

November 9, 2021

Representative Josh Cutler
House Chair, Joint Committee on Labor and Workforce Development
State House, Room 167
Boston, MA 02133

Senator Patricia Jehlen
Senate Chair, Joint Committee on Labor and Workforce Development
State House, Room 424
Boston, MA 02133

Re: Support for House 1979 and Senate 1205

Dear Representative Cutler, Senator Jehlen and Members of the Committee:

Massachusetts Law Reform Institute (MLRI) submits this letter in support of House 1979 and Senate 1205, An Act Establishing Fairness for Agricultural Workers. MLRI is a statewide, non-profit legal services organization whose mission is to advance economic, social and racial justice through legal action and advocacy. We urge you to give a favorable report to these bills, which would correct long-standing injustices in the state's labor laws that subject farmworkers to lower rates of pay and deny them benefits of laws governing days of rest and overtime pay.

The exclusion of farmworkers from worker protection laws is one legacy of racism in our nation. When Franklin D. Roosevelt's New Deal proposed steps to raise the standard of living for most American workers, Southern legislators objected to including Black workers in these improvements, insisting instead on maintaining the racist caste and class structure of the South and subjecting Black people to segregation, terror and oppression. In order to secure the support of these legislators

for worker protections generally, Congress agreed to exclude farmworkers and domestic workers (occupations that typically employed Black workers) from the provisions of the Fair Labor Standards Act, codifying the continued subjugation of Black people. Today, eighty-three years later, this injustice persists.

Minimum Wage. Neither the federal government nor our state government provided for any statutory minimum wage for farmworkers until 1967, when Congress established a \$1 per hour minimum wage and Massachusetts set a state minimum wage of \$1.20 per hour, which was increased to \$1.60 effective in November, 1970. That subminimum farmworker wage remained in effect until 2015, when it was increased to \$8 per hour. A minimum wage increase for farmworkers was not included as part of the “Grand Bargain” of 2018, and without action by the Legislature, by January 1, 2023, the farmworker minimum wage will be only 53 percent of the regular minimum wage. Although demand for agricultural labor in recent years has had the effect of increasing to some extent the hourly wage that farmworkers actually receive, the statutory subminimum wage of \$8 per hour still functions as an unjustifiable drag on the ability of farmworkers to earn wages commensurate to other workers in the state.

Overtime Pay and Day of Rest. Far more than workers in many other occupations, farmworkers must work at an extremely fast pace and are subjected to safety and health risks like dangerous machinery, toxic chemicals, and animal-borne diseases. They should certainly be included in worker protections mandating one day of rest out of seven and overtime pay; however, they are categorically excluded. Currently, six states offer overtime pay to farmworkers: California, Hawai'i, Maryland, Minnesota, New York, and Washington, and Massachusetts should join them. In recognition of the fact that much agricultural work is not year-round and instead must necessarily take place during the growing and harvesting season, the legislation we are

supporting today proposes that seasonal farmworkers begin to receive overtime pay after 55 hours of weekly work at regular pay, rather than the 40 hour workweek for year-round workers, a concession to employers that should promote timely enactment by the Legislature.

In a 1967 report on migratory labor in Massachusetts, the state's Legislative Research Council¹ observed that "Massachusetts has been noted as a pioneer in the enactment of progressive social legislation." However, the report continued, the state's "accomplishments in behalf of the itinerant agricultural worker have been meagre." More than 50 years later, that unfortunate state of affairs endures. This legislative session, Massachusetts can begin to right those wrongs (and to finally redress the racist motives to thwart the advancement and inclusion of agricultural workers) by enacting this proposal. We urge the Committee to give a prompt favorable report to these bills. Thank you for your consideration of our views.

Sincerely,

Georgia Katsoulomitis
Executive Director

Virginia Benzan
(Director, MLRI Racial Equity &
Justice Project)

¹ 1967 Senate Bill 1303. Legislative Research Council Report Relative to Migratory Labor, May 31, 1967.