employer who paid at least \$3,000 in farm wages during the preceding year is required to pay its workers no less than \$9.70 for every hour of each employee's labor in the current calendar year.

BASIS FOR PAYMENT — The minimum wage applies whether the wage is paid on an hourly, piecework, commission or some other basis. For any given workweek or pay period, the worker's gross pay may not be less than the prescribed minimum hourly rate, multiplied by the number of hours the worker was on the job during that period.

ALLOWANCES FOR MEALS, LODGING, AND UTILITIES — With some exceptions, employers who provide meals to a worker may deduct \$1.70 per meal from the worker's gross wages, provided the worker earns no less than \$254 in a two-week period. Likewise, an employer who provides lodging and utilities may deduct up to \$12.65 per week for multiple-occupancy housing, up to \$5.00 per day for an individual worker living alone, or \$8.00 a day for an individual worker residing with his or her family.

PROHIBITED DEDUCTIONS — A covered employer is not allowed to make any deduction from a worker's pay for breakage or spoilage, cash shortages or losses, or fines or penalties for tardiness, misconduct or quitting without notice.

PAY STATEMENTS — For each pay period, the employer is required to furnish each worker a statement showing (1) the number of hours worked, (2) the worker's hourly or piece-rate wage, (3) the piece-rate unit and number of units produced, if applicable, (4) gross wages, (5) allowances and deductions, and (6) net wages.

FINAL PAY — Workers who are terminated must receive their full, final pay no later than the next regular payday after termination, along with a written statement showing total gross and net earnings and listing all deductions from gross pay.

NOTIFICATIONS — At the time of hire, a farm employer subject to these provisions must give each worker a written statement outlining the conditions of employment, including among other items (1) the employer's name, address and phone number, (2) the location and type of work, (3) the housing arrangements, including costs, (4) allowances, if any, to be deducted for meals and lodging, (5) any benefits to be provided by the employer, (6) the wages to be paid and the pay schedule, (7) the period of employment, (8) all other planned payroll deductions, and (9) any overtime provisions. This same information must be posted by the employer in a conspicuous place on the farm.

EMPLOYER RECORDS — Every covered employer must keep a record of the name, address and Social Security number of each farm employee, the worker's total hours per day and week, the number of piecework units produced (if applicable), the wage rate paid, gross wages, deductions and allowances claimed, and any cash advances made to the worker. For any minors they employ, employers must document the minor's name, address, birthdate, parent or guardian's name and address, and the number of the farm work permit issued to the minor if required.

FARM LABOR CONTRACTORS — For purposes of the minimum wage, if a farm labor contractor recruits or supplies farmworkers for work on a farm, the workers are deemed employees of the owner, lessee or operator of the farm.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the

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employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker subjected to any such reprisal may file a complaint with the Department, which is authorized to assess a fine against the violator, or may seek appropriate relief in a private civil suit, provided the action is filed no later than 2 years after the alleged retaliatory act.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Division of Labor Standards, New York State Department of Labor, Albany, New York 12240 (518-457-4256; toll-free 888-469-7365)*. For the purpose of examining records relating to wages and working hours and of ascertaining compliance with the agricultural minimum wage standards, representatives of the Department are authorized to enter any place where agricultural workers are employed. On behalf of a farmworker paid less than the applicable minimum wage, the Department may bring necessary legal action to collect the unpaid portion plus interest, and may assess an additional 25 percent of that amount as a civil penalty.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

PRIVATE CIVIL ACTION — As an alternative to administrative enforcement, a worker has a right under these provisions to recover unpaid minimum wages in a private civil suit, using outside legal counsel. A judgment in the worker's favor may include liquidated damages, court costs and attorney's fees. Whether filed by the Department or privately, civil action must be commenced within 6 years of the date the wages first became due.

North Carolina

WAGE AND HOUR ACT

STATUTORY CITATION: N.C. Gen. Stat. §§ 95-25.1 – 95-25.25

GENERAL SUMMARY: The Wage and Hour Act establishes a statewide hourly minimum wage, generally defined as either \$6.15, or the federal minimum wage (currently \$7.25), whichever is higher. The state minimum wage is applicable to most lines of work in North Carolina not subject to a statutory exception.

PROVISIONS APPLICABLE TO AGRICULTURE: The minimum wage provision in the Wage and Hour Act **does not apply** to anyone employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Wage and Hour Bureau, Standards and Inspections Division, North Carolina Department of Labor, Raleigh, North Carolina 27699.*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

North Dakota

● **MINIMUM WAGE AND HOUR LAW**

STATUTORY CITATION: N.D. Cent. Code §§ 34-06-01 – 34-06-22

RELATED REGULATIONS: N.D. Admin. Code 46-02-07

GENERAL SUMMARY: With relatively few exceptions, Chapter 34-06 of the state statutes makes it illegal for anyone in North Dakota to employ workers at wages less than \$7.25 per hour. The state labor commissioner, however, has authority to investigate wages and working conditions in any occupation and to adopt regulatory standards that may differ from those prescribed in the minimum wage and hour law.

