

EMPLOYMENT LAW

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IN TERMS OF EMPLOYMENT LAW COMPLIANCE, IS YOUR AGRIBUSINESS HIRED OR FIRED?

Whether you are an employer or employee, the odds are extremely high that you come across an employment law issue every day or every business day. These issues may range from minor problems, such as proper tax withholdings on your paychecks, to major concerns, such as harassment or discrimination. Regardless of whether your issues are major or minor, employment law compliance is arguably an area of great vulnerability for agribusinesses. Oftentimes, farm employers argue they, “Don’t have enough time for these things” or, “Haven’t had to worry about it in the past,” as reasons why employment law compliance is put on the back burner.

Adopting the position that you are not concerned with employment compliance is very dangerous for both business owners and employees alike. In the next few paragraphs, I am going to walk you through a few reasons why employment law compliance is essential, examine some of the key areas, explain how you can bring your operation into compliance, or, for employees, explain how you can learn more about your rights.

Why is Employment Law Compliance Important?

“So sue me.” You have probably used or heard this phrase uttered in a joking manner plenty of times. Well, it is all fun and games until someone is actually sued. Litigation is no laughing matter, and neither are the fines, costs, and criminal punishments often accompanying an employment law violation. For example, according to the Ohio Revised Code, allowing a minor under the age of 16 to engage in a hazardous occupation on your farm is a third degree misdemeanor, punishable by a \$500 fine or 60 days in jail per violation. Hence, litigation avoidance is the primary reason why employment law compliance is important.

In addition to avoiding litigation, the long-term sustainability of your business should also encourage employment law compliance. For many farm families, the farming operation is a significant source of income, the absence of which can bring about

substantial hardship. Losing employees, or not being able to hire sufficient dependable employees, may result in a decision to downsize or shut down altogether. Therefore, employment law compliance is instrumental for maintaining a steady workforce and a healthy, profitable operation.

What is the Difference Between Labor Law and Employment Law?

In your time as a business owner or an employee, you may be familiar with a legal field known as labor law. At first glance, you might think that labor law and employment law are the same thing. As it turns out, labor law and employment law are distinct areas of specialty, although there is some occasional overlap. Topics such as labor unions, collective bargaining, strikes, and boycotts fall under the umbrella of labor law. Employment law, on the other hand, examines very distinct subjects.

Ok, take your best guess at how many specific issues fall within the area of employment? How many did you come up with? 20? 30? 50? If you guessed around 30, then you were close to my estimate. That is correct, 30 subject areas. Some of the more common employment law subjects include employment agreements, compensation and benefits, workplace harassment, at-will employment, workers compensation, termination, and many others. Employment-related discrimination is a major component of employment law and labor law, as it can affect recruitment, hiring, promotion, and termination. While this represents a small list of topics, you can see the scope of employment law and how it differs from labor law.

This is All Important, but How Do I Comply?

The simple answer is: It depends. Compliance with applicable laws and regulations varies by the type of operation, its size, and who it employs, among a host of other factors. This makes sense; think about how the Ohio Environmental Protection Agency regulates a 1,000-cow dairy farm versus a 10-cow dairy.



One farm is treated very differently from the other in that scenario. The same thing happens with employment law compliance.

Since compliance requirements vary, the first step towards compliance is to conduct a thorough assessment of your farm and its employment law vulnerabilities. Does your business use an application and interview process for hiring? Do you conduct training on your farm? On payday, are you winging it on your employees’ tax withholdings? Are you completely and accurately maintaining employee files? These inquiries, along with many others, are questions you should be asking yourself when assessing the employment law weaknesses of your agribusiness.

Once this critique is complete, your next step is to research the law. Luckily, Ohio State Extension recently unveiled a new website that contains a summary of all federal and state employment laws in a tool called the “Ohio Farm Employment Handbook.” This handbook is user-friendly and focuses on summarizing the law in easy-to-understand language and clearly outlining the steps required for compliance. Additionally, the handbook is a resource for employees who are looking to learn more about their employment rights. It will be available online in December 2015 at u.osu.edu/ohiofarmemployment.

If your operation is too large, or you do not feel comfortable deciphering the laws on your own, then your best option is to consult an attorney or human resources professional.

This article is intended to provide general legal information, and should not be construed as legal advice. Individuals should seek the advice of a competent attorney regarding their own individual circumstances. ■