

FAIRNESS FOR FARMWORKERS ACT 2021

Now is the Time to Pass Minimum Wage & Overtime Protection for Farmworkers

Farmworkers are essential workers.

More than 13,000 farmworkers are employed on farms across Massachusetts. They plant and harvest fruits and vegetables, grow trees and shrubs in nurseries and greenhouses, produce dairy products, and raise fish and livestock. The annual market value of agricultural products in Massachusetts is \$475 million. Though some farmworkers are seasonal H-2A visa-holders, the majority of Massachusetts' farmworkers are year-round residents, living in cities and towns across the Commonwealth.



Farmworkers are not included in minimum wage or overtime laws.

During the growing season, it is typical for Massachusetts farmworkers to work up to 11 hours a day, six days a week. Federal law guarantees farmworkers a minimum wage of only \$7.25 an hour and no right to overtime pay at time-and-a-half. Massachusetts has not done much better, setting a substandard minimum agricultural wage for farmworkers at \$8.00 per hour, 40% below the Massachusetts minimum wage of \$13.50 guaranteed by law to most workers in the state. And, like federal law, Massachusetts wage law does not guarantee farmworkers time-and-a-half for overtime work.

Farmworkers experience poverty at twice the rate of all workers.

Most Massachusetts farmworkers are only seasonally employed, and have limited access to healthcare. The typical farmworker household, an average 3-person household that tends to include extended adult family members as opposed to related children, lives below or at poverty levels. 18% of such farmworker households earn less than \$21,720 a year. Another 38% of such farmworker households live in near-poverty, earning yearly income that is less than 200% of the official poverty rate. Under ordinary conditions, farmworkers are particularly vulnerable to environmental and occupational hazards. Many Massachusetts farmworkers live away from their families in isolated and rural communities, lacking social structures and support. The COVID-19 pandemic and the unfolding economic crisis have only exacerbated these longstanding vulnerabilities of the agricultural workforce.

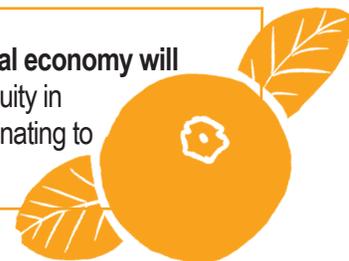


The exclusion of farmworkers from Massachusetts minimum wage law is a legacy of structural racism.

The U.S. has long excluded the agricultural workforce, primarily Black and Latino laborers, often immigrants, from federal and state workplace laws protecting the majority of workers. To address structural inequities that have institutionalized a caste of second-class workers, Massachusetts must reform wage laws that deny a primarily Latino, immigrant workforce the basic rights afforded other workers.

We must increase farmworker wages to improve food security.

Eliminating the sub-minimum wage and extending overtime protection to all workers in the agricultural economy will ensure a more stable and productive workforce. It's time to address the stain of racism and structural inequity in Massachusetts workplace law and to join New York, California and Oregon in eliminating to sub-minimum standards in wage laws governing the agricultural workforce.



Senate Bill 1205 | House Bill 1979
Sponsored by: Sen. Adam Gomez | Rep. Carlos Gonzalez

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FAIRNESS FOR FARMWORKERS ACT 2021

Reforms Massachusetts Wage and Hour Law to Allow All Massachusetts Farmworkers:

To earn the minimum wage guaranteed to most other Massachusetts workers: \$13.50 as of 2021.

- Under current law, agricultural employers can pay farmworkers a poverty-level sub-minimum agricultural wage of \$8.00 an hour.
- Massachusetts farmworkers deserve the same wage protections as other essential workers. The sub-minimum agricultural wage should be abolished because it deprives farmworkers of the worth and dignity they deserve as an irreplaceable component of the food-chain economy that produces, transports and delivers food to citizens across Massachusetts.
- Farms employing workers with H-2A visas are already legally required to pay all farmworkers employed by that farm a special federally set minimum wage, which is well above the \$8.00/hr. sub-minimum allowed under Massachusetts law. The Fairness for Farmworkers Act will extend wage equity to all farmworkers, including those who don't work alongside H-2A workers.



To earn overtime pay after 55 hours of work if employed as a seasonal farmworker.



- Provides seasonal farmworkers with pay at a time-and-a-half for all hours over 55 worked in a week.
- Provides farmworkers employed year-round in agriculture with pay at a time-and-a-half for all hours over 40 worked in a week.

To choose to take a day of rest each week.

- Allows farmworkers to choose a day of rest each week and to earn time-and-a-half for hours worked on the seventh workday of the week, if they choose to work.



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An Act establishing fairness for agricultural laborers

SECTION 1. Chapter 136 of the General Laws is hereby amended by adding the following new section:

Section 17. Every person employed in seasonal agricultural and farm work as defined in section 2 of chapter 151 who is not the parent, child, spouse or other member of the employer's immediate family shall be allowed at least 24 consecutive hours of rest in each calendar week. Twenty-four consecutive hours spent at rest due to circumstances such as inclement weather or unfavorable crop conditions shall be deemed to constitute the rest required by this section. No provision of this section shall prohibit an employee engaged in seasonal agricultural and farm work from voluntarily agreeing to work on such day of rest required by this paragraph, provided that the work is compensated at a rate which is at least one and one-half times the laborer's regular rate of pay for all hours worked on such day of rest.

SECTION 2. Section 1A of chapter 151 of the General Laws is hereby amended by inserting at the end of the first sentence, after the word "employed", the following provision:

; provided, however, that with respect to employers employing employees engaged in seasonal agricultural and farm work as defined in section 2, no employer in the commonwealth shall employ any such employee for a work week longer than 55 hours unless such employee receives compensation for his employment in excess of 55 hours at a rate not less than one and one-half times the regular rate at which he is employed.

SECTION 3. Said section 1A of said chapter 151 is hereby further amended by striking out clause 19.

SECTION 4. Section 2 of said chapter 151 is hereby amended by striking out, in the first sentence of the definition of 'Occupation,' after the words "professional service", the words "agricultural and farm work,".

SECTION 5. Said section 2 of said chapter 151 is hereby further amended by adding the following definition:

"Seasonal", when modifying "agricultural and farm work" as used in this chapter, means labor performed during a period of an agricultural business's operation of growing and harvesting (a) lasting not more than 235 continuous days that includes the months of June, July and August, or (b) beginning not earlier than the first day of August nor later than the first day of September and lasting not more than 100 continuous days.

An Act Establishing Fairness for Agricultural Laborers in Massachusetts

Section-by-Section Description

SECTION 1: Provides a weekly day of rest for most seasonal agricultural and farm workers and provides for time and one-half pay for workers who choose to work on that day instead.

SECTIONS 2 and 3: Provide for overtime for farmworkers employed year-round in agriculture with pay at time and half for all hours over 40 worked in a week and for overtime for seasonal agricultural and farm laborers at a rate of no less than time and one-half pay for any work performed after 55 hours in a week.

SECTION 4: Eliminates the sub-minimum wage of \$8.00 per hour for agricultural and farm work, making those workers eligible for the generally applicable minimum wage.

SECTION 5: Defines “seasonal agricultural and farm work” for purposes of the minimum wage and overtime laws.