

# Farm Labor Contractor License Examination Study Guide

NOTE: This guide is designed to help employers with the exam and to provide employers who are farm labor contractors with a basic idea of requirements applicable to farm labor contractors. IT DOES NOT CONTAIN EVERY APPLICABLE LAW AND IS NOT LEGAL ADVICE.

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## Chapter I. Basic Responsibilities

### A. The examination

A farm labor contractor (or, “FLC”)<sup>1</sup> is required to take California’s farm labor contractor exam **every two years**. An FLC who has violated any law related to farm labor contracting must take the exam the year after the violation or at the request of the Labor Commissioner. The Labor Commissioner, or Labor Commissioner’s Office, is also known as the Division of Labor Standards Enforcement or “DLSE.”

### B. Requirements for Obtaining a Farm Labor Contractor License

To contract for farm labor, a farm labor contractor must:

- Have and show a valid and current California farm labor contractor’s license.
- Have and show a valid and current FLC federal registration certificate from the U.S. Department of Labor.
- Be registered with the Agricultural Commissioner in each county where an FLC supplies labor.
- Have a bond for the appropriate amount posted with the Labor Commissioner’s Office based on the annual payroll for all employees.
- Have workers’ compensation insurance.
- Disclose all people who have a financial interest in the FLC’s contracting business.
- Every year, enroll and participate in at least nine hours of an approved FLC class, of which one hour should cover sexual harassment prevention.
- Provide the Labor Commissioner with a written statement attesting that supervisory employees and nonsupervisory employees have received sexual harassment prevention training as required.
- **Notify the Labor Commissioner immediately of any changes related to the business officers, address, legal entity, partnerships, etc.**

#### A farm labor contractor must not:

- Sell or transfer any part of the profits of the business unless the Labor Commissioner gives written consent.
- Transfer or assign its FLC license to another person.

### C. Grounds for losing an FLC license

A farm labor contractor license may be revoked if an FLC does any of the following:

- Violates any state or federal law governing farm labor contractors, including, health and safety, payment of wages, or lack of workers’ compensation insurance laws.
- Includes any false information on their application.
- Changes any condition under which the license was issued.
- Allows any employee to drive a farm labor vehicle without a proper license and certification.
- Fails to pay wages promptly.
- Fails to comply with an FLC contract.
- Sells alcoholic beverages as part of the FLC business.

### D. Grounds for losing an FLC federal registration certificate

Similarly, an FLC federal registration certificate will be revoked if the FLC:

- Does any of the above, or if an FLC:
  - Applies for the FLC license on behalf of someone else.

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<sup>1</sup> The terms farm labor contractor, FLC, and employer are used interchangeably in this study guide.

- Violates any federal law relating to FLCs or fails to obey any court judgment by the Secretary of Labor.
- Was convicted in the past five years of a felony or of violating any law related to gambling or alcohol in connection with farm labor contracting.
- Hires any person who is in this country illegally.

## E. Enforcement by the Labor Commissioner's Office

The Labor Commissioner shall enforce the obligations of a farm labor contractor by revoking, suspending, or refusing to renew a farm labor contractor's license.

## F. Training supervisors

The FLC must provide every crew leader, foreperson, or other person who supervises, directs, or controls any agricultural laborer on behalf of the FLC with information and training on the laws governing worker health and safety, pesticide safety, the terms and conditions of employment, and at least two hours of training each calendar year in the prevention of sexual harassment in the workplace.

Additionally, federal law requires that all FLC field supervisors who recruit, solicit, hire, employ, furnish, or transport migrant or seasonal agricultural workers be registered as Farm Labor Contractor Employees (FLCE) and that they be trained in pesticide safety. An FLC is responsible for any violations of federal law committed by any FLCE who works for the farm labor contractor.

## G. Recruiting workers

The FLC, or any person working for the FLC, must not make any false or misleading statements about the terms, conditions, or existence of employment. For example, the FLC must not transport workers to a jobsite unless the FLC already has an agreement to supply labor there. If the FLC *drives workers to a jobsite and there is no work, the FLC must pay them the agreed-upon rate of pay for all the time traveling to the jobsite and back.*

If there is a strike or lockout at the worksite, the FLC must tell the workers about it *before the FLC* takes them there.

If the FLC's employees or the grower request it, the FLC must provide a written statement (in English and in Spanish) showing the amount of the contract fee the FLC is receiving from the grower and the workers' rates of pay.

The FLC may not charge a worker any kind of registration fee or employment fee or tell workers that they must pay a transportation fee to get a job.

The FLC must post its name, the FLC license number, and the pay rate for workers at the entrance to its vehicles.

Federal law also requires the FLC to post a notice of the workers' federal rights.

The FLC *must not contribute to or interfere with workers who are organizing a union (e.g., prohibiting attendance at meetings, retaliation).*

**Before** the FLC hires workers, the FLC must tell them **(1)** where they will be employed, **(2)** the pay rates, **(3)** the crops they will work on, **(4)** their work duties, **(5)** the expected length of employment, **(6)** whether the FLC will receive a commission for sales from a store owned by the grower and about **fees** for **(7)** transportation, **(8)** housing, and **(9)** other benefits.

Workers must not be required to purchase goods or services solely from a contractor or a grower or any person acting for them.

## **H. Contracting with growers**

Before the FLC may contract to supply labor for a grower, the FLC must show the grower its California FLC license *and* FLC federal registration certificate.

The FLC must (on a form supplied by the Labor Commissioner) provide the grower with a payroll list of all employees who will be doing work for that grower.

The FLC must not split any fees with the grower or with any of their employees.

