

HOUSE No. 2812

The Commonwealth of Massachusetts

PRESENTED BY:

Carlos González

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:	DATE ADDED:
<i>Carlos González</i>	<i>10th Hampden</i>	<i>1/19/2023</i>
<i>Adam Gomez</i>	<i>Hampden</i>	<i>1/19/2023</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>1/20/2023</i>
<i>Bud L. Williams</i>	<i>11th Hampden</i>	<i>1/20/2023</i>

HOUSE No. 2812

By Representative González of Springfield, a petition (accompanied by bill, House, No. 2812) of Carlos González and others relative to providing certain tax credits for employers of agricultural workers and labor rights 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, as most recently amended by
2 section 103 of chapter 268 of the Acts of 2022, is hereby further amended by adding the
3 following subsection:-

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

13 overtime wages paid; for taxpayers who employ persons engaged in seasonal agricultural and
14 farm work, as defined in section 2 of Chapter 151, the credit shall be up to 50% of the hourly
15 wages paid for agricultural and farm work that exceeds the employee's hourly rate of pay as
16 overtime wages paid.

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

19 Section 82. A taxpayer who employs persons engaged in agricultural and farm work,
20 including seasonal agricultural and farm work, as defined in section 2 of Chapter 151, except
21 when the employee is a parent, spouse, child or other member of the employer's immediate
22 family, shall be allowed a credit against the tax liability imposed by this chapter as follows: the
23 amount of the credit shall equal the herein specified percentage of the hourly wages paid for
24 agricultural and farm work that exceeds the employee's regular hourly rate as overtime wages
25 pursuant to section 1A of said Chapter 151. For taxpayers who employ persons engaged in year-
26 round agricultural and farm work, as defined in section 2 of Chapter 151, the credit shall be up to
27 30% of the hourly wages paid for agricultural and farm work that exceeds the employee's hourly
28 rate of pay as overtime wages paid; for taxpayers who employ persons engaged in seasonal
29 agricultural and farm work, as defined in section 2 of Chapter 151, the credit shall be up to 50%
30 of the hourly wages paid for agricultural and farm work that exceeds the employee's hourly rate
31 of pay as overtime wages paid.

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

34 Section 17 (a) Every person employed in agricultural and farm work, as defined in
35 section 2 of chapter 151, who is not the parent, child, spouse, or other member of the employer's
36 immediate family, shall be entitled to accrue paid time off at the rate of 1 hour for every 40 hours
37 worked, up to a maximum of 55 hours per benefit year. A benefit year shall be defined as a
38 calendar year.

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

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

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

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

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

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

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

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

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

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

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

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

77 “Seasonal”, when modifying “agricultural and farm work” as used in this chapter, means
78 labor performed during a period of an agricultural business's operation of growing and harvesting
79 (a) lasting not more than 235 consecutive days that include the months of June, July, and August,
80 or (b) beginning not earlier than the first day of August nor later than the first day of September
81 and lasting not more than 100 continuous days.

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

84 the minimum wage set forth in section 1 of this chapter.

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

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