XI. LABOR

Labor Laws and Regulations 11.010
1. The overall guiding force influencing commodity prices is the economic law of supply and demand. It is imperative that government recognize the volatility of this force when adopting, amending or repealing statutes and administrative rules. In general, we are opposed to statutes and administrative rules that ignore this force and reduce our ability to compete in the local, national and international market place.
2. We support those statutes and administrative rules which assist Oregon producers to become more competitive. (07)

Statewide Labor Policy 11.015
1. Farming operations are often times in multiple cities, counties and other municipalities in the State of Oregon. To ensure a farm can successfully employ workers in multiple jurisdictions around the state, farmers need to have a consistent set of laws regulating their employees.
2. We support uniform statewide labor laws that farmers can enforce to all employees regardless of where their field of operations is located. (14)

Labor Regulations 11.020
1. Agricultural employers are encouraged to give special attention to improving employee/employer relations within the following areas:
2. 1. Improve the earnings of workers by proper training, supervision and continuity of employment.
3. 2. Improve conditions where necessary for field sanitation, hazard communication, pesticide labeling procedures and payroll practices.
4. 3. Defend the rights of the workers in the community by conducting a public relations program among civic, business and church organizations.
5. 4. Improve worker relations by expressing appreciation of a job well done.
6. 5. Promote such projects that will improve the general welfare and wellbeing of the workers.
7. 6. Improvement of labor management skills including:
8. • The use of handbooks or written policies;
9. • Providing training sessions and workshops related to current labor issues;
10. • Keeping informed of changes in laws that affect the agricultural labor supply; and
11. • Emphasis should be placed on the proper approaches to prepare for agency hearings.
12. We encourage an accelerated program which provides information related to the rights and responsibilities of workers and employers during
We are opposed to any effort to allow criminal penalties or civil suits against employers for workplace safety violations which occur without criminal intent.

**Family Leave**

We oppose the development and or expansion of the Family and Medical Leave Act for agricultural operations. We oppose legislation that would require employers to pay a family leave benefit for farm workers. Farmers operate on extremely thin margins and would be unduly burdened by a requirement to pay for family leave or track unpaid family leave for farm workers. (07), (16), (18)

**Mandatory Paid Sick Leave**

We oppose mandating paid sick leave for farm workers. There are times on a farm when everybody’s presence is critical to a farm operation. Food safety is not jeopardized when a worker can move to a job where there is no direct food handling. Mandating farm operators to pay someone’s sick time wages and their replacement wages, places an undue hardship on the farm owner. (14)

We oppose the requirement to track, record and report hours of unpaid sick time that have been accrued and used. The allowance of unpaid sick time was provided to lessen the burden on employers, but requiring onerous tracking and adherence to all provisions of the paid sick time law, puts an unfair burden on farmers and ranchers. (16)

**Mandatory Predictable Scheduling**

We oppose mandating predictable schedules. Weather, livestock, and crop maturity are uncontrollable, and perishable crops must be picked in a timely manner. Farmers need a reliable and available workforce during the harvest period and require “all hands on deck.” Mandating predictable schedules does not recognize the unique needs of agriculture and burdens the farm owner. Agriculture should be exempt from any statewide or local policy that mandates predictable schedules. (15)

**Mandatory Flexible Schedules**

We oppose mandating flexible scheduling. Requirements for crop and livestock work vary daily with weather conditions, life cycles, and markets. Thus, farmers have a “bona fide” business reason for not providing every employee with a flexible schedule at their request. Agriculture should be exempt from any statewide or local policy mandating flexible schedules. (15)
Labor Poster 11.030
1 We request state agencies to coordinate and consolidate, into one poster size sheet, all of the posters that employers are required to display. (07)

Head Start Services 11.040
1 We support expansion of the Migrant Head Start programs to include families of seasonal agricultural workers who do not currently receive Migrant Head Start Services solely because of their failure to meet migrant eligibility requirements. (08)

