



## HOUSE OF REPRESENTATIVES

Good afternoon Chair Holvey, Vice-Chairs Bonham and Grayber, and members of the House Committee on Business and Labor. For the record, my name is Andrea Salinas. State Representative for House District 38, Lake Oswego and Southwest Portland.

I come before the committee today to voice my strong support for HB 2358, which will require overtime pay to Oregon farmworkers.

The past year brought unthinkable challenges to Oregonians in every corner of the state. From a global pandemic to catastrophic wildfires to a bitter winter icestorm, no community was left unscathed, but some, like the farmworker community, felt disproportionate impacts of a particularly rough year.

As many workplaces shifted to remote work to keep their employees safe, farmworkers have not been awarded the same options due to the essential, in-person nature of their work. Agricultural work is already one of the most physically demanding and exhausting jobs, and during the pandemic, the physical dangers have only increased. [As noted in the 2020 Oregon COVID-19 Farmworker Study](#), Oregon's farmworkers reported periods during the working day when they were not able to socially distance. And while most farmworkers were provided with masks, two-thirds reported that the masks provided by their employer were made of cloth.

This problem was exacerbated when wildfires tore through Oregon last September, and the air quality in Oregon's most populous cities was among the worst in the entire world. In Salem, the air quality index reached 710 on September 11. [For context](#), the Environmental Protection Agency's scale only reaches 500.

In response, public health experts urged Oregonians to stay inside to avoid inhaling smoke and ash particles. And while many took heed of this advice, Oregon's farmworkers could not. It was harvest season for many crops, and missing a day of work meant missing a day of wages. Something that many farmworkers can't afford. So even as the sky turned red from smoke, farmworkers were in the fields, breathing in hazardous air, and working tirelessly to harvest crops.

Regardless of the circumstance, Oregon's farmworkers have continued to risk their lives, their health, and their safety to make sure that Oregon families have food available to put on the dinner table each night.

But despite the essential nature of their work, farmworkers are not guaranteed overtime pay due to exemptions in the 1938 Federal Labor Standards Act and the 1983 Migrant and Seasonal Agricultural Worker Protections Act. As a result, farmworkers continue to be some of the lowest paid workers in the state, making an estimated 28,000 dollars per year.

This is not a living wage, nor is it a wage that can ensure access to health care despite the physical demands of the job. But for the approximately [174,000 migrant and seasonal farmworkers in Oregon](#), it's a harsh and tragic reality that carries with it significant consequences.

The Oregon Legislature must take action to improve the economic security of this vital portion of Oregon's workforce, and extending overtime pay to ensure that they receive appropriate compensation for their work is a good first step. That's what we are hoping to do with HB 2358.

HB 2358 is a really simple bill. It extends Oregon's overtime laws to include agricultural workers. For hourly workers, it guarantees overtime pay at a rate of one and one-half times the worker's regular rate of pay for every hour worked beyond 40 hours in one work week. For piece-rate employees, it guarantees overtime pay at a rate of one and one-half times the regular rate during each overtime hour worked over 40 hours in one work week.

As you can see in the -1 amendment posted on OLIS, overtime pay for agricultural workers would be enforced the same way as overtime pay for other types of employees per ORS 653.055. Agricultural workers will be able to submit a wage complaint against their employer through BOLI in the same manner as other types of workers. If the employer is found to have paid the employee less than they were entitled, they are liable for the full amount of wages the employee is owed.

By ensuring that farmworker overtime has the same enforcement mechanism as the general overtime law, this would create a consistent and streamlined process for BOLI to enforce with ease.

Other states, including California, Washington, New York, and Minnesota, have already taken some kind of action to extend overtime laws to farmworkers, and you will hear more today about the economic impacts of those decisions. But we cannot have a discussion about overtime pay for farmworkers without acknowledging the racist and exclusionary origins of this policy.

The 1938 Fair Labor Standards Act, which introduced overtime pay, established the minimum wage, and banned child labor, was initially meant to include farmworkers, [but they were removed from the bill](#) in order to obtain the votes of Southern lawmakers. At the time, the South relied on the exploitation of Black labor in agriculture, and lawmakers feared that these reforms would disrupt the racist and segregated economic structure that allowed for this [exploitation](#) to persevere.

Here are some of the comments from Southern lawmakers at the time ([Source](#)):

Congressman J. Mark Wilcox (FL):

"Then there is another matter of great importance in the South, and that is the problem of our Negro labor. There has always been a difference in the wage scale of white and colored labor. So long as Florida people are permitted to handle the matter, this delicate and perplexing problem can be adjusted; but the Federal Government knows no color line and of necessity it cannot make any distinction between the races. We may rest assured, therefore, that... it will prescribe the same wage for the Negro that it prescribes for the white man.... [T]hose of us who know the true situation know that it just will not work in the South. You cannot put the Negro and the white man on the same basis and get away with it. Not only would such a situation result in grave social and racial conflicts but it would also result in throwing the Negro out of employment and in making him a public charge. There just is not any sense in intensifying this racial problem in the South, and this bill cannot help but produce such a result.... This bill, like the antilynching bill, is another political gold brick for the Negro, but this time the white laborer is also included in the scheme."

Congressman Martin Dies (TX):

"what is prescribed for one race must be prescribed for the others, and you cannot prescribe the same wages for the black man as for the white man."

Congressman Edward Cox (GA):

“The organized Negro groups of the country are supporting [the FLSA] because it will, in destroying State sovereignty and local self-determination, render easier the elimination and disappearance of racial and social distinctions, and by the concentration of this vast and despotic power in a political board or administrator in Washington throw into the political field the determination of the standards and customs which shall determine the relationship of our various groups of people in the South.”

In order to secure their support, and ensure the passage of the bill, farmworkers were removed.

Today, more than 80 years later, the dynamics have changed, but the effect of this racist policy has not. Immigrants from Latin America and the Caribbean, workers of color, who now make up the majority of farmworkers in Oregon and in the United States, continue to face exploitation and continue to see their labor devalued.

It’s time for Oregon to follow in the footsteps of other states, and treat our farmworkers like the necessary and essential workers that they are by ensuring they receive the compensation they deserve--and to show that as Oregonians, we **value** the work of our farmworkers.

Thank you for your consideration, and I urge your support for HB 2358.