## Chapter II. Health and Safety

### A. Field sanitation

#### 1. Handwashing and toilet facilities

If the FLC employs *fewer than five workers*, it is acceptable to have **one coed toilet** if it can be locked from the inside. If the FLC has *5 to 20 male and 5 to 20 female employees*, the FLC must have **one toilet facility for men and one for women**. If the FLC has *21 to 40 male and 21 to 40 female employees*, the FLC must have **two toilet facilities for men and two for women**. If the FLC has *41 to 60 male and 41 to 60 female employees*, the FLC must have **three toilet facilities for men and three for women**. For each additional either 20 male or 20 female employees or fraction thereof, the FLC must increase the toilet facilities by one. One handwashing facility shall be provided for each 20 employees or fraction thereof.

Handwashing and toilet facilities must be in the field if the FLC employs five or more workers for two or more hours in hand labor; otherwise, if the FLC employs less than five workers, the FLC must supply transportation to and from offsite handwashing and toilet facilities.

The handwashing facility must get fresh air, and the handwashing water tank must hold at least 15 gallons. The water must be potable and refilled as necessary. The FLC must post signs that say the water is only for handwashing. The facility must be stocked with soap and single-use towels and kept clean. Water may drain from the handwashing facility ONLY if it does not cause unsanitary conditions, nuisance, or contamination.

All toilet facilities must be screened to keep out flies and vermin. They must get fresh air and be private with doors that lock from the inside. Chemical toilet wastewater must drain into a >40-gallon tank *designed to prevent contamination*.

Chemical toilet tanks must be drained into a sewer or approved septic tank. When pit toilets are filled to within 2 feet of the surface, cover them with 2 feet of compact dirt.

The facilities must be in working order, clean, and stocked with odor control chemicals and toilet paper at all times. The FLC must keep written records of maintenance of the facilities for two years.

The handwashing and toilet facilities must be close together and located within a quarter-mile or a five-minute walk from the worksite, whichever is shorter. If the terrain makes this too difficult, the facility must be as close to the workers as a vehicle can bring it.

The FLC must tell the employees where the facilities are located and allow all employees reasonable opportunities to use the facilities during the workday. In addition, the FLC must tell its employees to use the facilities, drink water often, urinate often, and wash their hands before and after using the toilet and before eating or smoking.

#### 2. Potable Drinking Water

Potable drinking water facilities under an employer's control shall be serviced and maintained by the employer at all times in accordance with appropriate public health sanitation practices. Potable drinking water shall be provided during work hours and placed in locations easily accessible to all employees. Access to such drinking water shall be permitted at all times.

#### 3. Penalties governing field sanitation

The minimum penalty for violating a single Cal/OSHA regulation governing field sanitation (such as failure to provide toilets) is \$750.

## B. Field safety

### 1. First aid in the field

There must be first-aid kits at the farm headquarters and in the transportation buses. At remote locations, the FLC must arrange in advance for prompt medical care in case of serious injuries. The FLC may need onsite facilities or equipment for transporting the injured person to a doctor or a way to call a doctor to the field. In addition, when they are out in the field, at least 1 employee in every 20 must have training in emergency first aid.

It is the FLC's RESPONSIBILITY to arrange for emergency medical service in the field!

### 2. Tools

A worker must not use any pole that can conduct electricity for fruit picking, nut knocking, etc. Employees using conductive tools or equipment (metal ladders, irrigation pipe, etc.) to perform duties, e.g., pruning, harvesting, or handling an irrigation pipe, in areas where such tools or equipment could come into contact with overhead high-voltage electrical lines, should **not** be assigned such work until they are instructed in the hazards related with working in proximity to such electrical lines. Supervisors must inspect the work area in orchards and other planted areas to determine the potential for exposure to high-voltage lines and caution employees about the hazard.

A short-handled tool is any hand-held tool with a handle of less than four (4) feet in length. A long-handled tool is any hand-held tool with a handle of four (4) feet or more in length. Tools with short handles must not be used in a stooped, kneeling, or squatting position when the worker is weeding, thinning, or hot-capping. Long-handled tools must not be used as short-handled tools. Vegetable-trimming saws must have the unused portion of the blade covered.

Where ladders are used in agricultural work, they should be kept in good condition. Ladders should be placed where there is a secure footing.

## C. Heat illness prevention

Excessive heat exposure can lead to serious illness or death. State law requires the employer provide at least one quart per hour of pure, cool drinking water as close as is practical to where the employees are working. They **must be able to drink the water any time they wish.** The water must be dispensed in single-use cups or by fountains. The water containers must be cleaned regularly, refilled as necessary, and covered to keep the water clean.

**Shade must be available when temperatures exceed 80 degrees Fahrenheit. The employer must have and maintain one or more areas with shade at all times that are either open to the air or provided with ventilation or cooling.** Employees who suffer from heat illness or request to rest in the shade must be given access to shade at all times and be allowed to stay there for at least five minutes (in addition to the time needed to access the shade). Shade must also be available when the temperature does not exceed 80 degrees Fahrenheit.

All employees must be trained on the following before working outdoors:

1. the environmental and personal risk factors for heat illness.
2. the employer's procedures for complying with the requirements of this standard.
3. the importance of frequent consumption of small quantities of water, up to four cups per hour, when the work environment is hot.
4. the importance of acclimatization.
5. the different types of heat illness and the common signs and symptoms of heat illness.
6. the importance of immediately reporting to the employer signs of heat illness in themselves or in co-workers.
7. the employer's procedure for responding to possible heat illness, including how emergency medical services will be provided should it become necessary and how employees will be transported to a place where they can be reached by an emergency medical service provider.

The above procedures must be in writing and made available to employees and to Cal/OSHA.

## D. Injury and Illness Prevention Program

California requires all employers to have a **written Injury and Illness Prevention Program (IIPP)**. The program and associated records must be presented to Cal/OSHA inspectors upon request. The IIPP must encourage employees to report worksite hazards without fear of termination. The IIPP must also include:

- **Who** will implement the program.
- A **system** of training and incentives to make sure employees follow the safety rules.
- Meetings, **training, postings**, etc., about health and safety presented in a manner/language the workers can understand.
- A **system** for receiving anonymous health and safety reports.
- A **system** for identifying hazards that includes regular inspections, evaluation of new procedures, equipment, substances, and any new hazards brought to the employer's attention.
- **Investigations** of occupational injury or illness.
- A **procedure** for quickly correcting hazards.
- **Training** for employees and supervisors when the program first starts, for new employees, for employees doing new tasks, and for everyone when new substances, processes, procedures, or equipment are introduced, or new hazards are found.
- **Records** showing regular inspections, action taken to correct the hazards, and the name of the inspector.
- **Records** showing safety and health training that include the employee's name, the instructor's name, the training date, and type of training.

