As an agricultural employer, you play an important role in agriculture. You also earn a living and bring jobs to the community. When you understand and comply with labor laws, you protect the investment you have made, promote a positive image, and avoid paying penalties.

Through the Labor Enforcement Task Force (LETF), under the direction of the Department of Industrial Relations, California agencies work together to make sure employers are following labor, safety and health, licensing, and payroll tax laws. LETF can help you understand which laws apply to you and how to comply. LETF also inspects businesses and cites employers if violations are found.

Penalties

Not following the law will hurt your business. Here are some examples of the kinds of penalties you would owe your workers and state agencies.

<table>
<thead>
<tr>
<th>IF YOU:</th>
<th>YOU WOULD OWE:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Misclassify employees as independent contractors</td>
<td>Fines of $5,000 to $25,000 per violation, plus unpaid payroll taxes</td>
</tr>
<tr>
<td>Fail to pay the minimum wage or overtime; fail to provide rest and meal breaks</td>
<td>All wages owed, plus penalties</td>
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<tr>
<td>Fail to provide a pay stub</td>
<td>$250 per employee each time they are paid</td>
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<tr>
<td>Violate health and safety rules</td>
<td>Up to $25,000 for each serious violation and a possible shutdown of operations</td>
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<tr>
<td>Punish or retaliate against workers</td>
<td>All wages owed, a fine of up to $10,000 per employee, and workers get their jobs back</td>
</tr>
<tr>
<td>Fail to have workers' compensation insurance</td>
<td>At least $1,500 per employee, and no one can work until all workers are covered</td>
</tr>
<tr>
<td>Fail to have appropriate licensing</td>
<td>Fines of up to $100 per employee per day, up to $10,000</td>
</tr>
</tbody>
</table>

Total: NOT WORTH THE RISK!

In some cases, criminal charges may be filed. You may serve up to 10 years in jail.

This booklet provides general information and is not meant to serve as legal advice. It was developed by the Department of Industrial Relations and its Labor Enforcement Task Force with assistance from the Labor Occupational Health Program at UC Berkeley.

Design by Cuttriss & Hambleton
In 2017, agricultural employers inspected by LETF were assessed over $150,000 in initial penalties. This brochure describes some of the common problems LETF inspectors find in agriculture. It also lists where you can get help.

Agricultural employer penalized for violations of heat illness and other standards

During a Labor Enforcement Task Force inspection in the fields, inspectors found a crew of 10 farm workers harvesting cilantro in 90-degree weather. The employer was fined $24,500 for failing to conduct safety and heat illness prevention training to workers and for not providing adequate shade, single-use drinking cups for drinking water, and hand-washing facilities.

Note: This example reflects a typical scenario.
Problems LETF finds in agriculture

Licensing

Labor Code section 1683 requires that anyone acting as Farm Labor Contractor (FLC) must be licensed by the Division of Labor Standards Enforcement (DLSE), must keep his/her license up-to-date, and must keep it in his/her possession. For more information about FLC licenses, please go to: http://www.dir.ca.gov/DLSE/FLC.htm.

Employee Hiring

Agricultural employers are often cited for:

1. Misclassifying employees as independent contractors.
   If you are the one who controls how someone does the work and when that work is done, then it is likely that person is legally your employee. State agencies won’t care if you gave someone a 1099 form or that an employee agreed to work as an independent contractor.

2. Not keeping all required records.
   You must keep records of all your employees for the past four years. This should include name, address, job type, and last four digits of the Social Security number. For minors under 18, you must list their dates of birth.

Wages and Breaks

Agricultural employers are often cited for:

1. Not paying workers the wages they are owed.
   • You must pay at least minimum wage for all hours worked. If the city where you are working or the federal government has a higher minimum wage than the state, then you must pay whichever of those rates is the highest.
   • You must pay overtime (1 1/2 times the regular rate of pay) and double-time (twice the regular rate of pay) according to the rules stated in Industrial Wage Commission Order No. 14-2001 (which must be posted at your workplace where employees can read it easily).

2. Not allowing rest or meal breaks.
   Workers must receive:
   • A paid 10-minute rest break for every 4 hours of work.
   • An unpaid meal break of at least 30 minutes if they work 5 hours or more. (An employee can agree to skip meal breaks if the workday is 6 hours or less.)

3. Paying a piece rate or other nonhourly rate that does not meet minimum-wage requirements (including any required overtime) or does not separately compensate workers for required breaks and other nonproductive time.

4. Not giving pay stubs or not paying payroll tax.
   You must give out pay stubs, list the deductions, and pay payroll tax. For each pay period, keep records of work hours and amounts paid to each worker.
   Visit: www.dir.ca.gov/dlse/DLSE-FAQs.htm for more information on all the items that must be included in a wage stub.

