



Maine Grocers &
Food Producers
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Monday, March 22, 2021

IN OPPOSITION - LD 607 'An Act To Restore Overtime Protections for Maine Workers'

Dear Senator Hickman, Chair, Representative Sylvester, Chair, and Members of the Labor and Housing Committee,

My name is Christine Cummings and I am the Executive Director of the Maine Grocers & Food Producers Association. Originally from Augusta, I now live in Sidney. I grew up working at my father's convenience store and coincidentally, now advocate on many of the issues we discussed growing up that affect his business and businesses alike.

The Maine Grocers & Food Producers Association is a business trade association representing more than 200 businesses within Maine's food community; Main street businesses including independently owned and operated grocery stores and supermarkets, food and beverage producers and processors, manufacturers, wholesalers, distributors, and supportive service companies.

Currently, Maine's overtime threshold is 3,000 X's the minimum wage; \$36,450 at the \$12.15/hour minimum wage for 2021. The proposed amendment would increase Maine's overtime threshold to (at minimum) \$54,675 in 2024 (4,500 X's \$12.15) almost \$20,000 more than the national overtime threshold.

The US DOL issued an update to the national overtime threshold to \$35,568 which took effect Jan. 1, 2020. We are pleased that the US DOL made an update from the previous national threshold of \$23,660 as we recognized that that figure was indeed too low and needed to be adjusted since it had not been updated since 2004. This new threshold aligns Maine with the national average and we oppose changing Maine's threshold to incrementally increase with minimum wage increases *and* increasing multipliers. The US DOL has also noted that it intends to propose updates to earnings thresholds at a rate of every four years which helps ensure the figure is addressed more frequently to adjust for inflation and changing markets.

An estimated \$42,525 (3,500 x's (at minimum) \$12.15) OT threshold for Maine starting in January 2022 is very troublesome and would significantly expand the number of workers eligible for overtime pay causing our businesses to reevaluate their benefit packages.

"To be exempt from overtime under the federal Fair Labor Standards Act (FLSA), employees must be paid a salary of at least the threshold amount *and* meet certain duties tests. If they are paid less or do not meet the tests, they must be paid 1 1/2 times their regular hourly rate for hours worked in excess of 40 in a workweek."¹ Former President Obama proposed a higher national salary threshold of \$47,476. In August 2017, a federal judge deemed that the US DOL had exceeded its power because it "focused too heavily on the

¹ <https://www.shrm.org/resourcesandtools/legal-and-compliance/employment-law/pages/labor-department-issues-final-federal-overtime-rule.aspx>

amount of money workers make, instead of their job duties” case *Nevada v. DOL*, E.D. Tex., No. 4:16-CV-731, 8/31/17. Significantly increasing Maine’s OT threshold may be doing just this as well.

Grocery stores operate on a margin of 1-2%. According to the 2020 Independent Grocers Financial Survey, labor and benefits account for 15.7% of total 2019 sales. We continue to express our concerns for our small, local businesses who are already grappling with the rising minimum wage and struggling with the effects of the pandemic. We support maintaining the state’s current overtime threshold.

Thank you for the opportunity to provide testimony.

Christine Cummings

Christine Cummings
Executive Director