

To: House Committee on Business and Labor
From: Alicia Temple, Oregon Law Center
Date: March 8, 2021
Re: Support for HB 2358, Overtime for agricultural workers

Chair Holvey and members of the committee:

On behalf of the Oregon Law Center (OLC), I respectfully request your support for HB 2358, to end the overtime exemption of agricultural workers.

OLC's mission is to achieve justice for low-income communities in Oregon by providing a full range of the highest quality civil legal services. The vast majority of our clients have incomes at or below the federal poverty level, and work hard to provide basic necessities for themselves and their family. The crises of the past year have exacerbated the challenges for our low-income community, and an increasing number of our clients are forced to make terrible choices between paying for rent, food, health care, or other necessities. Farmworkers have been put in an especially difficult position. As essential workers in an industry our state heavily relies on, they have had to weigh their health and safety versus the economic wellbeing of their families.

Oregonians rely on the labor of farmworkers. And yet our state's laws have historically excluded them from the same protections and benefits other workers are provided. Farmworkers do not have job security, opportunities advancement, and retirement benefits beyond what their labor can produce today. Therefore, it is critical that we fairly compensate them for their time and overtime.

The committee should consider the fact that those in neighboring states, such as California, now provide overtime payment to farmworkers. We have heard from workers that they are considering not returning to Oregon for future harvests because of the issues they confront in their work terms and conditions. The lack of fair overtime compensation for their impossibly long hours is one of those issues. For growers who are concerned about the pool of available workers, it is vital to consider what attracts workers beyond loyalty to their farms. How can Oregon keep up with the competition in neighboring states on workplace terms and conditions if workers come here and immediately notice the worse protections and compensation?

It is a myth that the industry cannot survive paying overtime. Oregon Christmas tree farms for years paid overtime to their workers because of a court of appeals decision that interpreted their work in such a way that they were included in the overtime laws at the time. During those years, there was not a total collapse in the industry as opponents to overtime now claim there will be. While this legal interpretation later was changed again, it provides a roadmap for Oregon to demonstrate the industry can—and must—manage to properly compensate their workers, including overtime for the hours worked.

Thank you for the opportunity to submit testimony. OLC urges your support for HB 2538.