PROVISIONS APPLICABLE TO AGRICULTURE: With no statutory or regulatory exceptions currently in effect, agricultural employees are generally entitled to the \$7.25 hourly minimum wage to the same extent as their counterparts in other industries.

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 these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Wage and Hour Division, North Dakota Department of Labor and Human Rights, Bismarck, North Dakota 58505 (701-328-2660; toll-free 800-582-8032).* The Department is responsible for enforcing the wage and hour law, including resolution of wage disputes between employees and employers and collection of unpaid wages.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Ohio

● MINIMUM FAIR WAGE STANDARDS LAW

STATUTORY CITATION: Ohio Const. Art. II, § 34a; Ohio Rev. Code §§ 4111.01 – 4111.99

GENERAL SUMMARY: Under a state constitutional initiative approved by Ohio voters in 2006, workers who (1) are employed by a business with gross annual receipts exceeding \$297,000, and (2) are not excluded by law from receiving the federal minimum wage, are generally entitled to receive the state minimum wage, which is currently \$8.15 an hour.

Unless excluded by law from the federal minimum, workers employed by a business with gross sales of \$297,000 or less must receive no less than the federal minimum wage, which is currently \$7.25 an hour.

On September 30 each year, both the state minimum wage rate and the gross-receipts threshold are adjusted to reflect the inflation rate for the preceding 12-month period. The revised amounts go into effect on January 1 of the following year.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM WAGE —

Coverage — In general, a farm operator or other agricultural establishment that (1) has gross annual sales of more than \$297,000 and (2) used more than 500 worker-days of agricultural labor in 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), is obligated to pay each agricultural employee no less than \$8.15 an hour. Farmworkers employed by an agricultural establishment which meets the 500 worker-day test, but the sales of which amount to \$297,000 or less, are entitled to at least \$7.25 per hour for every hour of work.

Exceptions — The minimum wage requirements *do not apply* to:

(1) Workers employed by a farm operation whose volume of sales and agricultural employment is below the respective coverage thresholds cited above.

(2) Hand-harvest laborers who (a) are paid on a piece-rate basis, in an operation generally recognized as a piecework job in the local region, (b) commute daily from their permanent residence to the farm workplace, and (c) were employed in agriculture less than 13 weeks during the preceding year.

(3) Hand-harvest laborers 16 years of age or younger who (a) are paid on a piece-rate basis in a recognized piecework operation, (b) are employed on the same farm as their parent or guardian, and (c) are paid the same piecework wage as workers over the age of 16 employed on the same farm.

RECORDKEEPING — Every agricultural employer subject to the state minimum wage must make a record of the name, address and occupation of each employee, the worker's pay rate, and the worker's total pay. Payroll records must be preserved for at least 3 years.

POSTING — Subject employers are required to keep a summary of the minimum fair wage standards law and the associated regulations posted in a conspicuous and accessible place at or near each location where there are covered employees at work.

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 these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — *Bureau of Labor and Worker Safety, Division of Industrial Compliance and Labor, Ohio Department of Commerce, Reynoldsburg, Ohio 43068 (614-644-2223).* The Department has authority to receive and investigate minimum wage complaints filed by employees, and for that purpose may examine and copy payroll and related records at any place of employment. At the written request of a worker paid less than the required minimum wage, the Department may take assignment of a wage claim and bring necessary legal action to collect it.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — *None.*

PRIVATE CIVIL ACTION — A worker who does not receive the pay to which he or she is entitled under these provisions may elect to file suit against the employer directly, through private legal counsel or a public legal service provider. Court action must be commenced within 3 years of the date of the violation, or within one year of the final disposition by the state of a complaint for the same violation, whichever is later. An employer who pays a covered worker less than the applicable minimum wage is liable to the worker for the full amount of wages, less any amount actually paid, and up to *double* the amount of unpaid wages in damages. The employer is also liable for court costs and attorney's fees deemed appropriate by the court.

Oklahoma

OKLAHOMA MINIMUM WAGE ACT

STATUTORY CITATION: Okla. Stat. Title 40, §§ 197.1 - 197.17

GENERAL SUMMARY: In order to protect working people from conditions of labor which have a pernicious effect on their health or morals, the Oklahoma Minimum Wage Act requires most employers with more than 10 full-time workers, or gross annual sales in excess of \$100,000, to pay their employees hourly wages equal to or greater than the federal minimum wage, currently \$7.25 an hour.

