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**STATE AGRICULTURAL EMPLOYEE COLLECTIVE BARGAINING LAWS
WITH PROHIBITIONS OR LIMITATIONS ON PRIMARY STRIKE ACTIVITY**

INTRODUCTION

The federal National Labor Relations Act (NLRA) excludes agricultural employees from coverage.

However, states are free to grant collective bargaining rights to agricultural employees under state law. A number of states¹ have included agricultural employees in their general collective bargaining laws applicable to other types of employees, while other states² have enacted collective bargaining laws specifically applicable to agricultural employees. In addition, New Jersey's Supreme Court has interpreted a provision of the state constitution that authorizes private sector employees to engage in collective bargaining as applicable to agricultural employees.³

Some of these state laws specifically limit or otherwise restrict the ability of agricultural employees to engage in primary strike activity affecting production or harvesting of crops. (See discussion of Kansas, Wisconsin, and Arizona laws, below).

¹ States that include agricultural employees in their general collective bargaining laws (or do not specifically *exclude* agricultural employees) include Hawaii, Louisiana, Massachusetts, Nebraska, Oregon, and Wisconsin.

² States with separate collective bargaining laws specifically applicable to agricultural employees include Arizona, California and Kansas. Idaho and Maine previously had collective bargaining laws applicable to certain agricultural employees, but have recently repealed these laws.

³ *Comite Organizador de Trabajadores Agricolas v. Molinelli*, 552 A. 2d 1003 (1989).

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In addition, a number of states prohibit “secondary boycott” activity by agricultural employees or their labor organizations. A “secondary boycott” is a boycott of an employer with which the union does not have a dispute that is intended to induce the employer to cease doing business with another employer with which the union does have a dispute.

STATE LAWS THAT PROHIBIT OR LIMIT PRIMARY STRIKE ACTIVITY BY AGRICULTURAL EMPLOYEES

Kansas

Kansas law makes it an unfair labor practice for agricultural employees or a labor organization to willfully “**engage in a strike during periods of marketing of livestock or during a critical period of production or harvesting of crops.**” Kansas General Statutes § 44-828(c)(6). (Emphasis added).

Wisconsin

Wisconsin law requires agricultural employees to give the state Employment Relations Commission ten (10) days’ notice of their intention to strike if they are involved in certain agricultural activities:

“Where the exercise of the right to strike by employees of any employer engaged in the state of Wisconsin in the production, harvesting or initial off-farm processing of any farm or dairy product produced in this state would tend to cause the destruction or serious deterioration of such product, the employees shall give to the commission at least 10 days’ notice of their intention to strike and the commission shall immediately notify the employer of the receipt of such notice. Upon receipt of such notice, the commission shall take immediate steps to effect mediation, if possible. In the event of the failure of the efforts to mediate, the commission shall endeavor to induce the parties to arbitrate the controversy.” Wisconsin Code § 111.115(3). (Emphasis provided).

Arizona

Arizona law makes it an unfair labor practice for a labor organization to:

- Engage in a secondary boycott. Arizona General Laws § 23-1385(B)(6).
- Induce any secondary employer “to make a management decision not to handle, transport, process, pack, sell or distribute any agricultural commodity of an agricultural employer with whom a labor dispute exists.” Arizona General Laws § 23-1385(B)(7).
- Encourage a consumer to refrain from purchasing or consuming an agricultural product by the use of dishonest, untruthful and deceptive publicity, or coercing or threatening a consumer to prevent him from purchasing or consuming an agricultural product. Arizona General Laws § 23-1385(B)(8)-(9).

Arizona law authorizes an agricultural employer to obtain an injunction restraining a strike or boycott if the employer can show that such activity is unlawful and that “**the resulting cessation of work or conduct of a boycott will result in the prevention of production or the loss, spoilage, deterioration or reduction in grade, quality or marketability of an agricultural commodity.**” Arizona General Laws § 23-1393(B). (Emphasis added).

