



# MAINE AFL-CIO

***A Union of Unions Standing for Maine Workers***

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## **Testimony of Maine AFL-CIO Legislative & Political Director, Adam Goode, in favor of LD 589, “An Act to Make Agricultural Workers and Other Related Workers Employees Under the Wage and Hour Laws”**

Senator Tipping, Representative Roeder and members of the Labor Committee, my name is Adam Goode. I'm the Legislative and Political Director of the Maine AFL-CIO. We represent 40,000 working people in the state of Maine. We work to improve the lives and working conditions of our members and all working people. We testify in support of LD 589.

Working people should be able to go to a workplace where they have the dignity and respect of basic limits on mandatory overtime, a clear minimum wage and an overtime rate. Farmworkers perform one of the most essential functions in our society. Their back-breaking labor puts food on our tables. In addition to struggling with some of the lowest wages in the country<sup>1</sup>, farmworkers are often brutally exploited. One 2020 report<sup>2</sup> found that farm employers stole \$76 million in wages from 154,000 workers over 20 years. For these reasons, the Maine AFL-CIO believes that limits on mandatory overtime, a clear minimum wage and an overtime rate should apply to working people who perform labor related to agricultural produce, meat products, fish products and perishable foods.

We are well aware that you will hear from farmers and farm owners that have concerns about this concept. We recognize that farming is incredibly difficult work, that the economics of farming, especially family farming, are very challenging and that farmers work incredibly hard in Maine to scratch out an existence. That is all true and it is also true that workers should have fundamental rights to limits on mandatory overtime, minimum wage laws and clear rules on overtime rates. Those rights should not cease to exist simply because you walk into the doors or fields of your workplace.

It is important that we understand the historical reasons that agricultural workers were carved out of many labor law protections, including the rights related to wages and overtime. The reason for the inequity in protections between working people in the agriculture sector and working people in other sectors is rooted in a history in Maine and America of categorically excluding certain groups from basic labor rights and laws.

In the depths of the Great Depression of the 1930s, President Franklin Delano Roosevelt introduced several reforms to put people back to work, encourage unionization<sup>3</sup> and provide economic security for working people. New Deal policies like Social Security, the Fair Labor Standards Act and the National Labor Relations Act transformed the lives of millions of Americans.

Certain members of Congress demanded the exclusion of farmworkers and domestic laborers — many of whom were African Americans in the South — from receiving the benefits of these policies. In 1935, racially discriminatory laws prevailed in much of the United States. In drafting the NLRA, Congress deferred to such laws by excluding two categories of predominately non-white workers -- "agricultural laborers" and "domestics" -- from labor protections. This was done in large part to gain the Southern votes of "Dixiecrats" needed for passage of the NLRA. Although race neutral language was used to make these exceptions, hundreds of thousands of Black workers were excluded from basic labor protections like the minimum wage, overtime and collective bargaining rights.

It is difficult to deeply and genuinely grapple with our history. I want to be very clear. To raise the history of these exclusions is not in any way a comment on any current individual's behavior or the critical work that farmers do in Maine. But this history lives with us today - it remains an important aspect of labor law that is connected to systemic racism and access to workplace protections. It is our shared collective inheritance. And, together, we have a collective responsibility to right past wrongs and to keep building a more perfect union for all of us.

The impact of these exclusions, which were a part of the New Deal Era political system and served as a race-neutral proxy for excluding workers of color from statutory benefits and protections that most whites had, is felt today in Maine. State law does not allow farmworkers the security of rules around overtime and minimum wages that other working people benefit from. We think there should be changes in Maine laws that make it so that farmworkers can join other working people in having reasonable hours and fair wages.

Many paid farmworkers in Maine are migrant workers. They work in agricultural fields related to blueberries, seafood, trees, poultry, dairy, wreaths and eggs. The nature of these work arrangements is full of power imbalances related to immigration status, language barriers and economic vulnerability. Exposure to pesticides, poor housing, isolation and loneliness are a normal part of the routine for migrant workers in Maine.

Agriculture also ranks among the most dangerous sectors in the economy<sup>4</sup> with one of the highest fatal injury rates. Agricultural workers are vulnerable to sexual abuse<sup>5</sup>, extreme heat waves<sup>6</sup>, toxic pesticides and accidents with heavy machinery. Whether it's raking blueberries or working in the seafood, poultry, dairy or egg industries, power imbalances related to immigration status and language barriers are a regular part of the lives of agricultural workers in Maine.

The first time this bill was heard, we cited then recent news of eight migrant workers who make wreaths in Maine being fired after reporting sexual harassment to their employers.<sup>7</sup> The last time this bill had a hearing, a Maine tomato grower had just paid \$245,000 in back wages to migrant workers after violating federal labor laws.<sup>8</sup> Limits on mandatory overtime and basic standards on minimum wage, rest breaks and overtime rates should be a basic standard agricultural workers receive for enduring what we all recognize as backbreaking work.

We know that some farms in Maine may be concerned about the prospect of working people who perform agricultural labor having fair hours and wages. The rules around overtime, rest breaks and minimum wages should serve as a basic rule for all working people in the workplace.

We represent 40,000 working people who have union jobs in Maine. For working class people, these jobs provide a sense of meaning as well as security, fairness and respect. We know that working class

people who own farms and who work at farms have differing perspectives on this policy. We stand with you today to say that the same laws that grant working people in other sectors of Maine's economy the peace of mind that they will be able to both earn a living and have a life, that they will be able to get reasonable wages for a day's work, that they will get time and a half after 40 hours of wage work, and that they will be able to cultivate meaningful relationships with family and their community outside of work should apply to all working people in Maine.

We ask that you support LD 589.

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<sup>1</sup><https://www.epi.org/blog/the-farmworker-wage-gap-continued-in-2020-farmworkers-and-h-2a-workers-earned-very-low-wages-during-the-pandemic-even-compared-with-other-low-wage-workers/>

<sup>2</sup><https://www.aljazeera.com/economy/2020/12/15/us-farms-rife-with-wage-theft-unsafe-working-conditions-report>

<sup>3</sup><https://lawecommons.luc.edu/cgi/viewcontent.cgi?article=1150&context=facpubs>

<sup>4</sup><https://www.cdc.gov/niosh/topics/aginjury/default.html>

<sup>5</sup><https://www.theatlantic.com/business/archive/2018/01/agriculture-sexual-harassment/550109/>

<sup>6</sup><https://www.pbs.org/newshour/health/farmworkers-are-dying-in-extreme-heat-few-standards-exist-to-protect-them>

<sup>7</sup><https://bangordailynews.com/2018/12/24/news/migrant-workers-at-maine-wreath-company-say-they-were-fired-after-complaining-about-harassment/>

<sup>8</sup><https://www.centralmaine.com/2021/03/30/madison-tomato-growers-to-pay-337000-in-back-wages-penalties-following-investigation/>