



Janet T. Mills
GOVERNOR

STATE OF MAINE
DEPARTMENT OF LABOR
54 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0054

Laura A. Fortman
COMMISSIONER

**Testimony of Laura Fortman,
Commissioner, Maine Department of Labor
Neither for Nor Against
LD 357, An Act to Establish a State Minimum Hourly Wage for Agricultural
Workers
And
LD 589, An Act to Make Agricultural Workers and Other Related Workers
Employees Under the Wage and Hour Laws
To the Joint Standing Committee on Labor
Hearing, April 2, 2025**

Good morning Senator Tipping, Representative Roeder and members of the Joint Standing Committee on Labor. My name is Laura Fortman, Commissioner for the Maine Department of Labor (Department). I am here today to speak on behalf of the Department Neither for Nor Against LD 357, "An Act to Establish a State Minimum Hourly Wage for Agricultural Workers"; and LD 589, "An Act to Make Agricultural Workers and Other Related Workers Employees Under the Wage and Hour Laws."

Agricultural workers are essential to Maine's economy and food system, yet they remain excluded from critical labor protections. Maine law exempts agricultural workers from the minimum wage and overtime protections outlined in Title 26, section 664. Federal law mandates a minimum wage of just \$7.25 per hour, and it does not guarantee overtime pay.

Recognizing these disparities, a number of states have expanded state wage and hour protections for agricultural workers. Many Maine farm employers pay higher wages to H-2A visa workers due to federal program requirements. This provides a wage floor for the domestic workers, who must be paid at least equal to visa workers of the same employer.

We are hearing that the number of H-2A visa workers nationally has declined in recent months. While this trend has not yet reached Maine, historical workforce patterns suggest that it could. Should this decline occur, farms that rely on domestic workers alone could revert to paying as little as the federal minimum wage of \$7.25 an hour - hardly fair compensation for those who help sustain a vital Maine heritage industry.

While I am here neither for nor against these particular bills, the Administration firmly supports ensuring agricultural workers earn at least Maine's minimum wage. These workers perform physically demanding and indispensable labor, and they deserve fair pay.

Over the years, this issue has been the subject of numerous legislative proposals and extensive debate. Most recently, LD 2273, a Governor's bill, was introduced in the Second Regular Session of the 131st Legislature. Due to concerns with the amendments made to the bill, the Governor ultimately vetoed it. I am also providing the Governor's veto letter, which gives further context.

Although not before you today, we understand that a forthcoming proposal closely mirrors the Governor's previous bill language from last year. LD 655 provides the same balanced approach reflected in the Governor's bill. We support the framework and provisions outlined in LD 655. This proposal represents a meaningful step toward guaranteeing fair compensation for all of Maine's farmworkers.

Thank you for your time and consideration. I am also including a link to the [final report of the Committee to Develop and Implement a Minimum Wage Bill for Agricultural Workers](#). I would be happy to answer any questions you may have now or at a future work session.

The Maine Department of Labor is committed to serving Maine workers and businesses by helping employers recruit and train a talented workforce, providing workers with skills needed to compete in our economy, assisting individuals when jobs are lost, aiding people with disabilities reach career goals, ensuring safe and fair workplaces for people on the job and providing research and analysis of employment data to support job growth.



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OFFICE OF THE GOVERNOR
1 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0001

April 23, 2024

The 131st Legislature of the State of Maine
State House
Augusta, Maine

Dear Honorable Members of the 131st Legislature:

By the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing L.D. 2273, *An Act to Establish a State Minimum Hourly Wage for Agricultural Workers*.

I am deeply disappointed that I have to take this step but believe the Legislature's changes to the bill leave me no choice.

Last year, the Legislature enacted L.D. 398, legislation that would have applied certain wage requirements to agricultural workers. That bill was substantially amended during the final hours of the legislative session, giving rise to justifiable confusion among farmers about its scope and impact. Despite my strong support for a farmworker minimum wage, I vetoed the bill and issued an Executive Order convening a committee with representation from a broad spectrum of stakeholders, pledging to introduce new legislation that was developed through a clear process in order to implement a minimum wage.

That Committee met multiple times over a period of four months, and determined that, in fact, nearly all farms in Maine already pay their workers at least the state minimum wage, but it also produced a series of recommendations that ultimately contributed to L.D. 2273, which I introduced earlier this year.