## E. Required postings

The FLC must post the following:

- "Safety and Health Protection on the Job," which lists the basic employer and employee rights and responsibilities as they relate to safety and health rules.
- "Annual Summary of Work-Related Injuries and Illnesses" (Cal/OSHA Form 300A), a log of all the injuries the FLC's employees have received during the year. It must be posted once a year in February.

## F. Reporting injuries and deaths

All injuries: Report to the employer's workers' compensation insurance carrier within five days.

Serious workplace injury/death: ALSO report immediately to the nearest Cal/OSHA office, California Division of Labor Statistics and Research, California Census of Fatal Occupational Injuries, and to local police.

Injury/death involving pesticides: ALSO report to the Department of Pesticide Regulation.

## G. Pesticide safety

### 1. Fieldworkers must be trained in pesticide safety

The **Department of Pesticide Regulation (DPR)** requires all farm labor contractors to ensure all their fieldworkers have been trained in pesticide safety before they enter a treated field, regardless of whether those workers will handle pesticides. The training must have taken place within the last 12 months and before beginning work in the treated field. The information must be presented to the workers in a way that they understand.

This training requirement must include such topics as the health effects of exposure to pesticides, symptoms, how pesticides enter the body, emergency first aid and decontamination procedures, danger of pesticide residue on

clothing and containers, as well as information about field entry restrictions, and posting.

The training must also include information on workers' rights, including their right to:

- personally receive information about what pesticides they may have been exposed to;
- for the worker's physician or a worker representative (designated in writing) to receive information about what pesticides the worker may have been exposed to;
- to be protected against retaliatory action due to the exercise of any of their rights; and
- to report suspected use violations to the Department of Pesticide Regulation or county agricultural commissioners.

The employer must keep a record of the initial and annual training given to employees for two years at a central location at the workplace accessible to employees. The record of the training must be given to employees upon request.

Only a qualified trainer can train the fieldworkers. Trainers can become qualified by:

- Successfully completing a DPR-approved train-the-trainer training program
- Possessing a valid private applicator certificate
- Possessing a valid commercial applicator certificate or license, or
- Meeting other trainer qualifications listed in the law.

The FLC must be able to prove to inspectors that its fieldworkers are properly trained. The FLC should keep records of the people trained, who performed the training, and when and where the training was given.

## 2. Warnings

*Before the workers enter a field*, the grower must tell the FLC whether the field has been treated with pesticides, the name of the pesticide, the date it was applied, the amount of time to wait (restricted entry interval) before entering, and the safety precautions to take. The FLC **must tell the employees this** and make certain that they understand it.

## 3. Preparations to make before allowing fieldworkers to enter a field

Before the FLC's employees enter a treated field, the FLC must:

- Plan emergency medical care in advance and designate the medical facility to provide the care. The field supervisor or employees must know the name and location of the medical facility.
- Give employees a document called the "Pesticide Safety Information Series (PSIS) A-9." If necessary, the FLC must translate and read the PSIS A-9 to the workers in a language they understand. The workers must be told what **precautions to take before entering a treated field**.
- Upon request, the FLC must give the workers, their doctors, or their representatives the pesticide records kept by the grower, which should include: (a) the list of the pesticides applied to the field in the past two years, (b) additional PSIS leaflets as applicable, and (c) technical descriptions of the pesticides.
- Provide a handwashing facility for every 20 employees. Requirements for handwashing facilities are explained in Chapter II, section A.
- Learn and teach the field supervisor and employees the common **symptoms of pesticide poisoning: headache, nausea, vomiting, cramps, weakness, blurred vision, pinpoint pupils, breathing difficulties, nervousness, sweating/clammy skin, watery eyes, drooling or frothing at the mouth, muscle spasms, skin rash, and coma.**
- If an employee comes into direct contact with pesticides, the FLC must tell them to wash immediately. If they show signs of pesticide poisoning, **take them to the doctor immediately**.
- Make sure the FLC and the FLC's field supervisors are familiar with the procedures for dealing with pesticide poisoning.

#### 4. Restricted entry interval (REI)

A “restricted entry interval” is the period of time after a field is treated with a pesticide during which restrictions on entry are in effect to protect persons from potential exposure to hazardous levels of residues. REIs are indicated on the pesticide label and in state regulations, but *the grower must give the FLC this information*.

If the employer is not sure whether it is safe, the employer should keep the employees out of the field until the grower has provided records showing the pesticide used and its REI. If extra-dangerous chemicals are used, the area must be marked with skull and crossbones and a warning written in English and Spanish.

#### 5. Early entry to a treated area

Under certain circumstances, workers may enter a treated field during an REI if they (1) have received special training and wear protective equipment or (2) will operate machinery that will shield the workers from contact with the pesticide.

If the grower does not provide the FLC with the information or the FLC has any doubt about the information the grower provided, such as the REI, safety precautions, or the proper personal protective equipment, the FLC should keep the employees out of the field and report the concern to the local county agricultural commissioner.

If the FLC’s workers will enter a treated area early, the FLC must supply any required protective wear and equipment and train them in safe work procedures. The FLC must also tell them what kind of pesticide was applied to the field, where they will be working, what the REI is, and to shower with warm water and soap as soon as possible after the end of the work shift.

