



Delaware Farm Bureau

Local Farmers Feeding Your Family

Delaware Farm Exemptions

The Delaware Farm Bureau has worked hard to gain farm exemptions for our members! Keep this booklet handy for when questions arise. You will want to keep a copy in your farm vehicle.

Revised September 2019

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Title 3 Agriculture Chapter 14 Agriculture and Forestal Nuisances

§ 1401 Agricultural and forestal operations not considered nuisances; exception. (Right to Farm)



No agricultural or forestal operation within this State which has been in operation for a period of more than 1 year shall be considered a nuisance, either public or private, as the result of a changed condition in or about the locality where such agricultural or forestal operation is located. For the purpose of this section, “agricultural operation” shall be defined as set forth in § 8141(a) of Title 10. In any nuisance action, public or private, against an agricultural operation or its principals or employees, including forestal activity, proof that the agricultural operation, including forestal activity, has existed for 1 year or more is an absolute defense to the nuisance action, if the operation is in compliance with all applicable state and federal laws, regulations, and permits. If the operation is in compliance with all applicable state and federal laws, regulations, and permits, it shall be presumed to be conducted in a manner consistent with good agricultural practice. **No state or local law-enforcement agency may bring a criminal or civil action against an agricultural operation for an activity that is in compliance with all applicable state and federal laws, regulations, and permits.**

Title 21 Motor Vehicles/ Operation and Equipment Chapter 41 Rules of the Road Subchapter IX. Reckless Driving; Driving while Intoxicated

§ 4176C Electronic communication devices; penalties.



(c) Subsection (a) of this section shall not apply to:

(6) A person driving or operating an unregistered farm tractor, farm truck or farm equipment;

Title 19 Labor/General Provisions Chapter 9 Minimum Wage

§ 901 Definition of terms

(3) a. "Employee" includes any individual employed by an employer but **shall not include** any individual employed in agriculture.

f. Any individual employed in the catching, taking, propagating, harvesting, cultivating or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds or other aquatic forms of animal and vegetable life, or in the first processing, canning or packing such marine products at sea as an incident to or in conjunction with such fishing operations, including the going to and returning from work and loading and unloading when performed by any such employee;

§ 902 Minimum wage rate [For current federal minimum wage, see 29 U.S.C. § 206(a)(1)(A)]

Except as may otherwise be provided under this chapter, every employer shall pay to every employee in any occupation wages of a rate:

- a. (1) Not less than \$7.75 per hour effective June 1, 2014; and
- b. (2) Not less than \$8.25 per hour effective June 1, 2015.

[Please Note: Even though Delaware farmers are excluded from paying the minimum wage- any increase on the state or federal level will have a direct impact on wages paid to workers in the H2-A and H2-B programs.]

INHERITANCE TAX FARM EXEMPTION: Title 3 Agriculture/ Department of Agriculture Chapter 9. Delaware Agricultural Lands Preservation Act Subchapter III. Acquisition of Preservation Easements

§ 913 Acquisition of agricultural lands preservation easements.

b) The Foundation shall be authorized to enter into installment purchase agreements and to execute all documents necessary or desirable thereto to qualify such agreements for exemption from federal or state taxation to the extent permitted by the tax laws

§ 918 Benefits of easement conveyance.

In addition to the district benefits set forth in § 911 hereof of this title, the owner of real property subject to a preservation easement shall be entitled to exemption from taxation for the transfer of any interest in such real property by death otherwise subject to the estate tax under Chapter 15 of Title 30. The Department of Finance shall be entitled to adopt requirements to effectuate the exemption from taxation as provided hereunder.

Title 21 Motor Vehicles/ Registration, Title and Licenses Chapter 21
Registration of Vehicles Subchapter 1
§2113 Special farm vehicle registration.