PROVISIONS APPLICABLE TO AGRICULTURE: The Oklahoma Minimum Wage Act **does not apply** to any farm employer or any worker employed on a farm.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Wage and Hour Unit, Oklahoma Department of Labor, Oklahoma City, Oklahoma 73105.*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Oregon

● MINIMUM WAGE LAW

STATUTORY CITATION: Or. Rev. Stat. §§ 653.010 – 653.269

RELATED REGULATIONS: Or. Admin. R. 839-020-0000 – 839-020-1020

GENERAL SUMMARY: Provisions in Chapter 653 of the Oregon statutes prohibit most employers in the state from employing workers at wages less than the Oregon minimum wage. In early 2016, the state approved a measure raising the hourly minimum wage in seven steps and establishing separate rates for non-urban counties, standard counties, and the Portland metro area:

Effective July 1, 2017: \$10.00 in non-urban counties, \$10.25 in standard counties, \$11.25 in Portland Metro

Effective July 1, 2018: \$10.50 in non-urban counties, \$10.75 in standard counties, \$12.00 in Portland Metro

Effective July 1, 2019: \$11.00 in non-urban counties, \$11.25 in standard counties, \$12.50 in Portland Metro

Effective July 1, 2020: \$11.50 in non-urban counties, \$12.00 in standard counties, \$13.25 in Portland Metro

Effective July 1, 2021: \$12.00 in non-urban counties, \$12.75 in standard counties, \$14.00 in Portland Metro

Effective July 1, 2022: \$12.50 in non-urban counties, \$13.50 in standard counties, \$14.75 in Portland Metro

Beginning July 1, 2023, and on July 1 each year thereafter, the standard-county minimum wage will be adjusted to reflect any increase in the August-to-August consumer price index. The non-urban minimum will be set at \$1.00 per hour less than the standard rate, and the Portland Metro rate will be \$1.25 over the standard rate.

Every employer subject to the minimum wage must keep a record of the name, address and occupation of each employee and the actual hours worked each week and each pay period. With every payment of wages, subject employers must provide each worker with an itemized statement of the amount and purpose of each deduction from the worker's wages.

PROVISIONS APPLICABLE TO AGRICULTURE

COVERAGE — Unless excluded by one of the exceptions noted below, farmworkers in Oregon are entitled to receive at least the minimum wage for every hour of labor, in accordance with the schedule outlined above, and their employers must observe the same recordkeeping and wage itemization requirements applicable to other subject employers. In applying the minimum wage, employers may deduct the fair-market value of lodging, meals or other facilities or services furnished for the private benefit of their workers.

EXCEPTIONS — The following classes of farmworkers are not covered by the state minimum wage law:

(1) Workers employed as hand harvest or pruning laborers who are (a) paid on a piecework basis in an operation generally recognized as a piecework operation in the region of employment, and (b) working for an employer who did not use more than 500 worker-days of piecework-paid farm labor during any calendar quarter of the preceding calendar year.

(2) Hand-harvest or pruning workers who (a) are paid on a piecework basis in an operation generally recognized as a piecework operation in the region of employment, (b) commute daily from their permanent residence to the farm job site, and (c) were employed in agricultural labor less than 13 weeks during the preceding calendar year.

(3) Hand-harvest workers who (a) are 16 years of age or younger, (b) are paid on a piece-rate basis in a recognized piecework operation, and (c) are paid at the same piece rate as workers over the age of 16 on the same farm.

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 these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Wage and Hour Division, Oregon Bureau of Labor and Industries, Portland, Oregon 97232 (971-673-0844)*. Representatives of the Bureau are authorized to examine payroll records at any place of employment in the state, interview employees, and take other steps to ascertain compliance with the minimum wage provisions. The Bureau may take legal action to recover unpaid minimum wages on behalf of any worker who has received less than the amount to which he or she is entitled. In addition to the unpaid wages involved, an employer found to have unlawfully paid less than the minimum wage is liable for court costs and attorney's fees, as well as civil penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

Pennsylvania

○ MINIMUM WAGE ACT OF 1968

STATUTORY CITATION: 43 Pa. Stat. §§ 333.101 – 333.115

GENERAL SUMMARY: The Minimum Wage Act establishes a statewide hourly minimum wage of \$7.15, but provides that whenever the federal minimum wage is increased above that level, the federal rate will prevail, effectively setting the current state minimum wage at \$7.25 per hour.

The Act requires subject employers to keep an accurate record of the hours worked by and wages paid to each employee, and to post a summary of the Act and the associated regulations in a conspicuous location at the workplace.