Health and Safety

Agricultural employers are often cited for:

1. Not complying with the following regulations:
   • § 3457 (c). Provide potable drinking water, single-use cups, toilets and hand-washing facilities
   • § 3395 (d). Allow access to shade
   • § 3441 (a). Reduce machinery hazards, e.g., guards for machinery and safe practices when using agricultural equipment
   • § 3395 (f). Establish Emergency Response Procedures
   • § 3395 (i). Establish a Heat Illness Prevention Program
   • § 3203 (a). Establish an Injury and Illness Prevention Program
   • § 3439 (a). Ensure availability of first-aid materials onsite
   • § 3395 (h). Provide employee and supervisor training on heat illness prevention
   • § 342 (a). Report work-related fatalities and serious injuries to Cal/OSHA

Many hazards have specific regulations that describe what an employer must do to protect workers. These are called Title 8 Safety Orders, such as those listed above, and you can find them here: www.dir.ca.gov/samples/search/query.htm.

If you have Health and Safety questions, please refer to “Code of Regulations, Title 8” and/or contact your nearest Cal/OSHA Consultation Office.

2. Not providing the necessary equipment (such as long-handled tools).

3. Lacking a proper safety plan (Injury and Illness Prevention Program or IIPP).
   You must have a written plan to identify hazards and protect workers. You must also have a way for workers to make suggestions without threat of being fired or punished.

Other employer-required programs:
   • Hazard communication
   • Heat Illness Prevention Program, www.dir.ca.gov/dosh/heatillnessinfo.html
   • Energy Control Program

4. Poor records of training.
   Safety training must be in a language that workers understand. Keep records that include date, type of training, name of trainer, and names of workers who attended. You must pay workers for the time they spend in training.

5. Not having a first-aid kit.

6. Not having workers’ compensation insurance or not insuring all employees.
   All businesses must have this insurance to provide medical care and other benefits if a worker is injured. As soon as you hear about a possible job injury, you must give the injured worker a claim form and the name of your insurance company.
Stay up to date with new labor laws

Below are some resources to help you stay updated and comply with important recent changes to labor laws:

- **Paid Sick Leave.** Employers must do several things to comply with the Healthy Workplace Health Family Act; visit www.dir.ca.gov/dlse/ab1522.html.

- **Minimum Wage.** As of January 1, 2019, the minimum wage in California is $12.00 per hour for employers with 26 or more employees and $11.00 per hour for employers with 25 or fewer employees. Some localities (cities and counties) have enacted higher minimum wage rates. For more details, visit www.dir.ca.gov/dlse/faq_minimumwage.htm.

- **Piece-Rate Compensation.** Effective January 1, 2016, AB 1513 adds section 226.2 to the Labor Code concerning how to compensate piece-rate workers for required breaks and other nonproductive time. Visit www.dir.ca.gov/pieceratebackpayelection/AB_1513_FAQs.htm.

Retaliati on is illegal

Employers can be required to reinstate fired employees, pay employees’ lost wages, and pay fines up to $10,000 per employee if they punish or fire workers for:

- **Speaking up** about wages that are owed to them
- **Reporting** an injury or a health and safety hazard
- **Filing** a claim or complaint with a government agency.

It is illegal for employers to threaten or retaliate against workers in any way.

For example, employers cannot:

- **Threaten** workers with deportation
- **Punish** workers with undesirable tasks
- **Fire** workers or send them home
- **Prevent** workers from getting a different job.

You do not have to agree with the workers. If you are complying with labor laws, you do not have to make the changes that are being requested. But everyone benefits when workers feel safe enough to bring up concerns. Listen to your employees and involve them in coming up with solutions that work for everyone.

Where to Get Help

There are resources that can help you understand which laws apply to you and how to comply.

**LETF**

Call the Labor Enforcement Task Force (LETF) toll free at 855-297-5322 or go to www.dir.ca.gov/letf.

Through LETF, California agencies work together to target businesses that are not following labor laws and other business requirements. LETF aims to make sure that workers are paid their full wages, workplaces are safe, and employers are complying with labor and payroll tax laws.

LETF agencies include:

- Department of Industrial Relations
  - Labor Commissioner (DLSE)
  - Cal/OSHA
- Employment Development Department (EDD)
- Contractors State License Board (CSLB)
- California Department of Tax and Fee Administration (CDTFA)
- Bureau of Automotive Repair (BAR)
- Alcohol Beverage Control (ABC)
- California Department of Insurance (CDI)
- State Attorney General (DOJ)

and other state, federal and local agencies.

**Cal/OSHA**

Call Cal/OSHA Consultation at 800-963-9424 or go to www.dir.ca.gov/dosh/consultation.html.

Consultation Services provides free health and safety consultation to employers. Consultation Services is separate from the Cal/OSHA Enforcement Branch. All your communications with Consultation Services are confidential.

- To improve your safety plan, Cal/OSHA offers templates for an injury and illness prevention model program for agricultural employers with intermittent workers, and a heat illness prevention sample procedure: www.dir.ca.gov/dosh/heatillnessinfo.html.
- Go to www.dir.ca.gov/samples/search/query.htm to find regulations about specific hazards (Title 8 standards).

**Other sources of help**

- Agricultural Employers’ Associations
- Small Business Development Centers
- Your workers’ compensation insurance broker can offer assistance, including help with developing a safety plan.