

Washington Governor Creates COVID-19 Food Production Workers Paid Leave Program

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Under the Washington COVID-19 Food Production Workers Paid Leave Program, no food production employer in Washington may operate from August 18, 2020, to November 13, 2020, unless the employer provides its workers with paid leave for certain qualifying events.

The Program was created by Governor Jay Inslee under [Proclamation 20-67](#).

Covered Employers

Proclamation 20-67 applies to food production employers that operate orchards, fields, dairies, fruit- and vegetable-packing warehouses, meat and seafood processors and packers, certain farm labor contractors, and other specified industries.

Covered Workers

Proclamation 20-67 covers food production workers, including, but not limited to, Washington-based workers, seasonal or migrant workers, and temporary foreign workers who are lawfully present in the United States to perform agricultural labor or services of a temporary or seasonal nature.

The Proclamation does not cover an employer's immediate family members or workers who are subject to and provided leave under the federal Families First Coronavirus Response Act (FFCRA). To be covered, workers do not have to be classified as an "employee" by the employer.

Paid Leave

Under the Proclamation, employers must provide workers with the following paid leave:

- Full-time workers will receive up to 80 hours, except employers must substitute this paid leave with any other paid sick leave provided (like Washington statutory paid sick leave) if that leave is immediately and similarly available.
- Part-time workers will receive paid leave equal to the hours they are normally scheduled to work during the preceding two-week period.
- If workers work a variable number of hours, employers must provide them 14 times the average number of hours the worker worked each day in the period preceding the date of paid leave.
- Each hour of the paid leave must be compensated at a rate equal to \$430 for 40 hours, up to a maximum of \$860 for 80 hours.

Qualifying Events

Workers are entitled to use the paid leave if they are:

- Subject to a federal, state, or local quarantine or isolation order related to COVID-19;
- Advised by a healthcare official or provider to self-quarantine or self-isolate due to concerns related to or a positive diagnosis of COVID-19;
- Prohibited from working due to health concerns related to the potential transmission of COVID-19; or
- Experiencing COVID-19 symptoms and is seeking a medical diagnosis.

Retaliation; Penalties

Employers may not retaliate against, or take adverse employment actions against, a worker or employee for exercising or seeking to exercise rights under the Proclamation.

Any violations of the Proclamation are subject to criminal penalties (as is the case with all of the Governor's recent Proclamations).

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Jackson Lewis attorneys are closely monitoring updates and changes to legal requirements and guidance and are available to help employers weed through the complexities involved with state-specific or multistate-compliant plans.

If you have questions or need assistance, please reach out to the Jackson Lewis attorney with whom you regularly work, or any member of our COVID-19 team.

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