



March 8, 2021

Chair Holvey, Vice-Chairs Bonham and Grayber, and Members of the House Business and Labor Committee,

Stand Up to Factory Farms,¹ a coalition of local, state, and national organizations concerned about the harmful impacts of mega-dairies on Oregon's family farms, communities, the environment, and animal welfare, **supports HB 2358** regarding farmworker overtime. HB 2358 guarantees overtime pay to agricultural workers after 40 hours in a workweek at one and one-half times the employee's regular rate of pay. This legislation is crucial to fairness and justice for Oregon's essential agricultural workers, and would join five other states (California, Washington, New York, Minnesota, Hawaii) that provide some sort of overtime pay for agricultural workers. Without farmworkers, Oregon would not be able to produce the quality agricultural products for which it is known.

While overtime benefits have been available to the majority of other workers since the Federal Labor Standards Act (FLSA) of 1938, they were denied to agricultural workers in a "well-known... race-neutral cover for maintaining the domination of white supremacy in the South and excluding Black workers from labor law's protection."² Back when the FLSA was passed, the majority of farmworkers in the South were Black and now we see most farmworkers are immigrants from Latin America and the Caribbean.³ Washington state recently addressed this racist exclusion and its impacts on Washington's farmworker population that is nearly 100% Latinx in a case filed by workers at a

¹ <https://standuptofactoryfarms.org/about-us/the-coalition/>.

² Marina Multhaup, *Martinez-Cuevas: Reckoning with Labor Laws Racist Roots*, OnLabor (Aug. 20, 2020), <https://onlabor.org/martinez-cuevas-reckoning-with-labor-laws-racist-roots/>. See also Marc Linder, *Farm Workers and the Fair Labor Standards Act: Racial Discrimination in the New Deal*, 65 Texas Law Review 1335 (1987), https://ir.uiowa.edu/cgi/viewcontent.cgi?article=1017&context=law_pubs.

³ *Id.*

mega-dairy, finding the overtime exclusion violated the Washington constitution.⁴ It is long-past time to end this racist exclusion of agricultural workers from the basic protection of overtime pay.

The COVID-19 pandemic threw into high relief the danger to frontline workers in our food system, and especially in animal agriculture, including mega-dairies and processing plants.⁵ Farmworkers, especially dairy workers, face dangerous job conditions including respiratory health harms,⁶ on top of which 2020-21 saw a respiratory pandemic, wildfires impacts to air quality, and other extreme weather events. Overtime work is particularly injurious and yet these essential workers are denied the same protections as other workers, including other seasonal workers. Farmworkers, including dairy workers, are underpaid and exploited for cheap labor, making poverty-level wages for difficult and dangerous work. On top of that, most of these workers and their families do not have healthcare coverage through their employer. Agricultural workers deserve to be paid fairly for their labor.

Supporting the estimated 174,000 farmworkers in Oregon will advance rural economies. Ensuring economic stability to a class of workers who have historically been excluded from basic labor standards, but who allow Oregon's multi-billion dollar agricultural industry to exist, will increase spending on local businesses and grow rural communities.

For all of these reasons, **Stand Up to Factory Farms urges you to vote yes on HB 2358** to ensure farmworkers in Oregon are adequately paid for their labor.

Sincerely,

Stand Up to Factory Farms

⁴ See e.g., *Martinez-Cuevas v. DeRuyter Brothers Dairy, Inc.*, 475 P.3d 164, 168, 196 Wash.2d 506, 512 (Wash. 2020) (noting that Fair Labor Standards Act of 1938 used race as the basis for exempting farmworkers from overtime compensation, and holding that overtime pay exemption for dairy workers violated Washington Constitution privileges and immunities clause).

⁵ COVID outbreak in Morrow County; 5 more deaths recorded, KOIN (Jul. 7, 2020), https://www.koin.com/news/health/coronavirus/covid-outbreak-in-morrow-county-5-more-deaths-recorded/?fbclid=IwAR1EL1M1m2m3YvjyZB2_cbVplXDJBJjUfMcoXmXysdZGpx-3Hfst-VNNotYo.

⁶ *Martinez-Cuevas v. DeRuyter Brothers Dairy, Inc.*, 475 P.3d 164, 172 (Wash. 2020) (“Moreover, dairy work is some of the most hazardous in the United States. In 2015, the injury rate for Washington's dairy industry was 121 percent higher than all other state industries combined and 19 percent higher than the *entire* agricultural sector. Milkers are exposed to physical strains, respiratory hazards, toxic chemicals, and risk of contracting diseases and injuries from animals; this exposure has led to cancer, respiratory disease, and neurological conditions.”).

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