An Act to Make Agricultural Workers and Other Related Workers Employees Under the Wage and Hour Laws

Reference to the Committee on Labor and Housing suggested and ordered printed.

ROBERT B. HUNT
Clerk

Presented by Speaker TALBOT ROSS of Portland.
Be it enacted by the People of the State of Maine as follows:

Sec. 1. 26 MRSA §603, sub-§3, ¶D, as amended by PL 2007, c. 640, §1, is further amended to read:

D. An individual exempt from the definition of employee in section 663, subsection 3, paragraph A, C, F, G, I or J;

Sec. 2. 26 MRSA §603, sub-§3, ¶F, as enacted by PL 1999, c. 750, §1, is repealed.

Sec. 3. 26 MRSA §663, sub-§3, ¶A, as amended by PL 1975, c. 717, §5, is repealed.

Sec. 4. 26 MRSA §664, sub-§3, ¶F, as amended by PL 2019, c. 387, §1, is repealed.

Sec. 5. 26 MRSA §664, sub-§3-A is enacted to read:

3-A. Overtime rate for individuals employed in agriculture. Notwithstanding any provision of subsection 3 to the contrary, an employer may not require an individual employed in agriculture as defined in the Employment Security Law and the Federal Unemployment Tax Act and an individual employed in certain activities related to agriculture to work more than 40 hours in any one week unless 1 1/2 times the regular hourly rate is paid for all hours actually worked in excess of 40 hours in that week as provided in this subsection. The regular hourly rate includes all earnings, bonuses, commissions and other compensation that is paid or due based on actual work performed and does not include any sums excluded from the definition of "regular rate" under the federal Fair Labor Standards Act of 1938, 29 United States Code, Section 207(e).

A. Beginning January 1, 2024, an individual employed in agriculture or an individual employed in certain activities related to agriculture may not be required by an employer to work more than 40 hours in any one week unless 1 1/2 times the regular hourly rate is paid for all hours actually worked in excess of 50 hours in that week.

B. Beginning January 1, 2025, an individual employed in agriculture or an individual employed in certain activities related to agriculture may not be required by an employer to work more than 40 hours in any one week unless 1 1/2 times the regular hourly rate is paid for all hours actually worked in excess of 45 hours in that week.

C. Beginning January 1, 2026, an individual employed in agriculture or an individual employed in certain activities related to agriculture may not be required by an employer to work more than 40 hours in any one week unless 1 1/2 times the regular hourly rate is paid for all hours actually worked in excess of 40 hours in that week.

For the purposes of this subsection, “an individual employed in certain activities related to agriculture” means the canning; processing; preserving; freezing; drying; marketing; storing; packing for shipment; or distributing of: agricultural produce; meat and fish products; and perishable foods.

Sec. 6. Effective date. This Act takes effect January 1, 2024.
SUMMARY

This bill provides that agricultural employees and seasonal farm employees are subject to the laws that place limits on mandatory overtime. It also provides that agricultural employees are subject to the laws that set a minimum wage and overtime rate. It provides that the laws that set an overtime rate apply to certain activities related to agricultural produce, meat and fish products and perishable foods. The bill phases in overtime pay for individuals employed in agriculture and certain activities related to agriculture.