Farm Labor Housing 11.050
1 We favor continuing the property tax exemption for nonprofit corporate seasonal farm labor housing.
2 We favor the uniformity of regulations, enforcement and reporting regarding farm labor housing standards. It must also be recognized by regulatory agencies that farm labor housing often meets all legal requirements at the beginning of the season, but wear and tear may take it out of compliance from one day to another.
3 State health and sanitation standards should not be more restrictive than federal standards.
4 It is our position that migrant labor housing is not a part of the work place and thus should not be subject to regulation under the Oregon State Employment Act (OSEA).
5 A labor camp should be defined to include only housing that is occupied by migrant seasonal workers.
6 All temporary seasonal farm labor housing should be classified as agricultural buildings, not dwellings, for the purposes of construction or occupational permits.
7 State and County Building Codes should make provision for reasonable standards for temporary seasonal migrant labor housing. Items such as insulation for summer housing and handicap provisions should not be required.
8 Enforcement activities and construction controls of farm labor camps should be coordinated through one agency. The agency should also have the responsibility for educational programs and technical assistance.
9 These programs should be implemented before any fines and penalties are levied.
10 So long as the state inspects and approves electrical and plumbing installations in order that they meet code in farm labor housing, Oregon law should be amended to delete the requirement that licensed electricians and plumbers must be used during the construction or rehabilitation of farm labor housing. (07), (11)
We support nonprofit corporate seasonal farm labor housing and community-based housing following all regulations, enforcement, and reporting requirements as employer-provided housing. (20).

Policy No. 11.080, Farm Labor Recruitment, was deleted in 2008

Seasonal Labor Force 11.100
1 We support an adequate supply of authorized temporary seasonal agricultural workers. We favor a temporary seasonal worker program that:
2 1. Ensures the availability of authorized temporary seasonal agricultural workers;
3 2. Respects self-determination on the part of the worker; and
4 3. Has an advisory commission with representation from the employment sector of Northwest agricultural community;
5 4. Develops and implements guest worker programs that provide a streamlined easy access of foreign workers which allows for a special status to come and go but not stay, where the H2A program isn't viable. (Referred to AFBF, 2011), (11)
6 It is our position that the State of Oregon Employment Department (state workforce agency) and other state agencies should assist and not inhibit Oregon agriculture efforts to hire and employ legal guest workers. Housing inspection for guest worker programs should only be administered through one state agency. (16, 20)

I-9 Verification 11.120
1 The Employment Department should complete the I-9 verification process for all agricultural employees, including special agricultural workers and replacement workers, before referring them to a job. (11)

Illegal Immigration 11.150
1 Agriculture should not be required to be an enforcement arm of immigration policy. Known undocumented workers should be reported to those responsible for enforcing those laws. (07)

Workers' Compensation Insurance 11.200
1 We support remedial legislation and administrative changes that will reduce the cost of workers compensation insurance. We support voluntary safety programs to reduce accidents. We request that information being used to establish Workers' Compensation rates for the State Accident Insurance Fund be made available to the public.
2 Employees should be responsible for fifty percent of the premium for their coverage under workers' compensation insurance. The appropriate amount should be deducted from each paycheck and transmitted in the same manner as money withheld for Oregon income tax.
We request that standards developed under the Oregon Safe Employment Act be reasonable and practical. Employers should exercise their rights to participate in establishing or modifying these standards. The state standards should be modified to include exemptions or changes made in the federal act or standards.

An employee who refuses to follow his employer's instructions with respect to compliance with safety standards, and who thus jeopardizes himself or his fellow employees, should be subject to citation. In such cases, any penalty that might be imposed on the employer should be assessed against the negligent employee.

Workers' compensation risk should be based on the number of hours worked in each work classification, not the amount of wage in each work classification. Therefore, Workers' Compensation premiums should be computed on a per-hour basis, much the same as the Workers' Benefit Fund. The formula for determining the workers' compensation benefits of injured workers should reflect the historical wage level of the worker and the fact that most agricultural employees do not work 12 months a year.

Workers should have a maximum 48-hour time limit for reporting an on the job injury accident to the employer.

In order to help eliminate fraudulent claims, we recommend that injuries claimed later than 30 days after employment termination be confirmed by at least two or more physicians.

Workers on permanent total disability should be transferred to state and federal disability programs rather than being paid by workers' compensation.

An injured employee, after a doctor's work-release, should not be required to return to the same employer and the exact same job in order for wage loss compensation to be discontinued.

We support ongoing education programs provided by workers' compensation service providers to minimize industrial accidents.

We oppose a state monopoly in compensation insurance (state and self-insured coverage only). (05)

Workers' Compensation Rates

The Workers' Compensation Classification Guide for reporting wages should be changed to more accurately reflect the risk, and to provide that the same premium rate is applied to the reported activity regardless of the end use of the commodity being produced. (07)

OR-OSHA

We support state and federal exemptions from regular occupational safety and health inspections of farming operations employing 10 or fewer employees, unless a labor camp is maintained by such an operation.

