



A STRONG VOICE FOR OREGON'S WORKERS

TO: Chair Holvey
Vice-Chairs Bonham & Grayber
Members of the House Committee on Business and Labor

FR: Jess Giannettino Villatoro, Political Director, Oregon AFL-CIO

RE: Oregon AFL-CIO Support for HB 2358, Farmworker Overtime

March 29, 2021

The Oregon AFL-CIO represents 300,000 workers across Oregon and is a voice for all workers in the legislative process. Oregon's farmworkers are the backbone of one of the largest sectors in our economy. Yet, as other workplace protections have increased over the past 50 years, Oregon's farm workers remain excluded from some of the most basic protections other sectors of the economy have been subject to for sometimes nearly a century.

The debate over farmworker exclusions to labor law is nothing new, but the impacts of such exclusions are compounding. At the heart of today's discussion is the farmworker overtime exemption found in the Fair Labor Standards Act or FLSA, originally enacted in 1938. What is new to some, is that there are the other exclusions found in FLSA and other labor laws that create compounding effects on farmworkers and their families. In addition to the overtime exclusion for overtime, the child labor protections found in FLSA offer less protection to agricultural workers than to all other workers. Under the law, for tasks designated by DOL as "hazardous," there is a minimum age of 18 years for all industries except agriculture, which has a minimum age of 16 for such tasks, even though agriculture is one of the three most dangerous industries, nationally. In other ways, the child-labor protections in agriculture are lower than in other industries. For example, for most jobs the normal minimum age is 16 years (with few exceptions), but in agriculture it is 14 years (with many exceptions). Moreover, there are fewer restrictions in agriculture on the number of hours that children are permitted to work.

In addition, the National Labor Relations Act specifically exempts farmworkers from being able to form a union, and it does not protect workers from being fired for joining, organizing, or supporting a labor union. This exclusion is the exact reason why the legislature must act to extend critical overtime protections for Oregon's farm workers because there is currently no other path for workers to gain access to overtime pay.

Overtime protections in general are enacted not to punish employers, but to ensure that there is a financial disincentive to scheduling workers more hours than is safe and to ensure that more workers have access to gainful employment.¹ Overwork in the agricultural industry is a prevalent issue and one that can be addressed by HB 2358.

We can't continue to expect a segment of Oregon's workers to not be able to benefit from protections that everyone else does and then be surprised when they're not okay.² According to Sleep, immunity and shift workers: A review, published by the Sleep Science Journal in 2016 "The deterioration of sleep..., as observed among shift workers,...is associated with

¹ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6617405/>

² <https://www.opb.org/article/2021/03/18/was-oregons-covid-19-pivot-enough-to-address-racial-inequities/>

an increasing susceptibility to the development of infectious diseases such as flu , airway infections and failure to control immunization against certain diseases.³

According to the Oregon Health Authority, Oregon’s agricultural workers have faced 490 cases of COVID from workplace outbreaks according and the Latinx community is 3.4 times more likely to face a hospitalization from COVID-19 and 2.8 times more likely to suffer a death related to COVID-19 than their white counterparts. These negative impacts of overwork extend beyond the current crisis caused by the pandemic though. These immune systems challenges are coupled with the deteriorating impacts on physical aspects of the body that you heard Rep. Alonso Leon refer to as she talked about her parents hunching over for hours on end, exposure to pesticides and exclusion from other critical worker protections create an eco-system of work that isn’t sustainable. Oregon’s farmworkers have been allowed to work under entirely different conditions for far too long. This bill only addresses one of the compounding factors at play for farmworkers, and it is one that should be a practical and moral imperative for Oregon. We respectfully urge this committee to pass HB 2358 with the -3 and -4 amendment.

³ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6617405/>