

Nebraska Workers' Compensation Court Information Sheet: Agricultural Operations & Workers' Compensation in Nebraska



When is workers' compensation insurance required for agricultural operations?

Under the Nebraska Workers' Compensation Act, employers engaged in an agricultural operation are required to provide workers' compensation insurance coverage for all unrelated employees if the employer employs **10 or more unrelated, full-time employees on each working day for 13 calendar weeks**, whether consecutive or not, during any calendar year. This includes employees at all locations of the agricultural operation. (A worksheet is attached to assist in tracking this information.) When an employer has met these requirements, workers' compensation insurance coverage must be obtained no later than 30 days after the end of the 13th calendar week.

What is an agricultural operation?

Agricultural operation is defined as the cultivation of land for the production of agricultural crops, fruit, or other horticultural products; or the ownership, keeping, or feeding of animals for the production of livestock products.

What is a full-time employee?

Full-time employee is defined as a person who is employed to work one-half or more of the regularly scheduled hours during each pay period.

What about relatives?

The Act does not apply to agricultural operations that employ **only** related employees. Related employee is defined as a spouse of an employer and an employee related to the employer within the third degree by blood or marriage. This includes parents, grandparents, great grandparents, children, grandchildren, great grandchildren, brothers, sisters, uncles, aunts, nephews, nieces, and spouses of the same.

What about partnerships, limited liability companies, and corporations?

If the employer is a partnership, limited liability company, or corporation in which all of the partners, members, or shareholders are related within the third degree by blood or marriage, then related employee means any employee related to any such partner, member, or shareholder within the third degree by blood or marriage.

Can coverage be dropped?

If an agricultural operation subject to the Act no longer employs 10 or more unrelated, full-time employees, coverage must continue in effect during the remainder of that calendar year and for the next full calendar year. The employer may then elect to return to exempt status by posting a written or printed notice. The notice must state that the employer will no longer carry workers' compensation insurance for the employees and the date coverage will end. This notice must be posted continuously in a conspicuous place at all employment locations of the employees for at least 90 days. After the 90 day posting period has passed, the employer may then cancel the workers' compensation policy. Failure to provide this notice voids an employer's attempt to return to exempt status.

Can coverage be provided voluntarily?

An agricultural operation that is otherwise exempt from the Act may nevertheless elect to become subject to the Act and provide workers' compensation insurance coverage for its employees. This is done by obtaining a workers' compensation policy from an insurer licensed by the Nebraska Department of Insurance to write workers' compensation insurance in Nebraska.

An agricultural operation that has voluntarily chosen to provide workers' compensation insurance coverage for its employees may elect to return to exempt status by posting a written or printed notice. The notice must state that the employer will no longer carry workers' compensation insurance for the employees and the date coverage will end. This notice must be posted continuously in a conspicuous place at all employment locations of the employees for at least 90 days. After the 90 day posting period has passed, the employer may then cancel the workers' compensation policy. Failure to provide this notice voids an employer's attempt to return to exempt status.

Must employees be notified?

In addition to the notice requirements for terminating coverage, every employer who is exempt under the Act and does not voluntarily elect to provide workers' compensation insurance coverage must give all unrelated employees the following written notice at the time of hiring or at any time more than 30 calendar days prior to the time of injury: "In this employment you will not be covered by the Nebraska Workers' Compensation Act and you will not be compensated under the act if you are injured on the job or suffer an occupational disease. You should plan accordingly." The notice must be signed by the unrelated employee and retained by the employer. Failure to provide this notice subjects an employer to liability and inclusion in the Act for any unrelated employees to whom such notice was not given.

What are the penalties for failure to provide coverage?

Penalties for failing to obtain workers' compensation insurance coverage when required include 1) a civil fine of up to \$1,000.00 for each violation, with each day of continued failure to obtain coverage constituting a separate violation, and 2) criminal misdemeanor penalties of imprisonment for not more than one year, a \$1,000.00 fine, or both. The employer may also be enjoined from doing business in Nebraska until coverage is obtained.

This information has been prepared by the Nebraska Workers' Compensation Court to answer some general questions concerning the application of the Nebraska Workers' Compensation Act to agricultural operations. Further inquiries may be directed to:

**Nebraska Workers' Compensation Court
P.O. Box 98908
Lincoln, NE 68509-8908**

800-599-5155 or 402-471-6468

<http://www.wcc.ne.gov/>

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