PROVISIONS APPLICABLE TO AGRICULTURE: The Act's minimum wage provisions **do not apply** to farm labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Labor Law Compliance, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17120.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

● SEASONAL FARM LABOR ACT (*WAGES AND HOURS*)

STATUTORY CITATION: 43 Pa. Stat. §§ 1301.201 – 1301.207

GENERAL SUMMARY: Under the Seasonal Farm Labor Act, seasonal farmworkers are entitled to be compensated at pay rates no less than the state hourly wage floor established by the Minimum Wage Act of 1968 (see preceding entry), and their employers must observe corresponding recordkeeping duties. As used here, the term "seasonal farmworker" generally means an individual employed on a seasonal or temporary basis in the planting, cultivation, harvest, sorting or packing of agricultural commodities in their unmanufactured state, as well as any person who resides in living quarters owned, leased or operated by an employer or farm labor contractor and occupied by 4 or more unrelated persons. Workers who commute daily from their permanent residence to the worksite are not regarded as seasonal farmworkers, unless transportation is furnished to such individuals by a farm labor contractor.

SPECIFIC TERMS AND CONDITIONS

MINIMUM WAGE — Every employer of seasonal farmworkers, as described above, must pay each such worker at least \$7.25 for every hour of labor. In any given workweek, the earnings of each worker paid on a piece-rate basis must amount to no less than \$7.25 multiplied by the number of hours the worker was employed during such week. The minimum wage applies to minors to the same extent as adult workers, and piecework-paid minors must be compensated at the same piece rate applicable to adults performing the same operation.

RECORDKEEPING — Every employer of seasonal farm labor is required to maintain a record on each worker employed, to include, among other information, the worker's name and Social Security number, total wages earned, hours worked, and the hourly or piecework wage rate.

SPECIAL NOTES OR ADVISORIES

RETALIATION — Interference with, harassment of, eviction of, or termination of the employment of any seasonal farmworker for having filed a civil or criminal complaint under the Seasonal Farm Labor Act is deemed a separate violation of the Act, punishable as a criminal offense.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Labor Law Compliance, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17120 (717-787-4763; toll-free 800-932-0665). Agents of the Department are authorized to inspect payroll records at any place of employment, or at any establishment maintained by an employer or farm labor contractor, in order to ascertain compliance with the minimum wage provisions of the Seasonal Farm Labor Act. A worker who has not received pay in accordance with these provisions may file a complaint with the Department, and if the claim is determined valid, the agency may take legal action on the worker's behalf to collect it.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Puerto Rico

● PUERTO RICO MINIMUM WAGE, VACATION AND SICK LEAVE ACT

STATUTORY CITATION: 29 Laws P.R. Ann. §§ 250 – 250j

RELATED REGULATIONS: Mandatory Decrees 57, 58, and 69

GENERAL SUMMARY: The Puerto Rico Minimum Wage, Vacation and Sick Leave Act provides that the minimum wage set by the U.S. Congress under the federal Fair Labor Standards Act — currently \$7.25 per hour — applies to workers in Puerto Rico to the same extent and subject to the same exemptions, exclusions and exceptions. Employers in Puerto Rico who are exempt under FLSA from paying the federal minimum wage must pay their workers no less than 70 percent of the federal minimum, or \$5.08 an hour.

Industries that were paying higher wages under a mandatory decree (administrative wage order) when the Minimum Wage, Vacation and Sick Leave Act went into effect must continue to pay the higher rate.

Under the Act, most employees other than domestic workers are also entitled to accrue vacation leave, at a rate of 1/2 day per month during the first year of employment, 3/4 day per month from the second through the fifth year, 1 day per month from the sixth through the 15th year, and 1 1/4 days each month thereafter. Sick leave accrues at a rate of one day each month. Employees must work no less than 130 hours a month to earn the respective credit for vacation and sick leave.

Exception — In the case of employers who are residents of Puerto Rico and who employ no more than 12 workers, vacation leave accrues at the rate of 1/2 day per month for as long as the employer's workforce does not exceed 12 employees.

PROVISIONS APPLICABLE TO AGRICULTURE

WORKERS COVERED BY FLSA — Farmworkers are entitled to the \$7.25 minimum wage currently in effect under the Fair Labor Standards Act only if they work for 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).

Such workers are also entitled to accrue vacation and sick leave, at the rates noted above, for each month in which they work at least 130 hours.

WORKERS NOT COVERED BY FLSA — Farmworkers who are employed by an agricultural establishment that does not meet the 500 worker-day test described above must generally be paid no less than \$5.08 an hour. These workers are *not entitled* to accrue vacation and sick leave under the Puerto Rico Minimum Wage, Vacation and Sick Leave Act.

