

2012 Kansas Statutes

44-819. Agricultural employment relations; definitions. As used in this act:

(a) "Person" means one or more individuals, employee organizations, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers.

(b) "Agricultural employee" means any individual employed to perform agricultural work, including any individual whose work has ceased as a consequence of, or in connection with, any current labor dispute or because of any prohibited labor practice, who has not obtained any other substantially equivalent employment. A parent, spouse, or an immediate relative may be considered an "agricultural employee." However, "agricultural employee" does not include any individual:

(1) Who has not reached the age of 16 years;

(2) Who has the status of an independent contractor. An independent contract relationship does not exist if the person for whom services are performed reserves the right to control the manner and means by which a job is accomplished, even though this right is not exercised;

(3) Who is employed as a supervisor, or crew boss, or in a confidential capacity, or as a clerical employee, or as a guard, or as a domestic employee;

(4) Who is employed as an executive, professional or technical employee;

(5) Who has quit, been discharged, or who is on strike in violation of any of the provisions of this act; or

(6) Who is a tenant or sharecropper and directs or shares in the management of an enterprise engaged in agriculture.

(c) "Agricultural employer" shall mean any employer engaged in cultivating the soil or in raising or harvesting any agricultural or horticultural commodity including custom harvesting operators operating wholly within the state of Kansas, and employers engaged in operating stock, dairy, poultry, fruit, furbearing animal, wildlife and truck farms, plantations, ranches, feedlots, ranges, orchards, or other similar agricultural enterprises and who employed six or more employees for 20 or more days of any calendar month in the six months preceding the filing for recognition by such employees as an employee organization as provided for in K.S.A. 44-823, and amendments thereto.

"Agricultural employers" employing less than six employees may elect to come within the provisions of this act by filing a written statement of election with the board and upon filing such a statement such employer shall become an agricultural employer as defined herein.

(d) "Farm" means an agricultural operation out of one headquarters and may include separate tracts of land within the state of Kansas.

(e) "Employee organization" means any organization which includes employees of an agricultural employer and which has as one of its primary purposes representing such employees in dealings with that agricultural employer over conditions of employment and grievances.

(f) "Recognized employee organization" means an employee organization which has been certified by election as representing a majority of the employees of an appropriate unit.

(g) "Board" means the agricultural labor relations board established pursuant to this act.

(h) "Meet and confer in good faith" is the process whereby the representatives of an agricultural employer and representatives of recognized employee organizations have the mutual obligation personally to meet and confer in order to exchange freely information, opinions and proposals to endeavor to reach agreement on conditions of employment, but such obligation shall not compel either party to agree to a proposal or require the making of a concession.

(i) "Memorandum of agreement" means a written memorandum of understanding arrived at by the representatives of the agricultural employers and a recognized employee organization.

(j) The term, "strike," includes concerted action resulting in: (1) failure to report for duty; (2) the willful absence from one's position; (3) the stoppage of work; or (4) the abstinence in whole or in part from the full, faithful and proper performance of the duties of employment by an agricultural employee, for the purpose of inducing, influencing or coercing a change in the conditions, or compensation, or the rights, privileges or obligations of employment. Nothing contained in this act shall be construed to limit, impair or affect the right of any agricultural employee to the expression or communication of a view, grievance, complaint or opinion on any matter related to the conditions or compensation of agricultural employment or their betterment, so long as the same is not designed to and does not interfere, directly or indirectly, with the full, faithful and proper performance of any employee's duties of employment.

(k) "Lockout" means action taken by the employer to provoke interruptions or to prevent the continuity of work normally and usually performed by the employees for the purpose of coercing the employees into relinquishing rights guaranteed by this act.

(l) "Secondary boycott" means to encourage, coerce, contract or conspire with any person where the object of such action is to force or persuade any person, not a party to the labor dispute, to refuse to use, sell, handle or transport any agricultural commodity, or where the object of such action is to require any agriculture employer to recognize, bargain with or resolve any dispute with a labor organization.

(m) "Organizational picketing" means the patrolling or picketing of an agricultural employer's business establishment or the situs of such agricultural employer's product, where an object thereof is to require an agricultural employer to recognize, or agricultural employees to accept, an employee organization as bargaining agent for said employees, and includes carrying of placards, distribution of leaflets or affixing of stationary signs at said premises.

(n) "Conditions of employment" means salaries, wages, hours of work, vacation allowances, sick and injury leave, number of holidays, retirement benefits, insurance benefits, wearing apparel, premium pay for overtime, shift differential pay, jury duty and grievance procedures.

(o) "Grievance" means a statement of dissatisfaction by an agricultural employee, employee organization or agricultural employer concerning interpretation of a memorandum of agreement or traditional work practice.

(p) "Membership dues deduction" or "dues check-off" means the practice of an employer to deduct from the salary of an employee, with his consent, an amount for the payment of such employee's membership dues in an employee organization. Such terms also mean the practice of an employer to transmit the sums so deducted to an employee organization.

History: L. 1972, ch. 193, § 2; L. 1989, ch. 152, § 1; July 1.