Nebraska

Nebraska law prohibits secondary boycotts, but allows sympathetic strikes and has no other general prohibitions or limitations on strike activity. Nebraska Revised Statutes § 48-903.

However, Nebraska law states the following:

“It is recognized that certain employers, including farmers and farmer cooperatives, in addition to their general employer problems, face special problems arising from perishable commodities and seasonal production which require adequate consideration. It is also recognized that whatever may be the rights of disputants with respect to each other in any controversy regarding employment relations, they should not be permitted, in the conduct of their controversy, to intrude directly into the primary rights of third parties to earn a livelihood, transact business and engage in the ordinary affairs of life by any lawful means and free from molestation, interference, restraint or coercion. Nebraska Revised Statutes § 48-901(2).”

Oregon

Oregon law declares broad public policy as follows:

“The Legislative Assembly recognizes and declares that agriculture is of great importance to the economy of the state and to the well-being of its citizens. Because of the perishable nature of agricultural crops, they must be harvested at the proper stage of maturity, and if this harvest is interfered with the crop may become a total loss with a resulting waste or loss of food, adverse effect upon consumer prices, loss of employment to agricultural laborers and severe dislocation of the entire economy of the state. **The picketing of farms, ranches or orchards at such times as would prevent the planting or harvesting of such crops directly affects the public welfare and requires regulation by the state in the exercise of its police power.**” Oregon Revised Statutes § 662.810(1). (Emphasis added).

In addition, Oregon law specifically prohibits picketing of agricultural production areas, but creates an exemption from this prohibition for “regular employees” as follows:

“It shall be unlawful for any person to picket or cause to be picketed any farm, ranch or orchard where perishable agricultural crops are produced while such crops are being harvested unless such picket has been a regular employee on such farm, ranch or orchard immediately prior to the commencement of the picketing.” Oregon Revised Statutes § 662.815(1).

CONCLUSION

A number of states place specific limitations on the ability of agricultural employees to engage in primary strike activity, particularly in deference to concerns about the production and harvesting of agricultural commodities. These limitation are summarized in the following chart:

STATE	LIMITATION ON PRIMARY STRIKE ACTIVITY
KANSAS	Prohibits agricultural employees from engaging in a strike “during periods of marketing or livestock or during a critical period of production or harvesting of crops.” Kansas General Statutes § 44-828(c)(6).
WISCONSIN	Requires agricultural employees to give the state Employment Relations Commission ten (10) days’ notice of their intention to strike where “the exercise of the right to strike by employees of any employer engaged in the state of Wisconsin in the production, harvesting or initial off-farm processing of any farm or dairy product produced in this state would tend to cause the destruction or serious deterioration of such product.” Wisconsin Code § 111.115(3).
ARIZONA	Authorizes an agricultural employer to obtain an injunction restraining a strike or boycott if the employer can show that such activity is unlawful and that “the resulting cessation of work or conduct of a boycott will result in the prevention of production or the loss, spoilage, deterioration or reduction in grade, quality or marketability of an agricultural commodity.” Arizona General Laws § 23-1393(B).
NEBRASKA	Contain legislative intent language that “recognizes and declares that agriculture is of great importance to the economy of the state and to the well-being of its citizens. Because of the perishable nature of agricultural crops, they must be harvested at the proper stage of maturity, and if this harvest is interfered with the crop may become a total loss with a resulting waste or loss of food, adverse effect upon consumer prices, loss of employment to agricultural laborers and severe dislocation of the entire economy of the state. The picketing of farms, ranches or orchards at such times as would prevent the planting or harvesting of such crops directly affects the public welfare and requires regulation by the state in the exercise of its police power.” Oregon Revised Statutes § 662.810(1).
OREGON	Makes it unlawful for a person to picket or cause to be picketed any farm, ranch or orchard where perishable agricultural crops are produced while such crops are being harvested unless such picket has been a regular employee on such farm, ranch or orchard immediately prior to the commencement of the picketing.” Oregon Revised Statutes § 662.815(1).