

**Maine Legislature  
Joint Committee on Labor and Housing  
Testimony of Michael Guare on L.D. 151, H.P. 0107,  
“An Act to Protect Farm Workers by Allowing Them to Organize  
for the Purpose of Collective Bargaining”  
April 7, 2021**

Senator Hickman, Representative Sylvester and Members of the Committee:

My name is Michael Guare. I am very happy to be participating in this hearing today and I thank you for the opportunity. I am an attorney at Pine Tree Legal Assistance and for the past 22 years I have been working in our Farmworker Unit providing legal representation to farmworkers in Maine.

As Representative Harnett has already shared with you, farm workers have historically been among the most abused and exploited workers in the United States. There are many reasons for this, including the exclusion of farm workers from much of the federal legislation which protects almost all other workers in the United States, and the heavy reliance by agricultural employers, especially larger agricultural employers, on labor brokers most commonly referred to as farm labor contractors.

While the specific arrangements vary widely between employers and contractors, the basic pattern is that farm labor contractors are paid by fixed-site agricultural employers to recruit, transport, house and supply workers to employers. These arrangements are usually structured in such a way that the contractors are set up, at least nominally, as the sole employers of the workers, allowing the fixed-site employers to shift all legal responsibility to the contractors. Contractors are often under-capitalized and paid in ways which are based on the productivity of the workers on their crews, which creates a system in which the contractors are highly incentivized to cut as many corners as possible and exploit their workers.

Many agricultural employers in Maine are responsible employers, treat their employees well and comply with what laws do apply to farmworkers. However, in my work I have seen many examples of mistreatment and abuse, both in situations where the workers are employed directly by the fixed-site employer and where they are employed by the farm labor contractor.

I have represented workers who were transported to work in Maine - again, usually by farm labor contractors – in old school busses which were overcrowded to the point of being potentially deadly: 3 workers crammed onto seats designed for two children, other workers sitting on coolers and pieces of luggage in the aisles and the rest of the luggage stuffed in against the back door, making its use impossible. An accident at high speed under those conditions could easily have caused multiple fatalities.

I have represented workers who working in Maine on temporary work visas, who were injured on the job and whose employers hustled them back to their home countries as fast as they could in the hope that they would be unable to overcome the difficulties involved in pursuing a claim for workers' compensation from another country.

I have represented workers who have been housed here in Maine in some of the most atrocious conditions you could imagine:

- I have represented a worker who was promised a place to live in a trailer if he came to Maine to work. When he arrived, the trailer was so crowded that there was literally no room for him and he was forced to sleep in his car.  
I represented another worker who lived inside that trailer along with approximately 25 other workers and whose sleeping arrangement was a small space on the floor of the kitchen area, a space so small, in an area so crowded, that he could not stretch his body out; he sat on a carpet remnant sitting up against a wall. There were also people sleeping in the hallway of the trailer, blocking access to the bathroom, although that did not matter much because the toilet – overwhelmed from being used by 25 people – did not work.
- I once met and represented several workers living in a small, individual-size trailer with 6 people living inside and with so many leaks in the roof and walls that the old rugs on the floor were saturated with water and squished into puddles when I walked on them.
- I have represented workers who were housed in an abandoned building which was actually condemned right after the crew left.

As mentioned, these examples are not the norm in Maine – but things like this do happen. The legislation which you are considering today will help level the playing field and at least give farm workers the same rights, and the same ability to protect themselves, that other workers already enjoy. In this regard, I would like to emphasize the critical importance of the provision in L.D. 151 which would protect the right of farm workers to engage in “concerted activity”. As you have been told by other witnesses, farm workers are excluded from the National Labor Relations Act, which affords to virtually all other workers in the United States not only the right to organize a union but to engage in concerted activity for the purpose of mutual aid or protection. That right is incorporated in L.D. 151 and some of the problems I have mentioned and many other problems which I have seen could be resolved if workers did not have to fear that if they bring a problem to the employer’s attention, they could be fired or punished in some other way. Under existing law, unless an employment problem is illegal under another law – such as discrimination based on race or sex – farm workers cannot take the simple step of talking to the employer and trying to work things out without fear of reprisal. I have spoken with several workers and groups of workers over the years who told me about some serious problems which they were having. A typical situation would be a highly abusive supervisor or farm labor contractor. Often, this kind of situation does not fit within the definition of unlawful discrimination because the supervisor or contractor is of the same race and gender as the workers. I have advised workers in this situation that the most direct way to deal with such a problem, a problem with no legal solution, would be to talk with the employer and address their concerns directly with the employer. This is a simple and direct way to resolve problems which happens in workplaces all over Maine. However, with farm workers, I have also had to advise those workers that if they were to approach the employer, they could be fired and if that

happened, I could not help them. In my experience, that possibility has always been enough to dissuade workers from approaching the employer.

In sum, there are many good reasons for the legislation proposed by Representative Harnett and I hope the committee will consider it favorably.

Thank you very much.

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