



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

Every day, Americans enjoy an abundance of food thanks to the labor of the roughly 2.4 million farmworkers 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 these protections are the organizing and bargaining rights in the National Labor Relations Act (NRLA), the overtime protections of the Fair Labor Standards Act (FLSA), and even the FLSA's minimum wage protections for certain small employers and industries.

The "Fairness For Farm Workers Act" (S. 2253/H.R. 4579), re-introduced on July 12, 2023 by Sen. Alex Padilla (D-CA) and Rep. Raúl Grijalva (D-AZ), **would finally end the discriminatory denial of overtime pay and most remaining minimum wage exemptions for farmworkers under the FLSA.** The basic labor protections for workers that were enacted during the 1930s excluded farmworkers as a compromise with racist politicians during the Jim Crow era. It is long past the time for Congress to correct this historical injustice and recognize the importance and dignity of farm work by passing this bill.

Under the Fairness for Farm Workers Act, agricultural workers 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 four years beginning in 2024; for employers with 25 or fewer employees, the phase-in will be delayed by three additional years. Although most farmworkers were included in FLSA's minimum wage requirements in 1966, there are still several exemptions from the minimum wage protections, including for workers in certain farm job categories and at small employers. This legislation eliminates most of those exemptions to the minimum wage laws for agricultural employers; although the exemption for agricultural employers' immediate family members would continue.

- **Farmworkers need and deserve overtime.** For decades it has been recognized that businesses that 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. 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. And with more than 20% of farmworker families living below the poverty line, the ability to earn overtime could ensure farmworkers much needed income.
- **There is no valid justification for excluding farmworkers from the minimum wage and overtime pay.** Agricultural employers have no special justification for paying substandard wages and inflicting economic harm on farmworkers. 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.
- **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 appeasing 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 farmworkers of basic workplace protections and fundamental human and democratic rights.

- **California has proven that overtime protections for farmworkers are beneficial and do not harm the farm economy.** In 2016, California recognized the need to provide farmworkers overtime protection. California's overtime law for farmworkers ensures farmworkers 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 farmworkers. Since California implemented its overtime law, there have been [no correlating negative impacts](#) to its labor market or farm economy. Instead, the number of agricultural establishments has remained constant and farmworkers' wages have grown at a slower rate than prior years. Further, during the phase-in period of the overtime protections, farmworkers have worked the same average hours. If the largest agricultural state in the nation has not been adversely affected by overtime requirements, it is difficult for agribusiness to contend that overtime requirements for farmworkers will dramatically impact profits and close down farms.

The treatment of farmworkers in this country is unreasonable and unsustainable. As in generations past, today's farmworkers experience high rates of poverty: low wages and lack of overtime pay are key contributing factors. Farm work is also 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 farmworkers – the people who produce our food – perpetuates a stain on our food system that should be eradicated. We strongly support the Fairness for Farm Workers Act.