MINIMUM PAY UNDER MANDATORY DECREES — All three of the mandatory decrees pertaining to the agricultural industry provide for hourly wages that are less than the \$7.25 and \$5.08 rates prescribed in the Puerto Rico Minimum Wage, Vacation and Sick Leave Act, and thus are not applicable.

SPECIAL NOTES OR ADVISORIES

RECENT AMENDMENTS — The summary above reflects significant amendments enacted in the Puerto Rico Labor Transformation and Flexibility Act, a measure intended to address chronic troubles plaguing the economy of Puerto Rico. Some provisions of the Labor Transformation and Flexibility Act apply only to workers hired after the law went into effect, on January 26, 2017. In general, however, employees hired before that date are entitled to the same rights and benefits that applied to them before.

PREEMPTION BY GUARANTEED INCOME — The minimum wage rates indicated above may be effectively preempted by a separately legislated "guaranteed income," the payment of which is underwritten by the government of Puerto Rico. As described in the next entry, where the guaranteed income is higher than the minimum wage, the farm operator pays the guaranteed income to the worker and the government reimburses the farm operator for the difference between the guaranteed income and the minimum wage.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Bureau of Labor Standards, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2100)*. Any worker who receives lower compensation than the rate prescribed in or authorized under the Minimum Wage Act may file a claim with the Department, which has power to prosecute the claim in court on the worker's behalf. A worker's claim for unpaid wages must be filed within one year after the worker's employment ends.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

PRIVATE CIVIL ACTION — A worker claiming a violation of the Act is entitled to recover in a civil suit the unpaid wages plus an additional equal amount as damages, as well as interest, court costs and attorney's fees. Court action, through a private attorney or a public legal service provider, must be initiated within one year after the claim arises.

● GUARANTEED INCOME LAWS

STATUTORY CITATION: 29 Laws P.R. Ann. §§ 2001 – 2009b and §§ 2031 – 2040

GENERAL SUMMARY: Chapter 81 of the Puerto Rico labor laws authorizes payment of a guaranteed income to workers in the agricultural phase of the sugarcane industry, while Chapter 83A extends the income guarantee to most other agricultural workers.

SPECIFIC TERMS AND CONDITIONS: The Commonwealth of Puerto Rico guarantees agricultural workers an hourly income of at least \$5.25, but only after employers have met their obligations under the Puerto Rico Minimum Wage, Vacation and Sick Leave Act, statutory overtime pay provisions, and compensation requirements under any existing labor contract. To the extent that a worker's pay for a given hour's work amounts to less than the guaranteed hourly earnings, the employer must pay the worker the guaranteed income for that hour of labor. The difference between the guaranteed income and any lesser mandatory wage borne by the employer (known as the "income supplement") is reimbursed to the employer by the government of Puerto Rico within 90 days

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after the employer has submitted the required reporting forms.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Agricultural Development Administration, Puerto Rico Department of Agriculture, San Juan, Puerto Rico 00908 (787-304-5350)*. This agency is responsible for seeing that agricultural workers receive the guaranteed income applicable to their respective occupational activities and may investigate the claim of any worker who has not been properly compensated. The agency also administers the reimbursement provisions of the guaranteed income program, including the processing of report forms received from growers, computation of grower wage reimbursements and subsidies, and authorization of payments.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *Bureau of Labor Standards, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2100)*. The Department is responsible for enforcing employer compliance with Puerto Rico's labor laws and may investigate any agricultural employer who fails to pay the applicable guaranteed income to a worker whose hourly compensation is below the guaranteed level.

Rhode Island

● RHODE ISLAND MINIMUM WAGE ACT

STATUTORY CITATION: 28 R.I. Gen. Laws §§ 28-12-1 – 28-12-25

GENERAL SUMMARY: The Rhode Island Minimum Wage Act entitles most employees in the state to a wage no lower than \$9.60 an hour, and requires all employers subject to any provision of the Act to keep a record of the wage rates, hours, earnings and related payroll data on each of their employees and to post a summary of the law at the workplace.

PROVISIONS APPLICABLE TO AGRICULTURE: Like employees in most other industries, farmworkers in Rhode Island are generally entitled to receive at least \$9.60 for every hour of work.

