

35A-4-206 Agricultural labor.

- (1) "Agricultural labor" means any remunerated service performed after December 31, 1971:
 - (a) on a farm, in the employ of any person in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife;
 - (b) in the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of the farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of the service is performed on a farm;
 - (c) in connection with:
 - (i) the production or harvesting of any commodity defined as an agricultural commodity in Subsection 15(g) of the Federal Agricultural Marketing Act, as amended, 46 Stat. 1550, Sec. 3; 12 U.S.C. 1141j;
 - (ii) the ginning of cotton; or
 - (iii) the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used primarily for supplying and storing water for farming purposes;
 - (d) in the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity; but only if the operator produced more than 1/2 of the commodity with respect to which the service is performed; or
 - (e) in the employ of a group of operators of farms, or a cooperative organization of which the operators are members, in the performance of service described in Subsection (1)(d), but only if the operators produced more than 1/2 of the commodity with respect to which the service is performed.
- (2)
 - (a) Subsections (1)(d) and (e) are not applicable with respect to service:
 - (i) performed in connection with commercial canning or commercial freezing;
 - (ii) in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption; or
 - (iii) on a farm operated for profit if the service is not in the course of the employer's trade or business.
 - (b) As used in Subsection (1), "farm" includes stock, dairy, poultry, fruit, fur-bearing animals, and truck farms, plantations, ranches, nurseries, ranges, greenhouses, or other similar structures used primarily for the raising of agricultural or horticultural commodities and orchards.
- (3)
 - (a) Services performed by an individual in agricultural labor are considered employment when the service is performed for a person who:
 - (i) during any calendar quarter in either the current or the preceding calendar year paid remuneration in cash of \$20,000 or more to individuals employed in agricultural labor; or
 - (ii) for some portion of a day in each of 20 different calendar weeks, whether or not the weeks were consecutive, in either the current or the preceding calendar year, employed in agricultural labor 10 or more individuals, regardless of whether they were employed at the same moment of time.
 - (b) For the purposes of this Subsection (3), any individual who is a member of a crew furnished by a crew leader to perform service in agricultural labor for any other person is treated as an employee of the crew leader:

- (i) if the crew leader holds a valid certificate of registration under the Migrant and Seasonal Agricultural Worker Protection Act;
 - (ii) if substantially all the members of the crew operate or maintain tractors, mechanized harvesting, or crop dusting equipment, or any other mechanized equipment, that is provided by the crew leader; and
 - (iii) if the individual is not an employee of the other person within the meaning of Section 35A-4-204.
- (c) For the purposes of this Subsection (3), in the case of any individual who is furnished by a crew leader to perform service in agricultural labor for any other person and who is not treated as an employee of the crew leader under Subsection (3)(b)(iii):
- (i) the other person and not the crew leader is treated as the employer of the individual; and
 - (ii) the other person is treated as having paid cash remuneration to the individual in an amount equal to the amount of cash remuneration paid to the individual by the crew leader, either on the individual's own behalf or on behalf of the other person, for the service in agricultural labor performed for the other person.
- (d) For the purposes of this Subsection (3), "crew leader" means an individual who:
- (i) furnishes individuals to perform service in agricultural labor for any other person;
 - (ii) pays, either on the individual's own behalf or on behalf of the other person, the individuals so furnished by the individual's for the service in agricultural labor performed by them; and
 - (iii) has not entered into a written agreement with the other person under which the individual is designated as an employee of the other person.

Amended by Chapter 375, 1997 General Session