#### 6. Additional safety requirements for businesses that handle pesticides

If the FLC or the FLC’s employees will handle pesticides, the FLC must:

- Have a qualified applicator license or a pest control business license
- Follow all the relevant worker safety regulations. (Contact DPR for the specific regulations.)
- Establish a hazard communication program for workers who handle pesticides
- Post the PSIS A-8 leaflet at the worksite (which is different from the leaflet the FLC gives to fieldworkers who do not handle pesticides)
- Include pesticide handling in the Injury and Illness Prevention Program (the IIPP is explained fully in Chapter II, section D)
- Keep records of the pesticides applied and submit written reports to the county agricultural commissioner
- Provide all required personal protective equipment, provide for its daily inspection and cleaning, and repair or replace any worn, damaged or heavily contaminated personal protective equipment.

## Summary of Chapter II: Health and Safety

Topic	Requirements
Field Sanitation	<p><b>Handwashing and toilet facilities:</b>            &lt; 5 employees = 1 coed toilet, otherwise either 1 men's or 1 woman's toilet facility for every 20 employees or fraction thereof.            &lt; 5 employees = offsite toilet is ok IF TRANSPORT IS PROVIDED, otherwise must have toilets in the field. Toilet must be working, be clean, offer privacy, and be fully stocked. Keep maintenance logs for two years. Must have clean water for handwashing, and drainage must not cause unsanitary conditions, nuisance, or contamination; toilet must not drain.            Employers must provide all employees with reasonable opportunities to use the facilities throughout the workday. Tell employees about hygiene and allow use of toilets and handwashing throughout the day.</p> <p><b>Potable drinking water:</b> employers must provide employees with access to drinking water at all times.</p> <p>The <b>minimum penalty</b> for violating a Cal/OSHA regulation governing field sanitation is \$750.</p>
Field Safety and Tools	<p>Have first-aid kits at farm headquarters and on buses. The FLC must arrange for emergency care in advance for workers hurt in the field. One employee in 20 must have first-aid training.</p> <p>Never use metal poles in any situation where a person could be electrocuted. Employees close to high-voltage electrical lines should be instructed on potential hazards before working. Supervisors must inspect the work area for potential exposure to high voltage lines.</p> <p>Never use long-handled tools as short-handled tools. Never use short-handled tools when bending, kneeling, or squatting.</p>
Heat Illness Prevention	<p>Provide pure drinking water via fountain or disposable cups and encourage drinking water throughout the day.</p> <p>Shade must be available when temperatures exceed 80 degrees Fahrenheit and even if temperatures do not exceed 80 degrees shade must still be available.</p> <p>Allow access to shade at all times. Shade structures must be ventilated to stay cool. Employers must provide access to shade for at least five minutes, in addition to the time needed to access the shade. Train workers on the effects of heat and the need to drink water and cool off.</p>
Injury and Illness Prevention Program (IIPP)	<p>The FLC MUST have an IIPP that includes: (1) who will be responsible for the program, (2) training, (3) a system to ensure compliance, (4) a way to make anonymous reports, (5) a method of identifying and fixing hazards, (6) investigations, and (7) recordkeeping.</p>
Pesticide Safety	<p>The FLC must know the restricted entry interval and keep the workers safe.</p> <p>To keep workers safe, the FLC must tell them about the pesticide(s), provide all necessary equipment, provide training, and arrange for emergency care if someone is poisoned. The training record must be kept for two years and provided to employees upon request.</p> <p>If the FLC's business will apply pesticides, the FLC will need to provide pesticide information, obtain extra training, get a pesticide license, and follow extra safety protocols.</p> <p>If a worker touches pesticides, make them wash immediately, and if they have symptoms, take them to a hospital immediately.</p> <p>Symptoms include headaches, nausea, weakness, blurred vision, breathing trouble, and rashes.</p>

Topic	Requirements
Other Topics	<p>The FLC must not retaliate against workers who report safety issues.</p> <p>The FLC must post the “Safety and Health Protection on the Job” and the Cal/OSHA Form 300A posters. All injuries at the workplace must be reported to the FLC’s workers’ compensation carrier.</p> <p>Serious injuries and deaths must ALSO be reported to Cal/OSHA, the California Census of Fatal Occupational Injuries, and local police.</p> <p>Injuries and deaths related to pesticides must ALSO be reported to the Department of Pesticide Regulation.</p>

## Chapter III. Wages

NOTE: The Industrial Welfare Commission (IWC) sets wages, hours, etc.

The wages, hours and working conditions for agricultural occupations can be found in the Industrial Welfare Commission (IWC) Wage Order No. 14-2001. To learn more about IWC Wage Order No. 14, please click here - [IWC Wage Order No. 14](#).

### A. Minimum wage and overtime

#### 1. Minimum wage

Effective January 1, 2025, California's minimum wage for employers of any size is \$16.50. **The minimum wage applies regardless of an employee's immigration status.**

Many cities and counties in California have higher local minimum wage requirements than state law. When an employee is subject to a higher local minimum wage than California's minimum wage, **employers must pay the higher local minimum wage.**

FLC employees may be paid a piece rate, but the rate must be at least equal to the state minimum wage (unless subject to a higher local minimum wage), including any overtime, regardless of employer size. For example, an employee who worked 8 hours on a certain day must be paid at least \$132 (8 hours x \$16.50/hr.) for that day.

#### 2. Overtime and Double Time

**NOTE: Beginning January 1, 2025, laws regarding overtime and double time rates for agricultural workers have changed as noted below.**

Employers, *regardless of how many employees they have*, must pay an employee overtime or double time based on the following rates of pay:

- At least 1.5 times an employee's regular rate of pay for more than 8 hours worked in a day
- At least 1.5 times an employee's regular rate of pay for more than 40 hours worked in a workweek (even if less than 8 hours worked in each day)
- Double time of at least 2 times an employee's regular rate of pay for all hours worked over 12 in a day

#### **Applicable rates for work performed on a seventh consecutive day in a workweek.**

Employers must also pay an employee **1.5 times their regular rate of pay** for the first 8 hours worked on the seventh consecutive day of work in a workweek, and **double time wages of at least 2 times** an employee's regular rate of pay when they work more than 8 hours on the seventh consecutive day of work in a workweek.

