



Maine Grocers &  
Food Producers  
Association  
PO Box 5234  
Augusta, ME 04332  
207.622.4461  
info@mgfpa.org

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IN OPPOSITION – LD 513 ‘An Act Regarding Overtime Protections for Certain Maine Workers’

Dear Senator Tipping, Chair, Representative Roeder, Chair, and Members of the Committee on Labor and Housing,

My name is Christine Cummings and I am the Executive Director of the Maine Grocers & Food Producers Association (MGFPA). MGFPA 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.

According to the Biden administration’s *Fall 2022 Unified Agenda of Regulatory and Deregulatory Actions*, the proposed federal overtime rule will be published in May of this year. We urge the Committee to await further information from the Biden administration prior to considering any further action.

The US DOL issued an update to the national overtime threshold increasing it 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 the figure was indeed too low and warranted updating as it had not been updated since 2004. Currently, Maine's overtime threshold is 3,000 X's the minimum wage; \$41,400 at the \$13.80/hour minimum wage for 2023 which is 15% higher than the federal threshold. We are opposed to LD 513’s proposal which would increase Maine’s overtime threshold to \$62,100 in 2026 (at minimum, not including CPI increases) more than \$20,000 above the national overtime threshold.

“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.”<sup>1</sup> 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 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 overtime threshold may be doing this as well.

Our members have and continue to navigate an extreme obstacle course. Challenges stemming from the pandemic still linger across the supply chain which is further complicated by inflation and labor shortages. It is important to consider the widespread effects of such significant policy changes on Maine’s business community.

Thank you for the opportunity to provide testimony.

*Christine Cummings*

Christine Cummings  
Executive Director

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