

Farm Workers' Compensation in New Mexico

Victor E. Cabrera, September 2006

There are 12 states that cover agricultural employees the same as all other employees: **Arizona**, California, **Colorado**, Connecticut, District of Columbia, Hawaii, Idaho, Massachusetts, Montana, New Hampshire, Ohio, Oregon.

There are 11 states that use payroll to determine eligibility for workers' compensation: Delaware, Iowa, Louisiana, Maryland, Minnesota, New York, **Oklahoma**, Pennsylvania, **Texas**, Utah, Vermont. There are other seven states: Florida, Michigan, Virginia, Washington, West Virginia, Wisconsin, and North Carolina that have mechanisms to require workers' compensation insurance, but with some limitations.

There are 18 states without compulsory compensation laws that apply to farm workers: Alabama, Arkansas, Delaware, Georgia, Indiana, Kansas, Kentucky, Mississippi, Missouri, North Dakota, Nebraska, Nevada, New Jersey, **New Mexico**, Rhode Island, South Carolina, Tennessee, Wyoming. These states encourage voluntary workers' compensation, but 11 of these have no statutory provisions. One of them is New Mexico.

In all states, however, is required that farm labor contractors and employers who transport laborers are required by law to have insurance for buses and other vehicles that transport farm workers.

All New Mexico neighbors' have higher provisions. Arizona and Colorado require compulsory workers compensation without restrictions. Texas enforces workers' compensation for migrant/seasonal workers and larger farms while Oklahoma requires it when the farm has annual revenues exceeding \$100,000.

Workers' compensation is no-fault on-the-job accident insurance. If a worker is injured at work, he or she receives benefits according to a schedule established by the legislature. Farm employers pay experience-rated premiums that can range from five to 20 percent of farm worker earnings. As in any insurance, higher rates apply for riskier work positions.

When the state legislature requires farm workers' compensation, this is the only remedy for any injury in the work. The sole responsibility of the employer is to pay the insurance premium. However, if the employee has no workers' compensation, injured workers can sue the employer and a court would determine whose fault was and the amount the employer should pay, if any.

Guest workers or temporary foreign employees who come to work in agriculture with visa type H-2A are required to come with insurance for on-the-job injuries, which must be paid by the employer ahead of time.

Some interesting readings:

http://migration.ucdavis.edu/rmn/more.php?id=113_0_3_0

<http://www.dol.gov/esa/regs/statutes/owcp/stwclaw/tables-pdf/table3.pdf#search=%22ag%20workers%20and%20workers%20comp%20and%20taxas%22>

http://www.workworld.org/wwwwebhelp/workers_compensation_summary_new_mexico.htm

<http://workerscomp.state.nm.us/partners/employers.php>

<http://www.cdc.gov/NASD/docs/d001701-d001800/d001770/d001770.html>

<http://www.ncmedicaljournal.com/may-jun-03/ar050309.pdf#search=%22farm%20workers%20%20compensation%20NM%22>
http://www.naalc.org/migrant/english/pdf/mgusainj_en.pdf#search=%22farm%20workers%20%20compensation%20NM%22

<http://www.nyfb.org/Grassroots/grass0406/WC.htm>