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 these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Labor Standards Program, Workforce Regulation and Safety Division, Rhode Island Department of Labor and Training, Cranston, Rhode Island 02920 (401-462-8550).* This agency is responsible for enforcement of the Minimum Wage Act and has authority to investigate any claim submitted by a worker aggrieved by an alleged violation. As such, the Department has authority to enter any workplace, inspect payroll and other employment records, and question employees for the purpose of determining compliance. At a worker's request, the Department may take an assignment of the worker's wage claim in trust and bring legal action to collect it.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

PRIVATE CIVIL ACTION — As an alternative to filing a wage claim with the state labor department, a person who has not received the minimum wage may take action against the employer involved in civil court, using a private attorney or public legal service provider. In addition to recovering the amount of the unpaid wages, the worker may be entitled to compensatory damages and liquidated damages up to *two times* the amount of unpaid wages, plus attorney fees and court costs. Court action to recover unpaid wages is barred unless it is filed within 3 years after the date the wages were due.

South Dakota

● WAGE AND HOUR LAWS (*MINIMUM WAGE*)

STATUTORY CITATION: S.D. Codified Laws §§ 60-11-3 – 60-11-7

GENERAL SUMMARY: With few exceptions, employers in South Dakota must pay each employee who is 18 years of age or older no less than the hourly state minimum wage, which may be adjusted each year to account for increases in the cost of living as measured by the August consumer price index for all urban consumers (U.S. city average for all items).

On October 15 each year, the state labor secretary is required to publish the adjusted minimum wage rate, which becomes effective the following January 1. The current minimum wage for adults is \$8.65 per hour.

PROVISIONS APPLICABLE TO AGRICULTURE: The minimum wage provisions apply to agricultural employment to the same extent as labor in non-agricultural industries.

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 these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Wage and Hour Office, Division of Labor and Management, South Dakota Department of Labor and Regulation, Pierre, South Dakota 57501 (605-773-3681).* The Department is authorized to investigate and prosecute any reported or suspected violation of the state labor laws, including complaints charging non-payment of the minimum wage. In any action against an employer for failure to pay wages where oppression, fraud or malice is found on the employer's part, the worker is generally entitled to recover *double* the amount of the unpaid wages as damages.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Texas

● TEXAS MINIMUM WAGE ACT

STATUTORY CITATION: Tex. Labor Code §§ 62.001 – 62.205

GENERAL SUMMARY: With some exceptions, the Texas Minimum Wage Act requires employers to pay their employees no less than the federal minimum wage rate, which is currently \$7.25 per hour. The Act also obliges employers to provide their employees with an earnings statement each pay period.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM WAGE COVERAGE — On substantially equal terms with their counterparts in other industries, Texas agricultural workers (other than those engaged in livestock production and dairy farming) are entitled to pay at a rate no less than the federal minimum wage, currently \$7.25 an hour.

Exception — Workers who are under 18 years of age and have not graduated from high school or a vocational training program, and workers under 20 who are regularly enrolled in high school, college or a vocational training program, are not entitled to the state minimum wage. These exemptions *do not apply* to workers employed in agriculture on a piece-rate basis.

VALUATION OF MEALS AND LODGING — The reasonable cost to the employer of furnishing a worker with meals, lodging, or both, may be included in computing the worker's wages, provided the employer customarily provides meals and lodging to employees and that the costs are itemized in the worker's earnings statement, described below.

EARNINGS STATEMENTS — At the end of each pay period, employers are required to give each worker a signed written statement showing (1) the worker's name, (2) the rate of pay, (3) the worker's total earnings for the pay period, (4) any deductions made from the worker's earnings, (5) the net wages paid, and (6) the total number of hours worked if paid by the hour, or the number of units of production if compensated on a piecework basis.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Labor Law Section, Texas Workforce Commission, Austin, Texas 78778 (512-475-3027).* Although the Texas Minimum Wage Act does not explicitly assign enforcement responsibility, the state attorney general's office regards the failure to pay the minimum wage as a violation of the state payday laws, described in the next entry. A worker who does not receive the required minimum wage may file a claim for unpaid wages with the Texas Workforce Commission, on a form available online at www.twc.state.tx.us/jobseekers/how-submit-wage-claim-under-texas-payday-law.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Utah

● UTAH MINIMUM WAGE ACT

STATUTORY CITATION: Utah Code §§ 34-40-101 – 34-40-205

RELATED REGULATIONS: Utah Admin. Code R. 610-1

GENERAL SUMMARY: The Utah Minimum Wage Act establishes a statewide hourly wage floor applicable to most workers who are not covered by the federal minimum wage (*see entry, U.S. — Wages & Hours — Minimum Wage*). Utah's minimum wage is set by the state labor commission, which must review it at least every 3 years, but in no case may the state rate exceed the federal minimum.

The current Utah minimum wage is \$7.25 per hour for adult workers. For the first 90 days on the job with a particular employer, workers under the age of 18 must receive no less than \$4.25 an hour, but thereafter are entitled to the full adult minimum.