Farmers may register vehicles for farm use in the following manner:



(1) Farm truck, semitrailer, and trailer license plates ("FT" tags):

a. Farmers may qualify for the reduced registration fee for "FT" license tags if they derive at least \$1,000 of their annual income from the operation of their farm and they own or rent at least 10 acres which is actively used in the farming operation from which they derive that income.

b. Any vehicle, semitrailer or trailer upon which an "FT" license tag is affixed must be used exclusively in the operation of a farm or for personal use other than nonfarming commercial use.

c. Farmers shall not hire or rent the farm truck, semitrailer, or trailer, or permit a farm truck, semitrailer, or trailer to be used for hauling merchandise, farm products, or other items whatsoever under rent, hire, or for pay.



(2) Farm vehicle license plates ("FV" tags) exempt from inspection:

a. Except as hereinafter provided, 180 days from the enactment of this Act, no person shall operate any farm vehicle within the State unless such vehicle has been registered in accordance with this chapter. Such registration shall not permit the vehicle to be operated on any highway except as hereinafter specifically provided. This registration is for identification only and does not constitute being "registered" in this State, for purposes of § 2118 of this title, or any other requirement of this chapter.

b. Farmers may qualify for an inspection waiver for a farm mo-

tor vehicle, farm vehicle, or farm trailer if they derive at least \$1,000 of their annual income from the operation of their farm and they own or rent at least 10 acres which are actively used in the farming operation from which they derive that income.

c. Any vehicle or trailer upon which a "FV" tag is affixed must be used exclusively in the operation of a farm, or for personal use other than nonfarming commercial use.

d. No farm motor vehicle, farm vehicle, or farm trailer may be used for hire or for any use except in the exclusive operation of a farm owned or rented by the owner of such vehicle or trailer, or in aid of and assistance to another farmer for harvest purposes.

e. Farmers shall not hire or rent any farm motor vehicle, farm vehicle, or farm trailer, or permit a farm motor vehicle, farm vehicle, or farm trailer to be used for hauling merchandise, farm products, or other items whatsoever under rent, hire, or for pay.

f. Farmers shall not use any vehicle or trailer upon which an "FV" tag is affixed for any use except in the operation of a farm owned or rented by the titled owner of such vehicle or trailer or in aid of and assistance to another farmer for harvest purposes, or for personal use other than nonfarming commercial use.

g. No farm motor vehicle, farm vehicle, or farm trailer to which an "FV" tag is affixed may be operated or towed upon the public highways or roads unless:

1. Those highways and roads are within a 20-mile radius of a farm owned or managed by the owner of the vehicle or trailer;

2. The vehicle or trailer is operated or towed by a person who is properly licensed by the Division of Motor Vehicles;

3. The vehicle or trailer is properly equipped with a stop light, turn signals and brakes which are in a safe operating condition.

Title 21 Motor Vehicles/ Operation and Equipment Chapter 45 Size and Weight of Vehicles and Loads

§ 4502 Size and weight of vehicles except on interstate highways and United States numbered routes.



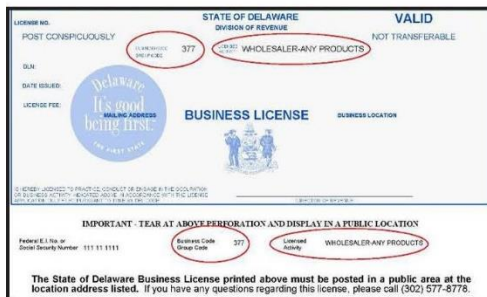
(6) Except as otherwise provided in this paragraph, the total gross weight of a combination tractor and semi-trailer having a total of 5 or more axles shall not exceed 80,000 lbs. or combined manufacturer's gross vehicle weight rating whichever is less. For a live-haul poultry truck traveling less than 150 miles from the farm to the plant, the total gross weight including load of a combination of a truck tractor and semitrailer having a total of 5 or more axles shall not exceed 90,000 pounds.

However, such a live-haul poultry truck may exceed the established weight limit by no more than 3 percent to account for variations in bird weight due to bird size, moisture retention caused by precipitation, or other unanticipated conditions. For the 90,000 pound weight limit and associated 3 percent variance to apply to a live-haul poultry truck, the following conditions must exist:

- a. The live-haul poultry truck must be subject to the Motor Carrier Safety Assistance Program (MCSAP) inspection.
- b. The live-haul poultry truck must adhere to all bridge weight limits.
- c. The live-haul poultry truck must not use the interstate highway system.
- d. The axles on a live-haul poultry truck must be a minimum of 96 inches apart no later than May 8, 2015.