### B. Meal and rest periods

#### Meal periods

ALL EMPLOYEES MUST BE ALLOWED TO TAKE BREAKS EVEN IF OTHERS ARE STILL WORKING. Employers must provide an **uninterrupted 30-minute meal period for every 5 hours worked.** An employer does not have to pay their employees for the meal period time.

If an employee works 6 hours or less, the employee may agree to not have a meal period and instead be paid for all hours worked during that shift. The employer cannot force the employee to give up the meal period.

#### Rest periods

Employers must provide a **paid, uninterrupted 10-minute rest break for every four hours worked, or major fraction thereof an employee works.** This means that an employer must give an employee who works at least 3.5 hours one rest break; an employee who works more than 6 hours, two rest breaks; and an employee who works more than 10 hours, three rest breaks. A reasonable bathroom break does not count as a rest period. **Rest periods are**

**considered part of the hours an employee works.** Deduction of wages for rest periods or reasonable bathroom breaks taken are not permitted.

### **C. Paid Sick Leave**

All full-time employees must be provided at least 5 days or 40 hours of paid sick leave per year, whichever is greater. For example, if a full-time employee works a typical shift of 10 hours per day, the employee is entitled to at least 50 hours of paid sick leave per year. There is a small exception for collective bargaining agreements, but, even with a collective bargaining agreement, an employer must provide their employees with some paid sick leave.

Employees can take paid sick leave for themselves or a family member, for preventive care or diagnosis, care or treatment of an existing health condition, or for specified purposes if the employee or a family member are a victim of a crime.

Employers must provide paid sick leave to an employee who is a victim or whose family member is a victim of a crime for taking time off to seek relief which includes, but is not limited to, seeking a temporary restraining order, restraining order, or other relief to help ensure their or their family member's health, safety, or welfare.

Effective January 1, 2025, employers with 25 or more employees have additional obligations to provide sick leave to an employee who is a victim or whose family member is a victim of a crime to obtain or attempt to obtain relief related or as a result of the qualifying crime, for the family member. Relief includes but is not limited to, seeking a temporary restraining order, restraining order, or other relief to help ensure their or their family member's health, safety, or welfare; medical attention, services for domestic violence, and psychological counseling or mental health services.

Employers must also provide paid sick leave to agriculture employees who work outside to avoid smoke, heat, or flooding conditions created by a local or state emergency including, but not limited to, when the employee's worksite is closed due to smoke, heat, or flooding conditions. There are smoke, heat, or flooding conditions created by a local or state emergency if the Governor proclaims a state of emergency or an applicable authority proclaims a local emergency.

Employers can provide paid sick leave through an "upfront" or "accrual" method. For the up-front method, an employer must provide at least 5 days or 40 hours, whichever is greater, at the beginning of a 12-month period. For the "accrual method," the employer must allow the employee to accrue at least 1 hour of paid sick leave for every 30 hours worked.

Some cities and counties in California mandate more paid sick leave be provided to employees than state law. When an employee is subject to a higher local paid sick leave requirement than California's paid sick leave requirement, employers must provide the amount of paid sick leave required by the local law.

An employer cannot require an employee requesting paid sick leave to find a replacement worker. An employer cannot retaliate against an employee for requesting or using paid sick leave.

An employer must put the available paid sick leave on each itemized wage statement or in a separate writing every time the employee is paid.

An employer must post in a conspicuous place a poster stating that an employee is entitled to accrue, request, and use paid sick days, the terms of use for paid sick days, the amount of days provided, and that retaliation is unlawful.

### **D. Wage Deductions**

The FLC must make deductions from employees' wages that are required by state and federal law, but the FLC must not make deductions from an employee's wages to cover breakage or loss of equipment, unless the employee intentionally causes the loss.

The FLC **must not make any other deduction** unless the employee gives the FLC specific written permission to deduct wages for a meal, personal medical insurance program, etc.

### **E. Paydays**

**The FLC must pay its employees at least once per week.** The day must be set in advance and posted on the Payday Notice (see "Posting Requirements" in section G below).

Wages must be paid by direct deposit, check, cashier's check, money order, or cash, and the employee must ALWAYS receive an itemized wage statement (see Section F(3) below).

## F. Recordkeeping requirements

### 1. Requirement to Provide Employee Information at Hiring

When an employer hires an employee, the employer must provide a written notice in the language the employer normally uses to communicate work-related information to the employee with the following information:

- The rate of pay, including any rates for overtime.
- The regular payday designated by the employer.
- The name of the employer, including any "doing business as" names used by the employer.
- The physical address of the employer's main office or principal place of business, and a mailing address.
- The telephone number of the employer.
- The name, address, and telephone number of the employer's workers' compensation insurance carrier.
- Allowances, if any, claimed as part of the minimum wage, including meal or lodging allowances.
- That an employee may accrue and use paid sick leave, has a right to request paid sick leave, cannot be retaliated for requesting or using paid sick leave, and may file a retaliation complaint against an employer who retaliates.
- The existence of a federal or state emergency or disaster declaration applicable to the county or counties where the employee will work, and that was issued within 30 days before the employee's first date of employment, which may affect their health and safety during their employment.
- Any other information the Labor Commissioner deems necessary.

Employers with H-2A workers must also, in addition to the notice described immediately above, provide a separate and distinct section including nonduplicative information that briefly describes an agricultural worker's additional rights and protections under California law. The separate information to be provided on the notice for H-2A workers includes, but is not limited to, information addressing the federal H-2A program wage rate, employee housing rights, nonretaliation protections for complaints or organizing, sexual harassment prohibitions, workplace safety requirements, workers' compensation coverage, and disability pay, among other rights and protections afforded to H-2A workers as specified under the law. The employer must provide this notice in Spanish to the employee on the day the H-2A employee begins work in the state or on the first day the worker begins work for another H-2A employer.

