

SENATE No. 1837

The Commonwealth of Massachusetts

PRESENTED BY:

Adam Gomez

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act establishing fairness for agricultural laborers.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

Adam Gomez

Hampden

Carlos González

10th Hampden

SENATE No. 1837

By Mr. Gomez, a petition (accompanied by bill, Senate, No. 1837) of Adam Gomez and Carlos González for legislation to establish fairness for agricultural laborers. Revenue.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act establishing fairness for agricultural laborers.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 6 of chapter 62 of the General Laws is hereby amended by inserting
2 after subsection (z) the following new subsection: --

3 A taxpayer who employs persons engaged in agricultural and farm work, including
4 seasonal agricultural and farm work, as defined in section 2 of Chapter 151, except when the
5 employee is a parent, spouse, child or other member of the employer's immediate family, shall be
6 allowed a credit against the tax liability imposed by this chapter as follows: the amount of the
7 credit shall equal the herein specified percentage of the hourly wages paid for agricultural and
8 farm work that exceeds the employee’s regular hourly rate as overtime wages pursuant to section
9 1A of said Chapter 151. For taxpayers who employ persons engaged in year-round agricultural
10 and farm work, as defined in section 2 of Chapter 151, the credit shall be up to 30% of the hourly
11 wages paid for agricultural and farm work that exceeds the employee’s hourly rate of pay as
12 overtime wages paid; for taxpayers who employ persons engaged in seasonal agricultural and
13 farm work, as defined in section 2 of Chapter 151, the credit shall be up to 50% of the hourly

14 wages paid for agricultural and farm work that exceeds the employee's hourly rate of pay as
15 overtime wages paid.

16 SECTION 2. Chapter 63 of the General Laws is hereby amended by adding the
17 following new section:--

18 A taxpayer who employs persons engaged in agricultural and farm work, including
19 seasonal agricultural and farm work, as defined in section 2 of Chapter 151, except when the
20 employee is a parent, spouse, child or other member of the employer's immediate family, shall be
21 allowed a credit against the tax liability imposed by this chapter as follows: the amount of the
22 credit shall equal the herein specified percentage of the hourly wages paid for agricultural and
23 farm work that exceeds the employee's regular hourly rate as overtime wages pursuant to section
24 1A of said Chapter 151. For taxpayers who employ persons engaged in year-round agricultural
25 and farm work, as defined in section 2 of Chapter 151, the credit shall be up to 30% of the hourly
26 wages paid for agricultural and farm work that exceeds the employee's hourly rate of pay as
27 overtime wages paid; for taxpayers who employ persons engaged in seasonal agricultural and
28 farm work, as defined in section 2 of Chapter 151, the credit shall be up to 50% of the hourly
29 wages paid for agricultural and farm work that exceeds the employee's hourly rate of pay as
30 overtime wages paid.

31 SECTION 3. Chapter 136 of the General Laws is hereby amended by adding the
32 following new section:

33 Section 17 (a) Every person employed in agricultural and farm work, as defined in
34 section 2 of chapter 151, who is not the parent, child, spouse, or other member of the employer's
35 immediate family, shall be entitled to accrue paid time off at the rate of 1 hour for every 40 hours

36 worked, up to a maximum of 55 hours per benefit year. A benefit year shall be defined as a
37 calendar year.

38 (b) Agricultural employees shall begin accruing earned paid time off commencing on the
39 date of hire of the employee or the date this law becomes effective, whichever is later, but
40 employees shall not be entitled to use accrued paid time off until the 45th calendar day following
41 commencement of their employment. On or after this 45-day waiting period, employees may use
42 earned time off as it accrues. Any seasonal agricultural employee, as defined in section 2 of
43 Chapter 151, returning to the same employer as the previous harvest season shall be assumed to
44 be continuing employee for the subsequent benefit year and will not be subjected to the 45-day
45 waiting period.

46 (c) At the beginning of every benefit year, January 1, all accrued paid time off for
47 agricultural workers, including seasonal agricultural employees as defined in section 2 of
48 Chapter 151, will be reset to zero hours, regardless of whether the accrued paid time off has been
49 exhausted.

50 (d) All accrued paid time off taken by an agricultural employees shall be compensated at
51 the normal rate of pay during the period the accrued time off is taken.

52 (e) Agricultural employees shall be allowed to take accrued paid time off for any reason,
53 as long as the employee has the available time requested, except for sick time regulated by
54 section 148C of chapter 149.

55 (f) Agricultural employees shall not be retaliated against, disciplined, or terminated for
56 using any of their available accrued paid time off.

57 (g) Nothing in this section shall be construed to discourage or prohibit an employer from
58 allowing the accrual of earned paid time off at a faster rate, or the use of earned paid time off at
59 an earlier date, than this section requires.

60 (h) The Department of Labor Standards shall promulgate regulations governing the
61 accrual, use and payment for the worker time off required under this section.

62 SECTION 4. Section 1A of chapter 151 of the General Laws is hereby amended by
63 inserting at the end of the first sentence, after the word “employed”, the following provision:

64 ; provided, however, that with respect to employers employing employees engaged in
65 seasonal agricultural and farm work as defined in section 2, no employer in the commonwealth
66 shall employ any such employee for a work week longer than 55 hours unless such employee
67 receives compensation for his employment in excess of 55 hours at a rate not less than one and
68 one-half times the regular rate at which he is employed.

69 SECTION 5. Said section 1A of said chapter 151 is hereby further amended by striking
70 out clause 19.

71 SECTION 6. Section 2 of said chapter 151 is hereby amended by striking out, in the
72 definition of ‘Occupation,’ after the words “professional service”, the words “agricultural and
73 farm work,”.

74 SECTION 7. Said section 2 of said chapter 151 is hereby further amended by adding the
75 following definition:

76 “Seasonal”, when modifying “agricultural and farm work” as used in this chapter, means
77 labor performed during a period of an agricultural business's operation of growing and harvesting

78 (a) lasting not more than 235 consecutive days that include the months of June, July, and August,
79 or (b) beginning not earlier than the first day of August nor later than the first day of September
80 and lasting not more than 100 continuous days.

81 SECTION 8. Section 2A of said chapter 151 is hereby amended by striking out, in the
82 second sentence the word “\$8.00” and replacing it with the following words:-- the minimum
83 wage set forth in section 1 of this chapter.

84 SECTION 9. Chapter 149 of the General Laws is hereby amended by adding the
85 following new section:

86 Section 204. Every person employed in agricultural and farm work as defined in section 2
87 of chapter 151 shall be allotted two paid 15-minute breaks if laboring 8 hours or more during any
88 given workday: one break before and one break after the meal break required by section 100.