We support the mandatory inspection of farming operations only in the event of a:

1. Serious and disabling accident;
2. Fatality; and/or
3. Valid complaint signed and revealed to the operator.

This inspection should be conducted only in the accident or complaint area of the farm.

If an OR-OSHA inspector finds a safety violation on a piece of equipment that is being operated as it was delivered from the factory, the employer should not be subject to a fine for the violation but should be required to fix the violation. OR-OSHA should also be required to notify the equipment manufacturer of the safety violation. The equipment manufacturer and OR-OSHA should work together to best solve the safety violation on the manufacturer's equipment. Employers should then be notified of the potential safety violation and how to correct the problem.

Hazard Communication Rules Applied to Employers 11.275

Application of hazard communication rules to agriculture must be limited to permanent employees and seasonal employees involved in pesticide application. Individual written programs detailing how an employer is going to comply with the law must not be required of agricultural employers for employees who are not exposed to pesticides.

Reentry Standards for Pesticide Application 11.290

We support using the EPA registered label recommendation, as the legal reentry standard for farm workers. Enforcement of the standard should be uniform and coordinated by one agency.

Unemployment Insurance 11.300

The salaries of family held agriculture corporation’s corporate officers and their family members should be exempt from unemployment tax assessments.

We recommend the farm gross quarterly threshold for the payroll tax limit be raised from $20,000.00 to $80,000.00 immediately and be indexed for inflation and for minimum wage. (07), (10), (11)

Unemployment Benefits 11.320

Unemployment benefits should only be for workers who are unemployed through no fault of the worker. (07)

Seasonal Unemployment Compensation 11.340

We oppose implementing the unemployment compensation program for seasonal agricultural workers and any notification requirements regarding program coverage.

We support efforts to restrict benefits to those who have no employment or assurance of returning to employment after a layoff and to require recipients to work in any available position. We support efforts to
strengthen incentives for recipients to seek employment and reduce fraud in the program. (07)

**Contractor Liability 11.400**

1. We seek legislation providing that when the terms of a contract delegates responsibilities to a labor contractor for providing all or any part of the required field sanitation facilities for workers including any responsibilities regarding hazard communication rules, I 9 forms and housing facilities, the licensed labor contractor, not the producer, should be held liable under the law for any penalty or lawsuit resulting from noncompliance.

2. When a producer contracts with a licensed labor contractor for seasonal employment, the licensed labor contractor should be held solely liable under the law for any penalty or lawsuit resulting from noncompliance with state wage and hour law and state sick time law. If a joint employment relationship exists, we seek clarification that licensed labor contractors are required to share wage and hour and paid sick time records at the request of the secondary employer. (16)

3. We support legislation to exempt from state regulation associations and co-op’s who act as farm labor contractors to recruit a workforce for themselves or their members’ entirely through federally regulated guest worker programs. (00)

**Farm Labor Contractor Bonding 11.425**

1. We support a maximum bond of $10,000 for labor contractors employing 20 or fewer workers and a bond not to exceed $30,000 for labor contractors without experience hiring more than 20 workers, and a bond not to exceed $20,000 for labor contractors with five years of good performance, if hiring more than 20 workers.

2. An individual who co-signs for the bond of a labor contractor should not be held to be a joint employer because of the co-sign.

**Harvest Picketing 11.500**

1. We recommend that legislation be maintained which limits an employee of a crop owner from picketing during the harvest of a perishable crop.

**Policy No. 11.520, Cannery Strikes, was deleted in 2003.**

**Secondary Boycott 11.530**

1. We oppose the use of secondary boycotts. Every means possible should be used to stop an illegal secondary boycott including criminal penalties, fines and/or imprisonment.
Collective Bargaining

1. We support collective bargaining legislation that would establish guidelines to protect workers and employers from unfair labor practices during union organizing and bargaining efforts.
2. We support secret ballot elections as the means to determine whether employees want to be represented by a union.
3. We support the right of employers to communicate freely with employees, without coercion or threats, what the effect of unionization would be in the workplace. (99), (04), (08)

