



Farmworker Justice

The Fairness for Farm Workers Act: It's Time to End Discrimination against Farm Workers

The “Fairness For Farm Workers Act” (S. 385/H.R. 1080) would end the discriminatory denial of overtime pay and most remaining minimum wage exemptions for farm workers in the Fair Labor Standards Act (FLSA). Farm workers deserve basic minimum wage and overtime protections.

The basic labor protections for workers that were enacted during the 1930s should apply to farm workers: the people who labor on farms and ranches to feed us. It is about time – really long past the time – for Congress to end the discrimination against agricultural workers in the FLSA. Every day Americans enjoy an abundance of food thanks to the labor of the roughly 2.4 million farm workers who engage in back-breaking work to ensure America’s food security. Yet these workers are excluded from many of the basic workplace protections that other Americans take for granted –among them are the organizing and bargaining rights in the National Labor Relations Act (NRLA), the overtime protections of the FLSA, and even the FLSA’s minimum wage protections for certain small employers and industries. Although most farm workers were included in FLSA’s minimum wage requirements in 1966, there are still several exemptions from the minimum wage, including for workers in certain job categories and at small employers.

This legislation eliminates most of the exemptions to the minimum wage for agricultural employers; although the exemption for agricultural employers’ immediate family members would continue. Under the legislation, workers in agriculture would be entitled to time-and-a-half pay for working more than 40 hours in a week. The bill phases in overtime pay over a period of 4 years beginning in 2021; for employers with 25 or fewer employees, the phase-in will be delayed by three additional years.

Farm workers need and deserve overtime. For decades it has been recognized that businesses which require more than forty hours of work in a week should pay a premium wage. Overtime pay offers extra compensation to workers but also acts as a deterrent against employers’ imposition of excessively long work weeks. Many farm workers live in extreme poverty; the ability to earn overtime could ensure farm workers much needed income. Farm work has long been recognized as physically difficult, strenuous work. Excessive hours interfere with time needed to rest, as well as time to raise children, care for elderly parents, and participate in local communities.

There is no valid justification for excluding farm workers from the minimum wage and overtime pay. Agricultural employers have no special justification for paying substandard wages and inflicting economic harm on farm workers. Many farm operations today are quite large; they have been referred to as industrialized agriculture. While many farms operate seasonally, so do many other businesses that are covered by the minimum wage and overtime, including construction, tourism and education. Overtime

pay was once portrayed as the death knell to businesses in a competitive global market; however, more than 75 years of overtime pay obligations in other sectors demonstrates that such opposition is unjustified.

The exclusion of agricultural workers from the minimum wage and overtime pay was never fair. America's history of agricultural exceptionalism is rooted in racism and political expediency. The sponsors of the New Deal era labor legislation mustered enough votes for passage by appealing southern states' legislators, who demanded the exclusion from coverage of agricultural and domestic workers. At the time, the farmworker population in the South was predominantly African American, and often was subjected to plantation-like conditions. Today, the majority of agricultural workers are Latino. Discrimination in our immigration and labor laws has persisted, depriving farm workers of basic workplace protections and fundamental human and democratic rights.

It is time to remedy the discrimination farm workers face in their minimum wage and overtime protections. In 2016, California recognized the need to provide farm workers overtime protection. California's overtime law for farm workers ensures farm workers will have an equal right to overtime pay and continues the process of reducing discrimination in employment laws against agricultural workers. California is the most successful agricultural production state and has the largest population of farm workers. Not only do farm workers outside of California deserve an end to discrimination in labor laws, but agricultural businesses in California should not have to compete with growers that save money on labor costs because the federal law and their state laws discriminate against farm workers. The U.S. Congress needs to learn a lesson from California and end the exclusion of farm workers from the FLSA's overtime and minimum wage protections.

The treatment of farm workers in this country is unreasonable and unsustainable. As in generations past, today's farm workers experience high rates of poverty: low wages and lack of overtime pay are key contributing factors. Farm work is one of the most hazardous occupations in the country, with routine exposure to dangerous pesticides, arduous labor and extreme heat. Such poor conditions and discriminatory laws have resulted in substantial employee turnover, leading to instability in our labor force.

We all want to feel good about the food we purchase and consume, but the continuing discrimination in employment laws against farm workers – the people who produce our food – perpetuates a stain on our food system that should be eradicated.