

FOOD &
LABOR, EMPLOYMENT, AND DISCRIMINATION LAWS

Feat. the COVID-19 Pandemic

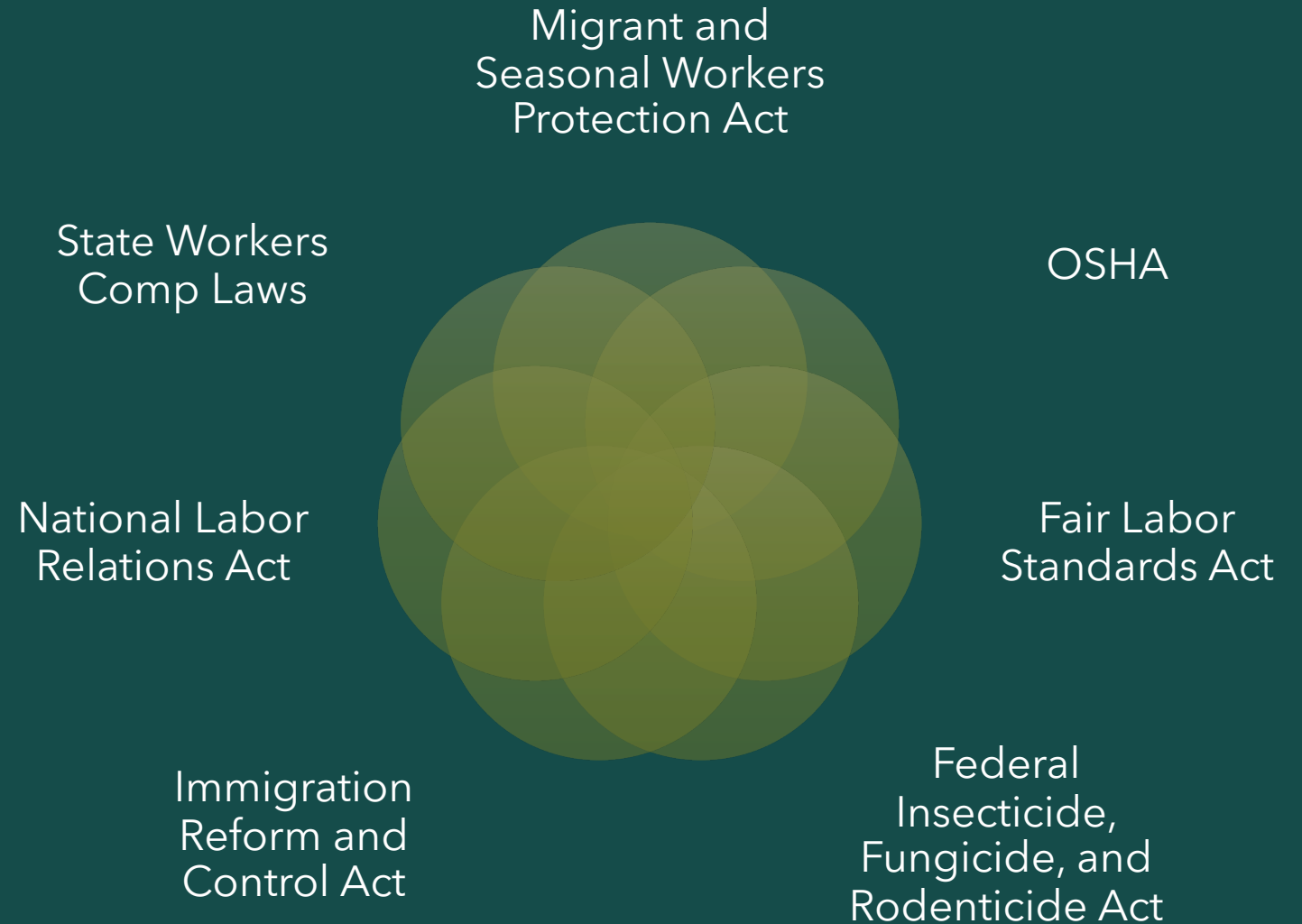


Introductory Statistics

- About half of all crop hands in the U.S., more than one million, are undocumented immigrants, according to the Ag Department. Growers and labor contractors estimate that the share is closer to 75%.
- 26% of workers in ALL agricultural occupations were female.