PROVISIONS APPLICABLE TO AGRICULTURE: Since the state minimum wage protects workers excluded from coverage of the federal minimum wage law, farm employers in Utah that used no 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) are generally required to pay their adult employees at least \$7.25 for every hour of labor. Their workers under age 18 must receive at least \$4.25 an hour during their first 90 days on the job, and \$7.25 thereafter.

Exceptions — The state minimum wage does not apply to any farmworker who (1) is employed as a piecework-paid harvest laborer in an operation customarily paid on a piecework basis in the region of employment, or (2) was employed in agriculture for less than 13 weeks during the preceding year.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Antidiscrimination and Labor Division, Utah Labor Commission, Salt Lake City, Utah 84114 (801-530-6801; toll-free 800-222-1238)*. The Division has authority to accept and investigate complaints of non-payment of the state minimum wage, and to work with local and state prosecuting attorneys to enforce compliance. Violations of the Act are punishable by both civil and criminal penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

PRIVATE CIVIL ACTION — As an alternative to filing an administrative claim, a worker may enforce payment of the minimum wage in civil court, using a private attorney or public legal service provider. The complainant may recover the difference between the wages paid and the minimum wage, plus interest, court costs and attorney's fees. A civil suit must be filed within 2 years of the alleged violation.

Vermont

○ **MINIMUM WAGE LAW**

STATUTORY CITATION: Vt. Stat. Title 21, §§ 381 – 397

GENERAL SUMMARY: With some exceptions, no one in Vermont who has 2 or more employees may employ any such worker at a wage rate less than \$10.00 an hour beginning January 1, 2017 (\$10.50 an hour beginning January 1, 2018).

On January 1 each year starting in 2019, the state minimum wage rate will be increased by 5 percent, or by the percentage increase in the consumer price index, whichever is smaller. In no event, however, may the minimum wage be decreased from one year to the next.

PROVISIONS APPLICABLE TO AGRICULTURE: The minimum wage law **does not apply** to individuals employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Wage and Hour Program, Vermont Department of Labor, Montpelier, Vermont 05601.*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Virginia

○ VIRGINIA MINIMUM WAGE ACT

STATUTORY CITATION: Va. Code §§ 40.1-28.8 – 40.1-28.12

GENERAL SUMMARY: The Virginia Minimum Wage Act requires most employers with 4 or more employees at any one time who are not covered by the federal minimum wage, to pay each worker no less than the federal minimum wage (currently \$7.25 per hour).

PROVISIONS APPLICABLE TO AGRICULTURE: The Minimum Wage Act **does not apply** to anyone employed as a farm laborer or farm employee.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Labor and Employment Law Division, Virginia Department of Labor and Industry, Richmond, Virginia 23219.*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Washington

● WASHINGTON MINIMUM WAGE ACT

STATUTORY CITATION: Wash. Rev. Code §§ 49.46.005 – 49.46.920

RELATED REGULATIONS: Wash. Admin. Code 296-131-117

GENERAL SUMMARY: The Washington Minimum Wage Act requires most employers in the state to pay each of their employees who are at least 18 years of age wages at a rate no less than the state minimum wage. A statewide ballot initiative approved in November 2016 increases the minimum wage in six steps between 2017 and 2022:

Effective January 1, 2017: \$11.00 per hour

Effective January 1, 2018: \$11.50 per hour

Effective January 1, 2019: \$12.00 per hour

Effective January 1, 2020: \$13.50 per hour

Effective January 1, 2021: \$13.86 per hour

Effective January 1, 2022: \$14.23 per hour

On September 30 each year starting in 2022, the state labor department will adjust the minimum wage rate to account for inflation, as measured by the change in the consumer price index for urban wage earners and clerical workers. The adjusted rate takes effect the following January 1.

PROVISIONS APPLICABLE TO AGRICULTURE

ADULTS — With some exceptions, agricultural workers 18 years of age and older are entitled to the state minimum wage, in accordance with the schedule outlined above.

Exception — The state minimum wage *does not apply* to anyone employed as a hand harvest worker and who (1) is paid on a piecework basis in an operation customarily recognized as a piecework operation in the local region, (2) commutes to the farm daily from his or her permanent residence, and (3) was employed in agriculture less than 13 weeks during the preceding calendar year.

MINORS — Agricultural workers under the age of 18 are subject to wage rates administratively set by the state labor department:

Workers 16 and 17 Years of Age — Sixteen- and 17-year-old farmworkers are entitled to the same minimum wage applicable to covered adult workers.

Workers Under Age 16 — Farmworkers below the age of 16 must generally receive no less than 85 percent of the adult minimum rate.

