

TESTIMONY OF MEAGAN SWAY, ESQ.

Ought Not to Pass - LD 2273

**An Act To Establish a State Minimum Hourly Wage for Agricultural Workers**

Submitted to the

JOINT STANDING COMMITTEE ON  
LABOR AND HOUSING

March 26, 2024

Senator Tipping, Representative Roeder, and distinguished members of the Joint Standing Committee on Labor and Housing, greetings. My name is Meagan Sway, and I am the Policy Director at the ACLU of Maine, a statewide organization committed to advancing and preserving civil rights and civil liberties guaranteed by the Maine and U.S. Constitutions. On behalf of our members, we oppose LD 2273 because it provides a right without a remedy and would perpetuate racial inequity in our economy. Should the committee remove the portion of LD 2273 that gives the Department of Labor the exclusive jurisdiction to enforce labor law violations against farmworkers, we would support the bill.

Throughout our country's history, communities of color have been left out of improvements in labor, housing, and other systems. The New Deal of the 1930s marked an important step forward for millions of American workers, but not for communities of color. The Fair Labor Standards Act and the National Labor Relations Act, both parts of the New Deal, excluded farmworkers and domestic workers. The workers in both those groups were disproportionately people of color. They were shamefully left behind. This national picture applies to Maine, too; our state, although overwhelmingly white, has frontline workers who are disproportionately people of color. In 2020, when Maine experienced some of the worst racial

disparities in COVID-19 infections in the country, we saw the very real and life-threatening outcomes of the racial disparities in our state's economy.

Maine farmworkers should receive the same minimum wage and overtime payment rates as workers in other sectors of the economy. Unfortunately, this bill creates a two-tier system, treating farmworkers differently—and worse—than other Maine workers. In general, Maine workers whose wage rights are violated can go to court to enforce their rights and seek a fair remedy. Under Maine wage law, workers can seek a remedy in court for violations of their right to minimum wage (26 M.R.S. § 664); their right to overtime pay (26 M.R.S. § 664); their right to equal pay (26 M.R.S. §§ 628, 626-A); their right to timely full payment of wages (26 M.R.S. §§ 621-A, 626-A); and their right to unpaid wages (including vacation pay) upon termination of employment (26 M.R.S. §§ 626, 626-A). For *all* of these wage violations, Maine workers have the right to bring an “action for unpaid wages” directly in court. 26 M.R.S. § 626; *see also* 26 M.R.S. § 670. But this bill treats agricultural employees differently, creating a set of second-class rights with no realistic prospect of a remedy. The bill strips agricultural workers of the right enjoyed by other Maine workers to bring an action for unpaid wages in court and seek a fair remedy. Instead, the bill restricts enforcement of agricultural workers' rights to the Maine Department of Labor, providing that “The Department of Labor has exclusive authority to bring an action for unpaid wages.” In practice, this means many agricultural workers will have a right without a remedy.

Rectifying the historical injustice of excluding agricultural workers from minimum wage laws, along with other labor laws, is essential to a just economy that works for everyone. Including farmworkers in minimum wage laws would almost certainly lead to a higher quality of life for the communities of color that sustain some of our vital industries. It would advance racial justice while also giving low-wealth and low-income workers the kind of disposable income that would spur

growth and prosperity in other sectors of the economy. To rectify the injustice, we urge you to amend the bill so that farmworkers have the right to obtain the state minimum wage *and* the ability to enforce their rights, should those rights not be enforced. Should you amend LD 2273 to give farmworkers the right to vindicate their rights in court, we would support this legislation.