### 2. Time records

The employer must keep accurate time records for all employees and provide them at the request of the employee. Time records must show when each employee started and finished work, when the meal period was taken, the total hours worked each day, the total hours worked during the pay period, and the total wages paid for that period, including meals, lodging, etc.

### 3. Itemized Wage Statements

Every time an employer pays employees (even if the employer pays them in cash), the employer must give them a written itemized statement in ink, in English, and properly dated with the month, day, and year that shows:

- Employee's **name**
- Last four digits of the employee's Social Security number *or* an employee identification number (e.g., ITIN)

- The FLC business's **name and address**
- **Name and address of business that hired the FLC** (usually the grower)
- **Dates** of the pay period
- **Total hours** worked
- **Gross wages** earned
- **Net wages** earned
- Number of piece-rate units earned (if applicable)
- All **deductions**, such as taxes and medical benefits
- The **hourly rates** for regular, overtime, and double-time work and the corresponding number of hours worked at each rate of pay
- **Paid sick leave** available (if unlimited paid sick leave or unlimited paid time off, an employer can indicate "unlimited")

A copy of records of deductions must be maintained at the place of employment or central location for three years.

#### 4. Keep records on file

All applications and personnel files of applicants or terminated employees **must be kept not less than four years. An employer must keep payroll records for at least three years.**

### G. Posting requirements

The FLC must post the following posters at the worksite where workers can see it:

- The appropriate IWC Order where employees can easily read it
- The Minimum Wage poster
- A **payday notice** stating when the regular payday is
- A Paid Sick Leave poster
- Signage with the FLC's name, FLC license number, and the name and working phone number for the FLC's field supervisor
- The rate of compensation the FLC pays its employees for their services. The notice must be in English and Spanish.

### H. Final pay

#### 1. If the FLC fires an employee

If the FLC fires an employee, the FLC must immediately pay all wages owed upon the employee's termination.

#### 2. If an employee quits

If an employee quits without notice, they must be paid within three days. If the employee gives the FLC at least three days' notice, the FLC must pay them at the time of quitting.

#### 3. If the FLC does not pay wages due

If an employee who quits or is fired is not paid on time, then the FLC will be charged a penalty equal to the employee's wage for each day the FLC does not pay, up to 30 days.

#### 4. If the FLC and the employees disagree on the amount of wages due

The FLC must pay the wages that the FLC knows are owed and resolve the disputed amount later.

## I. Other topics

### 1. Tools

The FLC **must supply all the tools** an employee needs to do their job if the employee is paid less than twice the minimum wage.

### 2. Working conditions applicable to sheepherders and goat herders

Sheepherders and goat herders must be provided with all the following at each work site:

- Regular mail service at least once a week
- An appropriate form of communication, including but not limited to a radio or telephone
- Visitor access to their housing.

## Summary of Chapter III: Wages

Topic	Requirements
Minimum Wage	Effective January 1, 2025, California's minimum wage for employers of any size is \$16.50. If a higher local minimum wage applies, the employer must follow the higher local wage. Applies regardless of immigration status. FLC employees who receive piece rate compensation must not be paid at a rate less than the applicable minimum wage.
Overtime	<p><b><u>Beginning January 1, 2025, employers are required to pay the same overtime or double time rates regardless of employee size based on the following:</u></b></p> <p>Overtime of at least 1.5x regular rate of pay when employee works more than 8 hours in a day; overtime of at least 1.5x regular rate of pay when employee works more than 40 hours in a workweek; and double time of at least 2x regular rate of pay for all hours worked over 12 in a day.</p> <p>Employers are also required to pay an employee 1.5x their regular rate of pay for the first 8 hours worked on a seventh consecutive day in a workweek, and double time wages (at least 2x regular rate of pay) when an employee works more than 8 hours on the seventh consecutive day in a workweek.</p>
Breaks	<p>An employer must give employees breaks even if others are still working.</p> <ul style="list-style-type: none"> <li>- 30-minute uninterrupted, unpaid meal break for every five hours worked</li> <li>- 10-minute uninterrupted, <b>paid</b> rest break for every four hours worked or major fraction thereof, starting at 3.5 hours. Considered hours worked.</li> </ul>
Paid Sick Leave	<p>Employees generally must receive at least 5 days or 40 hours of paid sick leave per year, whichever is greater; if a local law requires additional sick leave, employers subject to local law must follow local requirements.</p> <p>Employees can take paid sick leave for themselves or a family member for preventive care, diagnosis, care or treatment of an existing health condition, or for specified purposes if the employee or their family member are a victim of a crime. Effective January 1, 2025, additional obligations apply to employers with 25 or more employees to provide paid sick leave if the employee or their family member are a victim of a crime. Employers must also provide paid sick leave to agricultural workers who work outside to avoid smoke, heat, or flooding conditions created by a local or state emergency.</p> <p>An employer must show available paid sick leave on an itemized wage statement or separate writing given at the time of payment of wages.</p> <p>An employer cannot require an employee to find a replacement worker.</p>
Paydays and Deductions	<p>An employer must pay employees at least once per week on the date in the payday notice. The employer must ALWAYS provide an itemized wage statement with deductions.</p> <p>An employer must make all the deductions required by state and federal law. The employer must not deduct for broken or lost equipment unless the worker intentionally breaks it. The employer may not deduct for anything else unless the worker consents in writing to have deductions for meals or medical plans, etc.</p>

Topic	Requirements
Recordkeeping	<p><b>Required notice to employee at hiring:</b> Written notice to employee in language used to communicate with employee with regular rate of pay, payday, employer's name, address, and telephone number, paid sick leave information, workers' compensation carrier, among other items. Employers with H-2A workers must also provide them with a supplemental notice in Spanish that describes an agricultural worker's additional rights and protections under California law.</p> <p><b>Itemized Wage Statements:</b> the itemized statement must include the employee's information, the dates of the pay period, the employer's name and address, the name and address of the business that hired the FLC, the last four digits of the employee's SSN or other ID number (e.g., ITIN), hours worked, pay, deductions, pay rate, and paid sick leave, among other items.</p> <p>The employer must keep accurate time records for all employees and provide them at the employee's request.</p>

