

Fairness for Farm Workers Act – One Pager

Background:

- As enacted in 1938, the Fair Labor Standards Act (FLSA) excluded agricultural workers from its minimum wage and overtime protections. These exclusions, targeted at the primarily African American workforce, were included in several pieces of “New Deal” legislation to earn the support of southern congressmen.
- While the FLSA has afforded many farm workers minimum wage protections since 1966, **to this day, most agricultural employees do not have to be paid overtime for working more than 40 hours a week.**
- Overtime pay is critically important for farmworkers.
 - Despite farm work being an incredibly physically demanding career – around 100 workers suffer a lost-work-time injury per day¹ – these over 2 million workers do not receive many crucial employment protections.
 - Farmworkers work long hours in challenging work yet have very low incomes. Farmworker’s annual wages average between only \$15,000 and \$17,499.²
 - Almost a third of farmworkers are female and the toll of undercompensated overtime on their family life is acute.
- The Fairness for Farm Workers Act amends the FLSA to grant overtime protections to farm workers who work more than 40 hours a week, and eliminates most remaining exemptions to the minimum wage for agricultural employers.
- This bill is supported by AFL-CIO, Earthjustice, Economic Policy Institute, Farmworker Justice, LCLAA, NAACP, SEIU, SPLC, UnidosUS, United Farm Workers, and more.

Bill Summary:

- Amends Section 7 of the FLSA (29 U.S.C. 207) to require time-and-a-half overtime pay for all agricultural workers, with additional compliance time for small farms.
 - Phases in the requirements over four years beginning in 2019, and gives employers with twenty-five or fewer employees an extra three years to comply.
- Amends Section 13 of the FLSA (29 U.S.C. 213) to remove exemptions to overtime for agriculture generally and to end the exemptions for overtime and minimum wage requirements for certain small farms, hand harvest laborers, non-local minors, and range livestock production.
 - Note: the exemption for family farms (wherein employees are immediate family members of the employer) is not touched in this bill and continues.
- The bill also removes overtime exemptions for employees employed in irrigation projects, livestock auctions incidental to farm work, small country grain elevators, certain sugar processing, certain types of intra-state transportation and preparation for transportation of fruits and vegetables, cotton ginning, and cotton compressing.

¹ <https://www.cdc.gov/niosh/topics/aginjury/default.html>

² <https://www.migrationpolicy.org/research/ripe-change-evolving-farm-labor-markets-united-states-mexico-and-central-america>; https://www.doleta.gov/naws/pages/research/docs/NAWS_Research_Report_12.pdf

- For those employees who already have limited protections under FLSA, the bill's coverage has an effective date at the end of the phase-in period (2022 and 2025, depending on the size of the employer) for these occupations to ensure that these employees continue to be eligible for overtime throughout. The effective date for agricultural employees currently excluded from both the minimum wage and overtime is also at the end of the phase-in period to give these employers more time to adjust to the coverage.