Minimum Wage Indexing

1. “While we oppose a minimum wage, we support legislative action that would mitigate the financial effects for agriculture employers of the annual indexing of the state minimum wage.
2. We believe that minimum wage increases based on Consumer Price Index (CPI) growth should also be subject to minimum wage decreases during periods of negative CPI downturns.
3. If Oregon’s minimum wage index is not adjusted downward during periods of negative CPI growth, any subsequent increase in the minimum wage calculation should not include growth in CPI that is only recovery from a prior rate. In years following negative CPI growth, for purposes of calculating the minimum wage, only CPI growth above the preceding highest rate should be included in the calculation. (06), (09), (11)

Minimum Wage Increase

1. While we do not support a minimum wage, if there is one it should be no greater than the federal minimum wage. (01), (11)

Minimum Wage Averaging

1. We support the principle that earnings from farm work should be determined by the productivity of the worker and not based on a minimum wage.
2. We support the concept of piecework which offers wholesome summer employment in the fields for so many of Oregon’s youth and which is responsible for many of the jobs in Oregon’s processing plants.
3. We favor legislation to provide that, where workers are employed on a piece-rate basis, the employer should considered to be in compliance if the crew average meets or exceeds the minimum hourly wage required to be paid. (05), (11)

Farm Worker Meal and Rest Periods

1. We support allowing agricultural workers to choose if and when they want to take a rest period or a meal period. (04)
Wage Penalty Claims

We support legislation that would eliminate wage penalties that allow employees to benefit financially from failing to report an underpayment to their employer. However, we realize that there must be an adequate penalty for those employers who willfully underpay employees. (00)

Prevailing Wage Rate

We oppose the Davis Bacon Act and any other law that would establish a "prevailing wage rate" for labor including adverse effect wage rate in the agricultural work force. (18)

Health Insurance

We oppose proposals that require employers to provide mandatory health insurance coverage for employees.
We support health savings accounts. (06), (10), (11), (Referred to AFBF, 2009)

Christmas Trees

The growing, tending and cutting of Christmas trees should be defined as an agricultural activity under the Fair Labor Standards Act. (08)

Overtime

We support including the nursery industry in the definition of agriculture for purposes of labor laws and overtime. (07)

Right-to-Work

No person should be deprived of his right-to-work because of membership or lack of membership in any organization. We support Section 14(b) of the Taft Hartley Act.
We support right to work legislation that would eliminate closed union shops. (02)

Farmer's Right to Manage

We support the farmer's right to produce, harvest, process and distribute their commodity in the manner most economically advantageous to their particular operation.

At-Will Employment

It should be the policy of the State of Oregon to provide for the right of an agricultural employer to both hire and discharge employees as it suits the overall needs of the farm operation.
An at-will employment policy should recognize the right of an employee to discuss working conditions without fear of reprisal.
Political Contributions 11.740
1 We support legislation to prohibit any employer or union from exacting
2 any dues, contributions or services of any kind from employees for
3 contribution to political candidates.

Youth Employment 11.800
1 There is a social need to develop a sense of economic responsibility
2 among youth. It is equally important that youth have a beneficial means of
3 utilizing their time. We support provisions which maintain and increase
4 young people’s opportunity for employment. Such employment
5 opportunities, however, should be in productive enterprises and not "make
6 work" relief schemes.
7 We support labor legislation which would set a special lower minimum
8 wage for employees under age 18.
9 We support repealing the federal labor laws which restrict the
10 opportunity for our nation’s youth to be employed in agricultural related
11 work. (05)

Legal Aid Services 11.820
1 When Legal Aid Services brings a suit, the cost of the defendant’s
2 legal and court costs should be paid by Legal Aid Services if the defendant
3 is cleared of a majority of the charges.

U.S. DOL Due Process for Investigations 11.900
1 We support increased transparency of the investigation practices by
2 the U.S. Department of Labor (DOL). When DOL notifies a grower of
3 apparent wage and hour violations, the department must inform the grower
4 that its requests are strictly voluntary, must accurately represent its legal
5 authority and the rights of the grower, and must provide to the grower all
6 information it relied on to determine the alleged violations. DOL should cite
7 the grower only for violations that investigators actually observed, not ones
8 based on the department’s belief or conjecture. DOL should seek hot
9 goods orders only when a grower has demonstrated repeated and willful
10 violations and lack of cooperation with DOL. In such cases, the federal
11 government must not contact the grower’s customers unless the
12 department has already secured the necessary court orders. (Referred to
13 AFBF, 2012), (12)
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