RECORDKEEPING — To facilitate enforcement, every employer subject to any provision of the Act must make and preserve a record of each employee's name, address, occupation, rate of pay, earnings for each pay period, and hours worked each day and each workweek.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is illegal for an employer to fire or to discriminate in any other way against a worker who has made a complaint to the employer or to the enforcement agency regarding wages or other rights under the Minimum Wage Act, or has testified in a related proceeding.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Employment Standards, Apprenticeship and Crime Victims Division, Washington State Department of Labor and Industries, Olympia, Washington 98504 (toll-free 866-219-7321)*. This agency is authorized to investigate any complaint alleging non-payment of the state minimum wage, and to take action to collect unpaid wages on the worker's behalf.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

West Virginia

○ MINIMUM WAGE AND MAXIMUM HOURS LAW

STATUTORY CITATION: W. Va. Code §§ 21-5C-1 – 21-5C-11

GENERAL SUMMARY: With some exceptions, employers in West Virginia who have 6 or more non-exempt employees at any one separate, distinct and permanent business location during any calendar week must pay each of their employees wages at a rate not less than \$8.75 per hour. In the event the federal minimum wage exceeds the state rate, or if the employer has fewer than 6 employees, the federal rate (currently \$7.25 an hour) applies.

Employers subject to the minimum wage are required to keep a written record of the name and address of each employee and the employee's rate of pay, hours of employment, payroll deductions, and net pay.

PROVISIONS APPLICABLE TO AGRICULTURE: The state minimum wage and maximum hours law **does not apply** to anyone employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Wage and Hour Section, Division of Labor, West Virginia Department of Commerce, Charleston, West Virginia 25305.*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Wisconsin

● MINIMUM WAGE LAW

STATUTORY CITATION: Wis. Stat. §§ 104.001 – 104.12

RELATED REGULATIONS: Wis. Admin. Code Ch. DWD 272

GENERAL SUMMARY: Chapter 104 of the Wisconsin statutes establishes a minimum wage of \$7.25 an hour and generally requires most employers in the state to pay their employees no less than that amount for every hour on the job. Workers under the age of 20 who are in the first 90 consecutive days with their employer must receive no less than \$5.90 per hour.

PROVISIONS APPLICABLE TO AGRICULTURE

MINIMUM WAGE RATES — Without regard to age, agricultural workers are generally entitled to the state minimum wage of \$7.25 per hour.

ALLOWANCE FOR MEALS AND LODGING — Within the limits indicated below, agricultural employers are permitted to deduct the fair value of meals and lodging (if any) provided to their employees, but only to the extent that meals and lodging are accepted and actually received by the workers, that meals are adequate and well-balanced, and that living accommodations are decent and sanitary.

Meals — Farm employers may not deduct more than \$4.15 per meal, or \$87 per week for furnishing meals.

Lodging — The value of any lodging provided to farmworkers may not exceed \$8.30 per day or \$58 per week.

Exception — Room and board may not be deducted from the wages of a seasonal non-resident agricultural employee if the deduction would result in receipt of less than the prescribed minimum wage.

RECORDKEEPING — Like their counterparts in other industries, agricultural employers are required to make, and to retain for at least 3 years, payroll and related records on each employee. The record must include (1) the employee's name and address, (2) date of birth, (3) the start- and end-date of employment, (4) the start- and end-time of each workday and each meal period, (5) the total number of hours worked per day and per week, (6) the rate of pay and wages paid each payroll period, (7) the amount and purpose of each deduction from wages, and (8) the amount of production, if paid on other than a time basis.

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 these provisions. Such retaliation is regarded as a misdemeanor, punishable by a fine of \$25 for each offense.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Labor Standards Bureau, Equal Rights Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53703 (608-266-6860)*. The Department has a duty to investigate the complaint of any worker claiming to have received less than the state minimum wage, and to enforce payment if the complaint is found to be valid. Each day that an employer employs a worker at less than the established minimum wage, the employer is subject to a civil money penalty ranging from \$10 to \$100.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

Wyoming

○ MINIMUM WAGE LAW

STATUTORY CITATION: Wyo. Stat. §§ 27-4-201 – 27-4-204

GENERAL SUMMARY: With some exceptions, Chapter 4, Article 2 of the state labor laws requires employers in Wyoming to pay each of their employees at a rate no less than \$5.15 per hour. A special minimum wage rate of \$4.25 an hour applies to workers who are under 20 years of age, but only during their first 90 consecutive days on the job.

Subject employers are required to keep a record of the name, address and occupation of each employee, the employee's pay rate, the amount paid to the employee each pay period, and the hours worked each day and each week.

PROVISIONS APPLICABLE TO AGRICULTURE: The minimum wage law **does not apply** to anyone employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Labor Standards Office, Wyoming Department of Workforce Services, Cheyenne, Wyoming 82002.*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*