



FAIRNESS FOR FARMWORKERS 2023

HB 2812 | SB 1837 SPONSORS: REP. CARLOS GONZÁLEZ & SEN. ADAM GOMEZ

It's Time to Pass Minimum Wage and Overtime Protections for Farmworkers.

Farmworkers are essential to the Massachusetts economy.

More than 14,000 farmworkers are employed in Massachusetts. Their labor is essential to the sale of \$607 million in agricultural products produced each year in this Commonwealth. Most of these farmworkers live year-round in cities and towns across the Commonwealth; only a small minority are seasonal migrant workers with H-2A visa status. Agricultural workers plant and harvest fruits and vegetables on farms across the state, grow trees and shrubs in nurseries and greenhouses, produce dairy products, and raise fish and livestock.

Farmworkers are not protected by state minimum wage or overtime laws.

Farmworkers are not legally entitled to the \$15/hour state minimum wage. State law only guarantees farmworkers an \$8/hour subminimum wage, 47% below the \$15 minimum wage guaranteed to the vast majority of Massachusetts workers. And, despite routinely working up to 11 hours a day, seven days a week during peak growing season, Massachusetts law does not require farmworkers be paid overtime pay at time-and-a-half. The law in Massachusetts, like federal law, keeps farmworkers as second-tiered workers by denying them a livable minimum wage and the right to earn overtime pay and a time and a half rate.

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

As far back as the New Deal, state and federal workplace laws have excluded farmworkers, most of whom are Black or Latino, from the protections afforded to the majority of workers. These exclusions were driven by race discrimination and persist today as a structural inequity experienced by a farm labor force that is overwhelmingly Latino and immigrant. To address the structural discrimination that has legalized a caste of second-class agricultural workers, Massachusetts must provide its agricultural workforce the basic rights afforded other workers.

Farmworkers experience poverty at twice the rate of all workers.

Massachusetts farmworkers are commonly seasonal employees who earn lower wages, receive fewer benefits and experience limited access to healthcare. Poverty is the norm: an average 3-person farmworker household lives at poverty levels. Almost 20% of farmworker households earn less than \$21,720 a year, below the less-than adequate poverty standard set by the federal government. And another 38% of farmworker households live in near poverty, earning less than twice the federal poverty rate. Under ordinary conditions, farmworkers are particularly vulnerable to a host of environmental and occupational hazards. Many Massachusetts farmworkers live in isolated, rural settings with limited access to needed social services and support. The COVID-19 pandemic, inflation and economic uncertainty have only exacerbated the longstanding vulnerabilities of the agricultural workforce.



Massachusetts must increase farmworker wages to improve food security.

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



Fairness for Farmworkers Act of 2023

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Massachusetts can help ameliorate the increase of farmworker labor costs by supporting its agricultural employers through a refundable tax credit.

The real buying power of substandard farmworker wages are on the decline as the inflationary rise in commodity prices across all industries continues and as housing costs mount. Agricultural employers are also feeling the squeeze of increased costs. To help offset the wage increases the proposed refundable tax credit in the Fairness for Farmworkers Act provides assistance to agricultural employers to offset a significant portion of overtime wages paid. This tax credit will provide farmworkers with a livable wage, keep food prices down for consumers, and lower costs for agricultural employers.

The FFA would allow farmworkers to earn the state minimum wage guaranteed to most other Mass. workers: \$15 as of Jan. 2023.

- Under current law, agricultural employers can pay farmworkers a poverty-level sub-minimum agricultural wage of \$8.00 an hour, which is 47% less than the state minimum wage.
- Massachusetts farmworkers deserve the same wage protections as other essential workers. The sub-minimum agricultural wage should be abolished because it deprives farmworkers of 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 in Massachusetts are already legally required to pay all farmworkers employed by that farm a special federally set minimum wage of \$17.80, known as an adverse effect wage rate (AEWR), which is well above the \$8.00/hr. sub-minimum. The Fairness for Farmworkers Act will extend wage equity to all farmworkers, including those who don't work alongside H-2A workers.

The FFA would allow farmworkers to earn overtime pay.

- On average, seasonal agricultural workers labor 55+ hours during peak growing and harvesting season. Under current law, agricultural workers are exempt from overtime pay regardless of how many hours worked during a week.
- The bill would provide farmworkers engaged in primary, or both primary and secondary agriculture, with overtime pay at time-and-a-half for all hours over 55 worked in a week. The MA Supreme Judicial Court, and state wage-and-hour law define primary agriculture as "planting, growing, and harvesting," and secondary agriculture is defined as work done to prepare commodities for market, or for delivery to market.

The FFA would allow farmworkers to accrue one (1) hour of paid time off for every 40 hours worked, up to 55-hours in a calendar year.

- Given the demands of agricultural work and seasonal employ, many agricultural workers are unable to take time off to spend with their families without a significant impact to their earnings. Farmworkers are not entitled to or guaranteed a day of rest.
- The bill would provides all year-round and seasonal farmworkers, the opportunity to accrue up to 55-hours of paid time off during a calendar year.
- Such paid time-off would allow farmworkers to spend time with their families, rest and recover, or attend to obligations without loss of income.

The FFA would allow farmworkers to take two paid breaks.

- During peak seasonal work, agricultural workers may be required to work 10+ hours to cultivate crops, usually without breaks.
- The bill would allow farmworkers who work more than 8 hours in a day to take two 15-minute paid breaks.
- One before the lunch break and one after the lunch break.

For more information contact the
Fairness for Farmworkers Coalition,

Claudia Quintero, Esq.
cquintero@cwjustice.org

Maya McCann, Esq.
mmccann@cwjustice.org