Topic	Requirements
	Applications and personnel files for applicants and terminated employees for at least four years. Payroll records = keep at least three years.
Posting Reqs.	<p>The FLC must post the following <u>at the worksite</u>:</p> <ul style="list-style-type: none"> <li>• The appropriate IWC Order</li> <li>• The Minimum Wage poster</li> <li>• A <b>payday notice</b> stating when the regular payday is</li> <li>• A Paid Sick Leave Poster</li> <li>• Signage with the FLC's name, FLC license number, and the name and working phone number for the FLC's field supervisor</li> <li>• The rate of compensation the FLC pays employees for their services. The notice must be in English and Spanish.</li> </ul>
Final Pay	<p>Fired employee = must pay all wages owed at the time of firing</p> <p>Employee quits = must pay all wages within three days, but if employee gave at least three days' notice, then must pay on the last day of work.</p> <p>If the employer fails to pay on time, the employer will be fined the employee's daily wage for each day the pay is overdue for up to 30 days.</p> <p>Even if the employer and employee disagree on the wages due, the employer must pay the undisputed part on time and resolve the rest later</p>
Other Topics	<p>If the employer pays a worker less than 2x the minimum wage, the employer must provide all necessary tools.</p> <p>In addition to their pay, an employer must provide for shepherders and goat herders with:</p> <ul style="list-style-type: none"> <li>• regular mail at least once per week,</li> <li>• a method of communication such as a radio or phone,</li> <li>• and visitor access to employee housing.</li> </ul>

## Chapter IV. Workers' Compensation and State Disability Insurance

### A. General information regarding workers' compensation insurance

**Every employer must have workers' compensation insurance (WCI)**, which covers medical expenses and lost wages of workers who are hurt on the job. Injuries may be the result of a single incident or long-term exposure to a hazard. **All employees, full-time and part-time, must be covered.** An employer must not collect any money from the employee, directly or indirectly, to pay for WCI.

An employer must (1) provide new hires with notice of the employer's WCI, (2) post a notice about coverage and benefits in a location where employees will see it and can easily read it during the hours of the workday, and (3) provide a notice upon request. The notice must show the name of the employer's insurance company and explain workers' rights in plain language, such as the right to receive medical care, choose their own doctor, and have lost wages paid.

If one of the workers is injured while the employer is not insured, the employer (1) will have to pay for their treatment, (2) will have to pay any lost wages, and (3) may be fined \$2,000 to \$10,000 for each employee the employer has, depending on the circumstances.

### B. Workers' compensation insurance penalties

The penalty for not having WCI is either (1) twice the amount the employer would have paid in insurance premiums during the period the employer was uninsured or (2) \$1,500 per employee, whichever is greater. The employer will not be able to operate its business until the employer obtains insurance. The employer must pay all its employees their regular pay for the first 10 days that the employer's business is closed.

### C. State disability insurance

The Employment Development Department (EDD) handles disability insurance for workers who lose wages due to pregnancy or an off-the-job injury or illness. The employee pays for state disability insurance through a payroll deduction, which the employer is required to make.

The employer must give employees a notice supplied by EDD that tells workers about their disability insurance rights.

## Chapter V. Child Labor

### A. Permit to work, permit to employ, and applicable penalties

An employer must not employ anyone under 12 years old. Minors ages 12-17 need a permit to work and the employer needs a Permit to Employ for each minor, but this does not apply to high school graduates who are under 18. Permits are issued by the local school district even for minors who are not residents of California. Permits are required even for work during school vacation.

To obtain a permit, the employer must file a Notification of Intent to Employ with the local school district. This form states the kind of work the minor will do, the maximum number of hours per day and per week the minor is expected to work; it requires the signatures of the minor, the parent or guardian, and of the employer, among other items.

Permits are issued to specific employers for specific locations and cannot be transferred to another employer.

The employer must keep all Permits to Employ on file. If the employer does not have the proper permits available for inspection, it will be assumed that the minors are working for the employer illegally, and the employer may be issued a penalty between **\$500 to \$1,000**.

### B. Work hours and applicable penalties

The total number of hours a minor may work in a day and in a week as well as during what part of the day the minor can work will be written on the permit. These requirements may vary, depending on the age of the minor and whether school is in session. Always verify with the school district what hours a minor can work.

If the employer requires or allows a minor to work any hours that are not permitted, the employer can be issued a penalty of **\$500 to \$1,000**. If the employer requires or allows a minor to work more than eight hours in a day, the employer can be issued a penalty of **\$5,000 to \$10,000**.

### C. Hazardous occupations and applicable penalties

Minors under the age of 16 must NEVER be employed in a hazardous job.

If the employer allows a minor under the age of 16 to work in any hazardous occupation, the employer may be issued a penalty of **\$5,000 to \$10,000**.

Minors under 12 may not enter or accompany their parents into any dangerous agricultural area. If the employer allows a minor under 12 to enter such an area, the employer may be **fined \$5,000 to \$10,000**.

## Chapter VI. Employee Housing

### A. Permits

To operate housing for workers *under any circumstance*, the employer **must obtain a permit** from the Department of Housing and Community Development. Apply at least 45 days before they move in to allow time for inspection. The employer **also** needs to obtain permission from the U.S. Department of Labor.

### B. Postings

The employer must post the following on a bulletin board attached to a wall in the housing:

- A notice, in English and Spanish, with state requirements for employee housing, the name, address, and phone number of the housing agency, and the name of the housing official that workers may contact. The agency will provide this notice.
- A notice showing the name, address, and phone number of the person responsible for maintaining the housing.
- A copy of the state/local housing permits. The originals must be kept for three years.

### C. Workers' rights

Workers living in housing the employer operates have the right to:

- Complain to the employer or the landlord about the housing
- Complain to an enforcement agency about the housing
- Use any legal right related to housing.

