

**TESTIMONY IN SUPPORT OF LD 2273
SUBMITTED BY THOM HARNETT
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Good afternoon, Senator Tipping, Representative Roeder, and members of the Joint Standing Committee on Labor and Housing. My name is Thom Harnett and I am a resident of Gardiner, Maine. I am here today to offer testimony in support of LD 2273, An Act to Establish a State Minimum Hourly Wage for Agricultural Workers. At the outset, I should point out that I served as the Speaker's representative on the Agricultural Workers Minimum Wage Committee. It was an honor and a privilege to work with Co-Chairs Commissioner Laura Fortman of the Maine Department of Labor and Deputy Commissioner Nancy McBrady of the Department of Agriculture, Conservation and Forestry along with the members of the Committee. Today, however, I am speaking in my personal capacity.

I have spent over 40 years working with and for farmworkers in Maine and other states. I commend the Governor, the Speaker, and the bill's co-sponsors for bringing this bill forward and finally making it clear in Maine law that farmworkers are required to be paid the same minimum wage as every other working person in Maine. The bill also requires agricultural employers to retain accurate records regarding hours worked and wages paid. These requirements are identical to all other employers in Maine.

Farmworkers in Maine and across the United States are overwhelmingly Black, Brown, Latino, and Indigenous people of color. As Speaker Talbot Ross so eloquently testified, the exclusion of farmworkers from basic labor law protections, like minimum wage laws, has long been a stain on our country's history. It is time to take meaningful measures to change that and begin to treat farmworkers as something other than second class workers under Maine law. LD 2273 is a significant and particularly important step forward in that regard and can help lift farmworkers, the people who feed us, and their families, from unacceptable and inhumane levels of poverty. This bill is the direct result of months of hard work done by the members of the Agricultural Workers Minimum Wage Committee that was established by the Governor and brought together over a dozen people representing truly diverse interests. That work should be honored.

However, I do have serious concerns about the bill, but believe those concerns can be easily addressed with minor changes to the bill's language. My primary concern is with Section 654 of the bill that establishes *Employees' remedies*. As drafted, this section vests the Department of Labor with ***exclusive authority*** to bring an action for unpaid wages under this section. This is troubling for multiple reasons. Every other working person in Maine has the statutory right to bring an action on their own for injuries caused by nonpayment of the minimum wage. Failure to provide that right to farmworkers would create yet another example of giving farmworkers a lesser bundle of rights under law. In addition, vesting exclusive enforcement authority in the Department of Labor was never discussed in the many meetings of the Minimum Wage Committee.

This is bad public policy and runs afoul of fundamental American jurisprudence. It has long been recognized that a right is only as strong as the remedy one has to enforce it. Stated otherwise, *a right protects you only insofar as you have a remedy for its violation*. Under this

bill, the person who is harmed has no ability to enforce their rights if the Department of Labor chooses not to bring an action. No remedy means no right. A further concern is that Section 654 could prevent farmworkers from filing claims for unpaid wages that Sections 621-A, 626, and 626-A in Title 26 allow. Farmworkers currently have those rights and remedies under those existing sections and have exercised them. But that they might lose them under this bill. Proposed Section 654 represents a step backwards regarding enforcement. Fortunately, this genuine problem in drafting can be corrected with relatively simple amendments to the bill. I encourage this Committee to consider amending Section 654.

I also encourage the Committee to consider two changes to law that the Commissioner of Labor recommended; those being the offer of voluntary and unpaid rest breaks identical to other workers, and limits on mandatory overtime that can force farmworkers to work more than 160 hours in a two week period.

In closing, I do not want to lose sight of the fact that LD 2273 is truly a significant and important bill that will improve the lives of farmworkers while protecting Maine's strong agricultural traditions. It is both long overdue and very much welcomed. However, with a few simple amendments it could be made even stronger.

Thank you for your time and attention. I am happy to answer any questions.