

MAINE LEGISLATURE
131st Legislature, First Regular Session

Testimony of Michael Guare, Pine Tree Legal Assistance
in Support of L.D. 398:

“An Act to Make Agricultural Workers and Other Related Workers Employees
under the Wage and Hour Laws”

and in Support of L.D. 525:

“An Act to Protect Farm Workers by Allowing Them to Organize
for the Purposes of Collective Bargaining”

April 18, 2023

Senator Tipping, Representative Roeder and Members of the Committee:

My name is Michael Guare. I am an attorney at Pine Tree Legal Assistance in Bangor. I work in our Farmworker Unit and I have been representing migrant farm workers in Maine since 1998.

There is a growing recognition in our country that the exclusion of farm workers from laws which provide some of the most basic rights which other workers have in the workplace is unnecessary and simply wrong. Attached to the written version of my testimony today is information about the steps taken in other states to right this historical injustice. Thirty states have extended the protection of their minimum wage laws to farm workers and there are now 8 states which have extended the right to receive overtime pay to farm workers. Also, while I did not have time to prepare or attach detailed information about this, according to the National Agricultural Law Center, 14 states provide collective bargaining rights to farm workers.

The importance of these protections for farm workers cannot be overstated. The US Department Labor periodically commissions a report called the National Agricultural Workers Survey, or the “NAWS”. According to NAWS Research Report No. 16, dated January, 2022 (the most recent NAWS data available), the mean and median personal income of non-H-2A farmworkers in the United States is between \$20,000 and \$24,999 per year and the mean and median family income for farm workers is between \$25,000 and \$29,999 per year. Moreover, many farm workers have annual incomes far below even those amounts: the NAWS reports that 20% of all farm workers in the US, and 44% of all migrant farm workers, have annual family incomes below the federal poverty level. Another very telling statistic is that in Maine, the minimum wage is \$13.80 per hour. Assuming 40 hours a week and 52 weeks a year – which is a very generous assumption for farm workers given the seasonal and intermittent nature of their work – that works out to an annual income of \$28,704, which exceeds the mean and median annual personal income for farm workers reported in the NAWS and is close to the top of the range of mean and median annual family income for farm workers reported in the NAWS. In other words, many, if not most, farm workers earn less than what we have determined here in Maine is the minimum which workers should be able to earn.

In my own experience as an advocate for farm workers, I have seen many examples of what the lack of legal protections for farm workers can mean in the real world. On several occasions, I have met with workers who complained about a problem they were having in the workplace – but it was a problem which did not involve a violation of the law. I advised them that the best way at least for most workers to deal with such a problem was to discuss it with the employer and try to work it out. However, I also had to advise them that because they were farm workers and did not have legal protection for engaging in concerted activity – protection which LD 525 would provide – if the employer decided to fire them in response, they would have no legal recourse.

Finally, I would like to briefly describe to you the details of one of the cases I am currently working on, a case which brings the reasons why this legislation is so important into very clear focus. I am not at liberty to share any names with you, but I represent two workers who were employed at dairy here in Maine. In January, one of them asked their employers for a 25¢ raise, from \$12.25 to \$12.50 an hour. The employers refused and the workers then gave notice of their intention to quit. The next day, the employers came to the trailer where the workers were housed while the workers were eating lunch. One of the employers grabbed one of the worker's phone, slammed it on the table 4 times, scattered and threw some of the food around the room and poured Pepsi onto what was left on the table. The employer spoke very harshly and called the worker very vulgar names which I should not repeat here and then grabbed the other worker and pushed him up against the refrigerator. While that was going on, the other employer told the first worker that they had to stay and work without a raise because they had promised to do so – which the workers do not recall doing. The workers requested their last checks but the employers told the workers that they were not going to give them their last checks and told them to leave, which the workers did. We have since been able to obtain most of the unpaid wages. I would point out to the Committee that if these workers had been getting the minimum wage of \$13.80 they might not have needed to ask for a raise in the first place, and if they had had the right to act in concert, to request a raise and the employers knew that it would be illegal to retaliate against them for doing so, it might have been possible for this situation – and others like it - to have worked out without a violent confrontation.

For these reasons I urge the Committee to vote “Ought to Pass” on both LD 398 and LD 525.

Thank you.