

# Schuetzte: Ag Employees Exempt From Minimum Wage

AFOP Members in Other States Report Similar Circumstances

Source: [Gongwer](#)

Because certain agricultural employees are exempt from federal minimum wage laws, they are also not covered under Michigan's minimum wage laws, Attorney General Bill Schuetzte said in an opinion.

The Department of Civil Rights called on the state to ensure that farmers not paying minimum wage actually qualify for that exemption.

Mr. Schuetzte, in opinion No. 7301, said the Michigan law exempts any employee who is exempt from the federal Fair Labor Standards Act. The state law also does not apply to agricultural harvest workers who are paid for piecework, though it does call for establishing a piecework rate that would be equivalent to the minimum wage.

Mr. Schuetzte noted that the federal law also exempts piecework harvesters, as well as anyone employed by a farmer who did not pay for at least 500 man-days of work in any quarter of the prior year.

In answer to questions raised by Rep. Andy Schor (D-Lansing) and Licensing and Regulatory Affairs Director Shelly Edgerton, Mr. Schuetzte said the analysis has to be on the employer, not the employee, in determining whether the Michigan minimum wage law applies.

He said an argument that, because the employee is exempt under the federal law, the employer is not covered by that law and so is covered by the Michigan law focuses inappropriately on the employee as the key determination of applicability of the law.

But he said the Payment of Wages and Fringe Benefits Act does still apply to ensure those employees are paid what they are due when they are supposed to be paid.

Civil Rights Director Agustin Arbulu said the opinion reversed long-standing practice and could exacerbate the worker shortage the industry saw last this past growing season.

"Michigan has long been considered a welcoming state and an attractive place to live," Mr. Arbulu said. "Allowing some farms to pay less than the minimum wage not only harms those farmworkers, but also creates a negative impact on Michigan's rural economy. Being proactive is one way to protect vulnerable farmworkers who can be subjected to abuse."

Mr. Arbulu called on the LARA Wage and Hour Division to implement a hotline for the coming season where workers can report being paid less than minimum wage and for the department to investigate those claims to be sure the farmer qualifies for the wage exemption.