



Maine
Dairy
Industry
Association

In Opposition to
**LD 1022 An Act to Make Agricultural Workers and Other Workers
Employees Under the Wage & Hour Laws**

April 7, 2021

Senator Hickman, Representative Sylvester, and members of the Joint Standing Committee on Labor and Housing:

- Working in agriculture requires following a schedule based on weather, not the clock. Maine's limited growing season constrains the time frame farmers have to produce food – whether it be for people, for animal - as possible between the time of the last frost of spring until the first frost in the fall. And sometimes frost stays late and comes early. The point is that if you work in agriculture, you know to expect that you will work until the job is done – not when the little hand is on a number.
- Farm workers are unique – as unique as the type of work that they do. The work is often very physically demanding, wearying, and probably requires them to get dirty. Not every person in the workforce is cut out for this type of work and the hours required. The dynamics of the job become self-selecting because you know that hard work and long hours are part of the package. However, the competition to get people to work on dairy farms – or any farms – is extremely challenging. When McDonald's and Target are starting employees at \$15/hour – well above minimum wage – farms are being forced by competition for employees to up their wage and benefit offerings.
- Many people choose to work in agriculture for the very reason that the long hours required during certain times of the year will afford them enough income to sustain them for the entire year. They reap benefits that are not always marked in dollars and cents, but may be viewed as quality of life in choosing when to work and when to rest.
- Lack of available labor (general labor, not even extending to skilled labor) - is currently one of the largest challenges that Maine dairy farms are facing. I know of at least one farm that has sold the cows and shut their doors for good because they have been unable to find suitable labor to operate the farm. Maine farms are already turning their pockets inside out to offer financial incentives to get people to work on the farm.
- Most farms are considered “price takers”, meaning that the farmer has minimal control over the price that they may be able to get for the crops and products they work so hard to produce. The only control they have toward achieving financial sustainability is to reduce expenses. Farms will be forced to limit employees hours as a means of controlling expenses. While the farm will probably have to hire more workers to do the same amount of work, the individual workers will actually make LESS money, thus reducing the ability of Maine workers to earn a living wage.
- Many agricultural sectors have turned to the practice of contracted labor in an effort to meet their labor needs. In some cases, these workers are able to come here to work because of government programs that have their own wage and benefit requirements. Many dairy farms have found that even with the additional expenses of providing benefits such as housing, health insurance or health savings accounts, transportation, flexibility in scheduling, bonuses, sick leave and vacation time the reliability and skill set of a contractual

employee makes up for the expense through increased productivity. Many of these contractual employees demand working hours far above the overtime limits as part of a condition of employment. If this bill were passed and farmers were forced to limit their hours to avoid the overtime expense, it would be a violation of the contract at most, & at least would be an incentive for the employee to leave or not return the following season.

- And along those lines – this bill assumes that the farmer himself or herself is making more for their hard work and investment than their employees. It has been my experience that on most farms, the employees and paid first, then the vendors, and lastly they pay themselves whatever is left over, if anything. What about the ability of the farmer and the farm family to make a living wage? Cost of production studies of the Maine dairy industry actually show that the vast majority of Maine dairy farms are able to exist because of the contributions of unpaid family labor – that of the owner/operator, spouse, children, etc. The average value of that labor (often the most skilled and experienced workers on the farm) is assessed at between \$10-\$11 per hour – less than the starting minimum wage for employees
- Forcing a mandate to pay more through overtime will not change anything – except maybe it will drive farms out of business faster. That means fewer small businesses paying property, income, employment taxes. Fewer available jobs for people in Maine. Fewer options for Maine people to source food and fiber products locally. More house lots and less open land for carbon sequestration and fewer open spaces for recreation tourist activities.
- Proponents of this legislation cite past injustices inflicted upon various populations throughout history and in places far from Maine. However, 2 wrongs do not make a right. Imposing the overburdensome expense of overtime pay requirements on Maine farmers through this bill would not do anything to undo the errors of the past, but would insure that they would not continue in the future because many farms would not be able to continue to operate because of financial hardship or the additional difficulty of securing enough workers to cover the required task, so fewer opportunities for Maine people of all backgrounds & situations to be employed.
- Many farms – especially those with seasonal growing limitations – serve as a training ground for young, first-time employees. The skills that teenagers can gain by working long hours during the spring-summer-fall seasons can help establish the strong work ethic that for years was a hallmark of Maine people. Most farms would be forced to make the decision that paying such starting workers overtime would not be cost-effective, and would reduce the farm's ability to pay higher rates for experienced adult employees.
- Lastly, in testimony on a similar measure in the 129th Legislature, the ME Department of Labor testified that the additional requirement of paying overtime for farm workers would exceed the Department staff's ability/capacity to ensure compliance and enforcement. To bring the state staffing levels up to appropriate levels would require a significant budget increase. These funds were not made available in the baseline budget that was passed last month, and may find serious competition to be granted Part 2 budget funding in light of the many economic challenges we still face as a result of the COVID pandemic.

On behalf of the 196 Maine dairy farms (99% of which are family owned and operated), the 28,000 cows who make over 70 million gallons of milk to feed people in Maine and beyond, and the over 4000 dairy-dependent jobs that have continued without interruption even during the height of the pandemic, MDIA urges you to vote Ought-Not-To-Pass on LD 1022.

Thank you for your consideration of the items presented in this testimony.

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