As introduced, L.D. 2273 was simple and straightforward. It established for the first time in Maine a state minimum hourly wage for agricultural workers in a form that is easy to understand and implement. It did so separately from other minimum wage provisions, ensuring that the Legislature recognizes and considers the unique nature of the farm sector in Maine when contemplating future statutory changes.

While the legislation did not entirely achieve everyone's aims, it took into account a diverse set of perspectives and appropriately balanced the need to establish a minimum wage for farm workers with the unique and diverse challenges of running a farm in Maine. It even garnered the support of farming organizations that opposed last year's bill. If the Legislature had sent me the bill I



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introduced, I would have been pleased to sign it into law, but unfortunately, that is not what happened.

Instead, during the legislative process, the Labor and Housing Committee amended the bill to allow for privately initiated litigation over alleged violations. In other words, if someone believed their employer was violating labor law, they could obtain a private lawyer and sue their employer, in this case a farm owner.

I believe, and agree it is important, that workers should have the right to pursue recourse for alleged labor violations. That is why my bill, as originally drafted, entrusted that enforcement responsibility to the Maine Department of Labor, an approach that rightly provides individuals who allege labor violations with the ability to ask the Department to investigate and then take action where appropriate.

Lawmakers took issue with this in two primary ways, arguing: 1) that authorizing private litigation was never raised as an issue in the months-long stakeholder process, and 2) that workers in all other sectors of the economy can pursue a private right of action and, thus, the bill as originally drafted created an unfair distinction.

First, I believe it is incorrect to conclude that a private right of action is not an issue for a farmer simply because it was not raised during the committee meetings. In fact, one can also reach the opposite conclusion – that it was never raised because farmers never believed it would become an issue – which is what I believe happened. This is buttressed by the fact that the Maine Potato Board withdrew its support when faced with this proposed change.

Second, the latter criticism does not reflect the fact that farms are already considered a unique sector of the economy because of the very different challenges they face that other employers do not, like short and ever-changing growing and harvest seasons, and other unpredictable variables like severe weather that can make or break a season and the viability of a farm. These challenges often require demands of workers that are not similar to those in other industries. As a result, it is appropriate for us to consider how we best uphold workers' rights while also considering the unique challenges facing farms.

Knowing that my original bill provided an adequate enforcement remedy, I did not – and still do not – believe it is appropriate to authorize a private right of action carte blanche, particularly in the case of farms, because I am deeply concerned that doing so would result in litigation that would simply sap farmers of financial resources and cause them to fail.

That prospect is unacceptable at a time when there are fewer farms in Maine than at any period in the past 25 years. In fact, according to a recent Federal survey, Maine has lost more than 1,100 farms since 2012, including 564 farms accounting for 82,567 acres of farmland since 2017. Further, the agricultural sector in Maine bears no resemblance to what exists in many other states where corporate factory-farms dominate the industry. Here in Maine, 96 percent of farms are family-owned, 9 percent have sales greater than \$100,000 annually, and as recently as 2017, the average net income per farm was just \$16,958. These are our friends and our neighbors. And I



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should add that only two other states in New England – Connecticut and Massachusetts – have instituted state minimum wages for farmworkers.

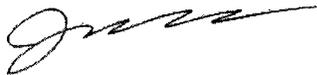
My office informed the Labor and Housing Committee of my concerns and offered compromise language that would allow employees to seek a right-to-sue letter from the Department of Labor . Unfortunately, that offer was not accepted, and the bill was amended by the Committee against my objections and then enacted into law.

I do not take the decision to veto this bill lightly. I do not want to veto this bill. But the Legislature's actions leave me little choice. I do not believe Maine farmers should face the prospect of privately initiated lawsuits, which would almost certainly lead to losing more farms in the long run.

While I am pleased to know – as the stakeholder committee confirmed – that nearly all farmworkers in Maine are paid at least the state minimum wage, I remain strongly supportive of establishing a clean state minimum wage for agricultural workers, as I proposed in my original bill.

For now, I have to return L.D. 2273 unsigned and vetoed, and I urge the Legislature to sustain this veto.

Sincerely,



Janet T. Mills
Governor



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