

116TH CONGRESS
1ST SESSION

S. 385

To amend the Fair Labor Standards Act of 1938 to provide increased labor law protections for agricultural workers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 7, 2019

Ms. HARRIS (for herself, Mrs. FEINSTEIN, Ms. WARREN, Mr. BLUMENTHAL, Mr. BOOKER, Mr. SANDERS, Mr. MERKLEY, Ms. CORTEZ MASTO, Ms. HIRONO, Mr. WYDEN, Mr. VAN HOLLEN, Ms. KLOBUCHAR, and Mr. UDALL) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Fair Labor Standards Act of 1938 to provide increased labor law protections for agricultural workers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fairness for Farm
5 Workers Act”.

1 **SEC. 2. REDRESSING DISCRIMINATION AGAINST AGRICUL-**
2 **TURAL WORKERS UNDER THE FAIR LABOR**
3 **STANDARDS ACT OF 1938.**

4 (a) **ENDING DISCRIMINATION WITH RESPECT TO**
5 **OVERTIME HOURS REQUIREMENTS.**—Section 7 of the
6 Fair Labor Standards Act of 1938 (29 U.S.C. 207) is
7 amended—

8 (1) in subsection (a), by adding at the end the
9 following:

10 “(3)(A) Except as provided in subparagraph
11 (C), beginning on January 1, 2021, no employer
12 shall employ any employee employed in agriculture
13 (who in any workweek is engaged in commerce or in
14 the production of goods for commerce, or is em-
15 ployed in an enterprise engaged in commerce or in
16 the production of goods for commerce) for a work-
17 week that is longer than the hours specified under
18 subparagraph (B), unless such employee receives
19 compensation for employment in excess of the hours
20 specified in such subparagraph at a rate not less
21 than one and one-half times the regular rate at
22 which the employee is employed.

23 “(B) The hours specified in this subparagraph
24 are, subject to subparagraph (C), as follows:

25 “(i) Beginning on January 1, 2021, fifty-
26 five hours in any workweek.

1 “(ii) Beginning on January 1, 2022, fifty
2 hours in any workweek.

3 “(iii) Beginning on January 1, 2023, forty-
4 five hours in any workweek.

5 “(iv) Beginning on January 1, 2024, forty
6 hours in any workweek.

7 “(C) With respect to any employer that employs
8 25 or fewer employees—

9 “(i) the requirement under subparagraph
10 (A) shall begin on January 1, 2024; and

11 “(ii) the hours specified under subpara-
12 graph (B) shall apply as follows:

13 “(I) The number of hours specified
14 under subparagraph (B)(i) shall begin on
15 January 1, 2024.

16 “(II) The number of hours specified
17 under subparagraph (B)(ii) shall begin on
18 January 1, 2025.

19 “(III) The number of hours specified
20 under subparagraph (B)(iii) shall begin on
21 January 1, 2026.

22 “(IV) The number of hours specified
23 under subparagraph (B)(iv) shall begin on
24 January 1, 2027.”; and

25 (2) by repealing subsection (m).

1 (b) REMOVING CERTAIN EXEMPTIONS FOR AGRICUL-
2 TURAL WORK.—Section 13 of the Fair Labor Standards
3 Act of 1938 (29 U.S.C. 213) is amended—

4 (1) in subsection (a)(6), by striking “(A)” and
5 all that follows through the semicolon and inserting
6 “if such employee is the parent, spouse, child, or
7 other member of the employer’s immediate family;”;

8 (2) in subsection (b), by repealing paragraphs
9 (12) through (16); and

10 (3) by striking subsections (h) through (j).

11 (c) EFFECTIVE DATES.—The amendments made
12 by—

13 (1) subsections (a)(2), (b)(1), (b)(3), and (d)
14 shall take effect—

15 (A) with respect to an employer that em-
16 ploys more than 25 employees, on January 1,
17 2024; and

18 (B) with respect to an employer that em-
19 ploys 25 or fewer employees, on January 1,
20 2027; and

21 (2) subsection (b)(2) shall take effect—

22 (A) with respect to an employer that em-
23 ploys more than 25 employees, on January 1,
24 2021; and

1 (B) with respect to an employer that em-
2 ploys 25 or fewer employees, on January 1,
3 2024.

4 (d) CONFORMING AMENDMENTS.—

5 (1) FAIR LABOR STANDARDS ACT OF 1938.—
6 Section 13(c)(1)(A) of the Fair Labor Standards
7 Act of 1938 (29 U.S.C. 213(c)(1)(A)) is amended by
8 striking “none of the employees” and all that follows
9 through “section 6(a)(5)” and inserting “all of the
10 employees of which are employed in agriculture and
11 are employed by an employer who did not, during
12 any calendar quarter during the preceding calendar
13 year, use more than five hundred man-days of agri-
14 cultural labor (within the meaning of the exemption
15 under subsection (a)(6)(A), as in effect on the day
16 before the date of enactment of the Fairness for
17 Farm Workers Act)”.

18 (2) MIGRANT AND SEASONAL AGRICULTURAL
19 WORKER PROTECTION ACT.—Section 4(a)(2) of the
20 Migrant and Seasonal Agricultural Worker Protec-
21 tion Act (29 U.S.C. 1803(a)(2)) is amended by
22 striking “for whom the man-days exemption” and all
23 that follows through the period and inserting “who
24 did not, during any calendar quarter during the pre-
25 ceding calendar year, use more than 500 man-days

1 of agricultural labor (within the meaning of the ex-
2 emption under section 13(a)(6)(A) of the Fair Labor
3 Standards Act of 1938 (29 U.S.C. 213(a)(6)(A)), as
4 in effect on the day before the date of enactment of
5 the Fairness for Farm Workers Act).”.

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