Farm Work and Agricultural Labor Laws



Migrant and Seasonal Workers Act



Enacted to protect migrant and seasonal workers and is the primary agricultural labor statute.

Establishes wage and working condition requirements and registration of farm labor contractors.

Only workers covered are persons engaged in seasonal or temporary agricultural employment

NO RIGHT TO JOIN A UNION

Enforced by the Department of Labor, but also creates a private right of action.



Fair Labor Standards Act

- Sets minimum wages, requires overtime wages, restricts child labor, and mandates some record keeping by employers.
- Until 1966, the FLSA excluded ALL farmworkers.
 - Now employers are simply exempt from certain FLSA requirements.
 - Minimum wage and overtime requirements do not apply to employers that did not use more than 500 man-days of agricultural labor during any calendar quarter of the preceding year.
 - A man-day is any day during which an employee performs at least one hour of agricultural labor.



Occupational Safety and Health Act (OSHA)

Assures safe and healthy working conditions through enforcement of workplace standards, provision of research and information in the field of occupational safety and health, and aid to state programs that assure safe and healthy working conditions.

Generally, employers must furnish employees with employment and workplaces free from recognized hazards that could cause death or serious injury and follow legal standards of occupational safety and health, and employees must follow all rules and regulations that apply to that employee's conduct.

TWO EXEMPTIONS:

- (1) immediate family members of the farm employer are not considered employees and thus are not covered;
- (2) Congress has repeatedly included language in DOL appropriations bills to exclude agricultural workers in operations that have had ten or fewer employees, excluding family members, within the last 12 months.



Federal Insecticide, Fungicide, and Rodenticide Act



Broad statute regulating the use of pesticides through a risk-benefit analysis.



Mandates that pesticides be registered and labeled before use.



Must perform its intended function while not causing unreasonable risk to human health or the environment.



EPA regulates registration and labeling of pesticides.



EPA has issued a Worker Protection Standard and a Certification of Pesticide Applicators Standard ("CAS") in order to protect the safety of workers potentially exposed to pesticides.



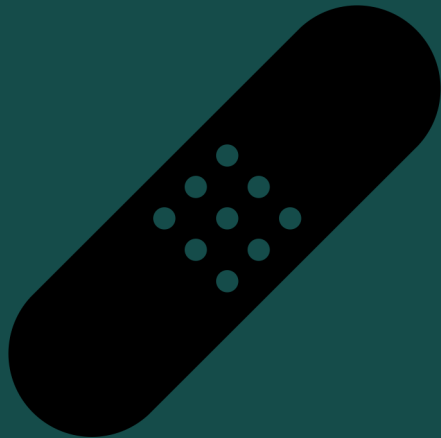
Immigration Reform and Control Act

- Limited unauthorized immigration into the U.S. in part to exercise more control over the influx of foreign agricultural workers in the country.
- Employer sanctions for employment of unauthorized aliens.
- Creates the H-2A program, which allows agricultural employers to have a shortage of qualified domestic workers to import nonimmigrant aliens into the U.S. Only allows workers to temporarily remain for the purpose of seasonal agricultural work.

National Labor Relations Act

- Protects the rights of workers to participate or not participate in organizations that attempt to collectively bargain for the mutual aid and protection of workers.
- Agricultural laborers are specifically excluded from the definition of covered employees.





State Workers Compensation Laws

- Fatality rate among “farmers, ranchers and agricultural managers” was 24.0 per 100,000 full-time equivalent workers.
- States that provide workers comp coverage for their agricultural workers: Arizona, California, Colorado, Connecticut, Hawaii, Idaho, Massachusetts, Minnesota Montana, New Hampshire, New Jersey, Ohio, and Oregon.
- 15 states do not require the providing of workers comp for migrant, seasonal, or farm/ag workers.