If the workers do any of the above, it is illegal for an employer to force them out by:

- Raising the rent
- Reducing services
- Threatening eviction
- Refusing to renew the housing agreement
- Firing them
- Blacklisting them
- Retaliating against them for asserting their rights
- Preventing them from doing something they want to do
- Threatening or forcing them to do something that they do not want to do.

## Chapter VII. Transportation

### A. Required license and certificates

The FLC **must carry all the following documents with them at all times:**

1. Commercial Drivers' License
  - a. The FLC must be **at least 18 years old** to get a commercial license.
2. Passenger Vehicle Endorsement
  - a. The FLC must also have this special status applied to their commercial vehicle license.
3. Certificate to Operate a Farm Labor Vehicle
4. Medical Certificate
  - a. The FLC must meet all the **physical requirements** to be able to drive safely.
5. Vehicle Inspection Certificate
6. Vehicle Registration
  - a. All farm labor vehicles must be registered with the Department of Motor Vehicles, the state Labor Commissioner, and the U.S. Department of Labor.

### B. Vehicle insurance requirements

FLCs who provide labor (and thus have workers' compensation insurance) must provide at least:

- \$15,000/\$30,000 minimum coverage for personal injury and \$50,000 for property damage for vehicles carrying 15 or fewer passengers, including the driver; or
- \$30,000/\$60,000 minimum coverage for personal injury and \$50,000 for property damage for vehicles carrying more than 15 passengers.

Day haulers who provide transportation only must provide at least:

- \$1.5 million minimum coverage for personal injury for vehicles carrying 15 or fewer passengers, including the driver; or
- \$5 million minimum coverage for personal injury for vehicles carrying more than 15 passengers, including the driver.

### C. Driving restrictions

Farm labor vehicles carrying passengers must **never be driven over 55 mph**.

**No one may drive a vehicle if he/she has ingested any alcohol/drugs.**

A driver traveling only within California must rest 8 hours after 10 hours of driving.

A driver traveling across states must rest 10 hours after driving for 11 hours, and rest for 8 hours after driving 600 miles.

The FLC must ensure that their drivers keep records of their driving.

## D. Vehicle restrictions

### 1. Emergency exits

Emergency exits must be clear, unlocked, and in working condition at all times. Emergency doors must open from the **inside and outside** the vehicle. All exits must be clearly labeled on the inside and outside in English and in other languages that the workers can understand.

### 2. Transporting property

The FLC must not carry any hazardous material or extra fuel in the passenger compartment of a farm labor vehicle, but the FLC may carry tools with sharp edges **if they are kept in covered containers.** Any other tools or equipment must be tied down. Other personal property must be secured, and aisles and exits must be kept clear at all times.

## Chapter VIII. Treatment of Workers

### A. Discrimination

The FLC (or anyone who works for the FLC) must not treat a worker differently based on race, gender, age, religion, or physical or mental disability, among other protected characteristics. As the employer, the FLC may not refuse to hire or fire someone because of that person's race, gender, age, religion, or disability, among other protected characteristics. In addition, employers must provide reasonable accommodations to employees with a physical or mental disability unless it would cause an undue hardship. Employers must also engage in a timely and good faith "interactive process" with the employee to determine effective reasonable accommodations.

The FLC **MUST NOT pay a different wage to women** who do the same work under the same conditions as men. The FLC may pay different rates if they are based on a seniority system or a merit system that measures quantity and quality of production.

### B. Retaliation

The FLC may not make, adopt, or enforce any policy preventing an employee from disclosing information to a government or law enforcement agency, AND the FLC must not take any negative action against an employee for having filed a claim or made a report.

The FLC must not take any negative action against an employee who refuses to participate in an activity that would be illegal or result in noncompliance with regulations.

The FLC must not take any negative action against an employee for having used any of their rights under the Labor Code, such as, for example, using paid sick leave, filing for workers' compensation, filing a wage claim, complaining about pay or working conditions, or reporting unsafe working conditions.

The Labor Commissioner may revoke the license of any employer that engages in retaliation, including retaliating based on the actual or perceived immigration status of an employee.

### C. Sexual harassment

The FLC (or anyone who works for the FLC) must not sexually harass the workers or anyone else while on or off the job. **The FLC will be liable** if their employee sexually harasses someone while on the job **if** the FLC does not take reasonable steps to (1) prevent sexual harassment and (2) investigate claims of sexual harassment. If someone reports harassment, the FLC must investigate immediately. The FLC must encourage the worker to make a written report and protect the worker from retaliation for reporting the sexual harassment.

As part of the annual nine-hour FLC training, the FLC must take one hour of sexual harassment prevention training. In addition, the supervisory employees of an FLC must be trained on sexual harassment prevention in the workplace at least once for at least two hours each calendar year. Nonsupervisory employees of an FLC must receive training on sexual harassment prevention in the workplace at least once every two years. New nonsupervisory employees must be trained at the time of hire. The Labor Commissioner's Office will **not** issue or renew a license if the FLC fails to provide a written statement attesting that the FLC provided the training in the prevention of sexual harassment in the workplace as required by law.

Any of the following can be sexual harassment: touching people (not just in a sexual way), offensive sexual language/gestures or posting sexual images or messages, sexual or romantic invitations, or treating a person differently based on that person's gender (e.g., giving more breaks to an employee based on gender). Essentially anything that makes a person feel uncomfortable *because* that person is a man or a woman can be sexual harassment and is STRICTLY prohibited. Victims **can file sexual harassment claims with the** California Civil Rights Department.

The Labor Commissioner may revoke, suspend, or refuse to renew a license if:

- the FLC has been found by a court or an administrative agency to have committed sexual harassment of an employee, or
- the FLC employed any supervisor, crew leader, mayordomo, foreperson, or any other employee who supervised, directed, or controlled any agricultural worker on behalf of the FLC, whom the FLC knew or should have known was found by a court or an administrative agency to have committed sexual harassment of an employee within the preceding three years.