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*Testimony of Rep. Thom Harnett introducing*

**LD 1022 An Act To Make Agricultural Workers and Other  
Workers Employees under the Wage and Hour Laws**  
*Before the Joint Standing Committee on Labor and Housing*

Good morning again, Senator Hickman, Representative Sylvester and members of the Labor and Housing Committee. My name is Thom Harnett and I represent the residents of District 83, which includes the Town of Farmingdale and the City of Gardiner. I am here today to introduce **LD 1022, An Act to Make Agricultural Workers and Other Workers Employees under the Wage and Hour Laws**.

I am here to talk with you some more about farm workers. However, I am not going to review the history of how farm workers have routinely, specifically and intentionally been excluded from the protections and benefits contained in state and federal law that all other workers enjoy.

I am also not going to review how farm workers, most of whom are Black, Brown, Latino, Indigenous and Native American, being treated as "less than" has its origins in a tragic racially scarred segment of our history that saw people of color enslaved and considered chattel, personal property, and then treated with disdain and left out when labor laws were enacted in the 1930s and thereafter. I will however pose the same question that I did in my earlier testimony today. How is it possible, sensible or moral that farm workers are considered essential employees during this pandemic by both the state and federal government, yet are not even included in the definition of *employee* under Maine's labor laws. Think about that for a moment. How can a farm worker, a human being, be considered an essential employee at the same time they are purposefully excluded from the legal definition of an employee? This bill answers that question. If they are essential employees, they are employees and should be treated as such under Maine law regarding minimum wage and overtime.

I will talk about the modern-day consequences of how that troubling and very real history that we cannot run from, continues to result in farm workers being denied the ability to earn the state mandated minimum wage and the legal benefits of overtime pay in Maine.

Under current Maine labor law, in 2021, farm workers, are not considered employees under wage and hour laws. As a result, they are not protected by Maine's minimum wage and overtime laws found at 26 M.R.S. § 664 (1) and (3).

While almost every other working person in Maine has been guaranteed automatic increases in the minimum wage beginning in 2017, and continuing through 2021 and beyond, farm workers again find themselves excluded from those legally assured increases. While voters spoke clearly in support of increasing the minimum wage at the ballot box and workers throughout Maine celebrated, farm workers once again were not invited to the party and were left on the outside looking in. Their only guaranteed minimum wage is the current federal minimum wage of \$7.25 an hour, which has not increased since July 2009.

Similarly, farm workers do not receive the mandatory overtime rate of 1 1/2 times their regular hourly rate for all hours worked in excess of 40 hours in a week that most other working people are assured. Why are the hours that farm workers toil to feed us worth less than those of other working people? There is no good answer to that question. I am asking you to change that by moving LD 1022 out of this committee with an Ought to Pass vote.

Other states have enacted laws to provide farm workers with both minimum wage and overtime protection. Specifically, regarding just overtime, the states of California, the largest agricultural state in terms of production, Hawaii, Maryland, Minnesota and New York have done so, as has the District of Columbia, though I am not sure how many farms there are in our nation's Capital.

I ask you to consider the Legislative findings and declarations found in California's labor laws.

“The Legislature finds and declares all of the following:

- (a) Agricultural employees engage in back-breaking work every day.
- (b) Few occupations in today's America are as physically demanding and exhausting as agricultural work.
- (c) In 1938, the United States Congress enacted the federal Fair Labor Standards Act of 1938, *citations omitted*, which excluded agricultural workers from wage protections and overtime compensation requirements.
- (d) It is the intent of the Legislature to enact the Phase-In Overtime for Agricultural Workers Act of 2016 to provide any person employed in an agricultural occupation in California, *citations omitted*, with an opportunity to earn overtime compensation under the same standards as millions of other Californians.”

I note that California and other states also provide the same minimum wage to farm workers as is paid to all other working people. Those state wages are substantially higher than the stagnant federal minimum wage. Are Maine's farm workers worthy of similar legal protections? In my mind, the answer is clearly yes. The time is right to extend the fundamental protections long contained in Maine's wage and hour laws to all of Maine's working people, including farm workers.

I thank you for your attention and would be happy to answer any questions you might have.