(9) Farm operations. — Notwithstanding the other provisions of this section, the following applies to vehicles registered as (i) farm trucks or (ii) registered commercial motor vehicles are controlled or operated by a farmer and while used in the operation of a farm. For these vehicles, no single axle load shall exceed 22,400 pounds, and with respect to any vehicle equipped with coupled axles spaced less than 48 inches apart measured horizontally between their center lines, the combined weight on the coupled axles shall not exceed 20,000 pounds and, with respect to a vehicle equipped with coupled axles spaced 48 inches or more apart measured horizontally between their center lines, the combined weight on the coupled axle shall not exceed 40,000 pounds. **Furthermore, any farm loaded truck or farm vehicle carrying harvested products or livestock may exceed the weight limits established under this subsection by no more than 3 percent.**

Title 30 State Taxes/ Occupational and Business Licenses and Taxes
Chapter 29. Retail and Wholesale Merchants' License Requirements and Taxes
§ 2909 Exemptions.



(a)(1) This chapter shall not apply to the sale of unprocessed agricultural products, including nursery or floral products by:

a. The owner or operator of a farm or nursery which produced the products; provided, however, that no business described in

this subparagraph shall be required to obtain a license under this chapter if its gross receipts from the sale of unprocessed agricultural products not produced on the taxpayer's farm or nursery do not exceed the amount excluded from tax under § 2905(b) or § 2902(c) of this title; or

b. The owner or operator of any enterprise whose principal business in this State is the purchase and resale, at wholesale, of unprocessed and unpackaged agricultural plant products; provided such products are purchased from a person described in this paragraph and further provided said purchase occurs within this State.

(2) This chapter shall not apply to the incidental sale by the owner or operator of a farm or nursery of processed agricultural products on the assumption that the purchaser of such products has acquired the same for consumption or use and not for resale. Growers of nursery products shall be treated under this chapter as retailers to the extent of sales at retail.

Title 11 Crimes and Criminal Procedure/ Delaware Criminal Code Chapter 5. Specific Offenses Subchapter VII. Offenses Against Public Health, Order and Decency

§ 1325 Cruelty to animals; class A misdemeanor; class F felony

(a)(6) "Cruelty to animals" includes mistreatment of any animal or neglect of any animal under the care and control of the neglecter, whereby unnecessary or unjustifiable physical pain or suffering is caused. By way of example this includes: Unjustifiable beating of an animal; overworking an animal; tormenting an animal; abandonment of an animal; tethering of dog for 18 hours or more in any 24-hour period, except on land owned or leased by the dog's owner that is **not less than 10 acres**; tethering any dog for any amount of time if the dog is under 4 months of age or is a nursing mother while the offspring are present, except on land owned or leased by the dog's owner that is **not less than 10 acres**; and failure to feed properly or give proper shelter or veterinary care to an animal.



(b)(6) Confines an animal unattended in a standing or parked motor vehicle in which the temperature is either so high or so low as to endanger the health or safety of the animal. A law-enforcement officer, animal welfare officer, or firefighter who has probable cause to believe that an animal is confined in a motor vehicle under conditions that are likely to cause suffering, injury, or death to the animal may use reasonable force to remove the animal left in the vehicle in violation of this provision. A person removing an animal under this section shall use reasonable means to contact the owner. If the person is unable to contact the owner, the person may take the animal to an animal shelter and must leave written notice bearing his or her name and office, and the address of the location where the animal can be claimed. **This provision shall not apply to the legal transportation of horses, cattle, swine, sheep, poultry, or other agricultural animals in motor vehicles designed to transport such animals.** The owner of the vehicle from which the animal is rescued and the owner of the animal rescued are not liable for injuries suffered by the person rescuing the animal.