

## ● **MIGRANT LABOR LAW (GUARANTEED HOURS)**

*STATUTORY CITATION:* Wis. Stat. §§ 103.915(4) – 103.915(7)

*RELATED REGULATIONS:* Wis. Admin. Code § DWD 301.06(8)

*GENERAL SUMMARY:* Wisconsin's migrant labor law requires agricultural employers, labor contractors, and other entities that hire or recruit migrant agricultural workers for employment in the state, to provide the workers with a written work agreement, which, among other provisions, must contain certain assurances regarding minimum hours of work. The term "migrant worker" generally means anyone who temporarily leaves a principal place of residence in another state and comes to Wisconsin for not more than 10 months in a year to accept seasonal agricultural employment.

### *SPECIFIC TERMS AND CONDITIONS*

**GUARANTEED HOURS** — Every required work agreement between an employer or contractor and a migrant worker must contain a guarantee of (1) at least 45 hours of work in each 2-week period for workers employed in agricultural field work only, or (2) at least 20 hours of work in each one-week period, or 64 hours in a 2-week period, if the worker is employed in both field and processing operations. The guarantee covers the entire interval from the date the worker is notified to report to work (or the date the worker actually reports for work, if later) to the date of termination of employment.

**EXCEPTIONS** — The hours guarantee generally applies only to workers 18 years of age and older. If a worker is not available for work on a particular day during the guarantee period, the employer may reduce the minimum guarantee by an amount equal to the wages the worker would have earned had the worker been available. Furthermore, the employer is not obligated to pay the minimum guarantee if the worker reports for work as notified but is never employed due to seriously adverse circumstances beyond the employer's control; within 24 hours after reporting for work in any such case, the worker is entitled to receive pay at the agreed-upon rate for the elapsed time between the worker's departure from the point of origin and return to the point of origin, but in no event less than 3 nor more than 6 days' pay at 8 hours per day.

### *SPECIAL NOTES OR ADVISORIES*

**RETALIATION** — An employer or labor contractor may not discharge, discipline or discriminate in any manner against a migrant worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to unlawful retaliation may file suit against the employer or contractor involved, who, in addition to any other damages, may be liable to the worker for reinstatement and accumulated back wages.

### *ADMINISTRATION AND ENFORCEMENT*

**PRIMARY ENFORCEMENT AGENCY** — *Migrant Law Enforcement Section, Employment and Training Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53707 (608-266-0002)*. A migrant worker who has not received pay in accordance with guarantees shown in the work agreement should contact the Department.

**SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY** — *None*.

**PRIVATE CIVIL ACTION** — Without regard to any administrative action by the Department, a migrant worker aggrieved by a violation of the migrant labor law by an employer or migrant labor contractor has a right to bring suit against the violator in civil court, using a private attorney or public legal service provider.