

## RURAL HOUSE MEMBERS PRESSURE LABOR DEPARTMENT TO STOP ENFORCING ‘HOT GOODS’ PROVISION ON FARM PRODUCE

The House Agriculture Subcommittee on Horticulture, Research, Biotechnology, and Foreign Agriculture held a hearing today on the Labor Department’s enforcement of the minimum wage for farmworkers using the so-called “hot goods” section of the Fair Labor Standards Act (FLSA). Some grower groups and Congressional allies are pressing to exclude perishable vegetables and fruit from coverage under the FLSA’s hot goods section.

The subcommittee is led by members from farming districts: Chairman Austin Scott (R-GA) and Ranking Member Kurt Schrader (D-OR). The hearing is intended to send a message to the Obama Administration to curtail enforcement of the provision.

The FLSA’s hot goods provision permits the DOL to file a lawsuit in which it requests a federal court to enjoin the sale or shipment of goods that have been produced in violation of the FLSA because such goods “pollute” the stream of commerce. In passing the FLSA, Congress said that illegally produced goods give an unfair advantage in the market to lawbreakers over law-abiding employers. The ability to seek a hot goods injunction is an effective law enforcement tool to protect law-abiding employers and to address rampant violations of FLSA’s protections for farmworkers, who depend on these minimal wages for their daily subsistence. Moreover, timeliness is of the utmost importance to migrant farmworkers who often disperse at the end of a season and cannot be found easily to receive their backpay.

Scott and Schrader both have been critical of the law as it applies to farm products. While hot goods injunctions are not sought frequently, its potential use acts as a deterrent to violations. While some agricultural products may be perishable, FLSA does not make an exception for perishable products; and in today’s marketplace, there are many other perishable and time-sensitive goods that Scott and Schrader are not seeking to exclude from FLSA’s protections. “Despite the low pay and difficult and dangerous working conditions in agriculture, farmworkers are already excluded from many law labor laws covering other workers. Congress should end these long-standing exclusions rather than expand them as Rep. Schrader’s and Rep. Scott’s bill, HR 1387, seeks to do,” said Bruce Goldstein, President of Farmworker Justice. Farmworker Justice supports the Labor Department’s continuing enforcement of the law using the hot goods provision.