

HB 2358 - Farmworker Overtime Pay

BACKGROUND:

The 1938 Federal Labor Standards Act (FLSA) failed to guarantee overtime pay for farmworkers despite working in one of the most dangerous job industries. Exclusion of farm workers from the Fair Labor Standards Act of 1938 is part of the shameful legacy of racism that initially targeted the 85 percent of southern African Americans who were farm workers in the 1930s. Today most farm workers are Latinos. Excluding farm workers from overtime was wrong in 1938; it is still wrong today. The current pandemic highlights the crucial role that farmworkers have in our society, yet they continue to be excluded from basic labor standards. **Oregon lawmakers have the opportunity in leading the path towards ending this racist exclusion and extending overtime pay for our essential farmworkers.**

OVERVIEW:

There are approximately 174,000 migrant and seasonal farmworkers in Oregon.¹ Farmworkers are some of the lowest paid workers. On average, farmworkers are estimated to make between \$17,500 to \$19,999 a year and cannot afford to miss a day of work even if it puts their health at risk.² Despite this, farmworkers are not eligible for overtime pay of 1.5 times the regular wage for every hour worked after 40 hours in a week. There are a few states that have some sort of overtime pay guarantee for farm workers such as: California, Washington, and New York. **Extending overtime pay for farmworkers in Oregon is necessary to improve their economic security.**

SOLUTION:

In a year filled with a respiratory pandemic, catastrophic fires, and hazardous air quality levels, farmworkers continued to show up to work and ensure we have food available. It is time that we demonstrate our commitment to economic security for all of our workers by extending overtime pay to farmworkers through HB 2358.

HB 2358 -3/-4:

- Guarantees overtime pay to hourly and piece-rate farmworkers.
- Guarantees overtime pay for farmworkers in a phased out approach.
 - Employers must pay overtime after **50 hours** worked in a workweek at one and one-half times the employee's regular rate of pay by **Jan 1, 2022**.
 - After 45 hours worked in a workweek by **Jan 1, 2023**.
 - After 40 hours worked in a workweek by **Jan 1, 2024**.
- Enforcement mechanism is the same as general overtime law.

¹ Oregon Health Authority, Vital Role of Migrants in the State Economy <https://www.oregon.gov/oha/HPA/HP-PCO/Pages/Migrant-Health.aspx>

² Hernandez and Gabbard, 36. https://www.dol.gov/sites/dolgov/files/ETA/news/pdfs/NAWS_Research_Report_13.pdf

ENDORSERS:

