

SENATE No.

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 relative to overtime pay for agricultural laborers.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

Adam Gomez

Hampden

James B. Eldridge

Middlesex and Worcester

SENATE No.

[Pin Slip]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Fourth General Court
(2025-2026)**

An Act relative to overtime pay 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 person or taxpayer who employs persons engaged in “agricultural and farm work,”
5 as defined in section 2 of chapter 151, except when the employee is a parent, spouse, child or
6 other member of the employer's immediate family, shall be allowed a refundable credit against
7 the tax liability imposed by this chapter as follows: the amount of the refundable credit shall
8 equal up to 40% of the hourly wages paid for agricultural and farm work that exceeds the
9 employee’s regular hourly rate as overtime wages pursuant to section 1A of said chapter 151. For
10 taxpayers who employ persons engaged in “agricultural and farm work,” as defined in section 2
11 of chapter 151, the percentage of the refundable credit shall be determined by the number of
12 employees engaged in “agricultural and farm work”, as defined in section 2 of chapter 151,
13 employed by the taxpayer, and scaled according to size, such that farms with fewer employees

14 engaged in “agricultural and farm work” will receive a tax credit worth a larger percent of their
15 overtime wages paid than farms with a larger number of employees engaged in “agricultural and
16 farm work” will receive. The tax credit shall not exceed 40%. If the amount of the credit allowed
17 under this section exceeds the taxpayer's liability, the commissioner of revenue shall treat such
18 excess as an overpayment and shall pay the taxpayer 100 per cent of the amount of such excess,
19 without interest.

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

22 Section 82. A person or taxpayer who employs persons engaged in “agricultural and farm
23 work,” as defined in section 2 of chapter 151, except when the employee is a parent, spouse,
24 child or other member of the employer's immediate family, shall be allowed a refundable credit
25 against the tax liability imposed by this chapter as follows: the amount of the refundable credit
26 shall equal up to 40% of the hourly wages paid for agricultural and farm work that exceeds the
27 employee’s regular hourly rate as overtime wages pursuant to section 1A of said chapter 151. For
28 taxpayers who employ persons engaged in “agricultural and farm work,” as defined in section 2
29 of chapter 151, the percentage of the refundable credit shall be determined by the number of
30 employees engaged in “agricultural and farm work”, as defined in section 2 of chapter 151,
31 employed by the taxpayer, and scaled according to size, such that farms with fewer employees
32 engaged in “agricultural and farm work” will receive a tax credit worth a larger percent of their
33 overtime wages paid than farms with a larger number of employees engaged in “agricultural and
34 farm work” will receive. The tax credit shall not exceed 40%. If the amount of the credit allowed
35 under this section exceeds the taxpayer's liability, the commissioner of revenue shall treat such

36 excess as an overpayment and shall pay the taxpayer 100 per cent of the amount of such excess,
37 without interest.

38 SECTION 3. Section 1A of chapter 151 of the General Laws is hereby amended by
39 inserting at the end of the first sentence, after the word “employed” the following words:-

40 ; this includes employees engaged in “agricultural and farm work”, as defined in section
41 2 of chapter 151, who are engaged in solely or primarily secondary “agricultural and farm work”.
42 For those employees engaged in “agricultural and farm work”, as defined in section 2 of chapter
43 151, who for a work week longer than 55 hours are engaged in solely primary or both primary
44 and secondary “agricultural and farm work”, such employees shall receive compensation for
45 their employment in excess of 55 hours at a rate not less than one-and-one-half times the regular
46 rate at which they are employed.

47 SECTION 4. Said section 1A of said chapter 151 is hereby further amended by striking
48 out clause 19.

49 SECTION 5. Section 2 of said chapter 151 is hereby amended by striking out, in the
50 definition of “Occupation”, after the words “professional service”, the words “agricultural and
51 farm work,”.

52 SECTION 6. Said section 2 of said chapter 151 is hereby further amended by striking
53 out, in the definition of “Agricultural and farm work,” after the words “labor on a farm,” the
54 words “and the growing and harvesting of agricultural, floricultural and horticultural
55 commodities” and inserting the following words:-

56 wherein an agricultural employee is employed by a farmer and that same employee is
57 engaged in solely primary agriculture, solely secondary agriculture, or both primary and
58 secondary agriculture. Primary agriculture shall include farming in all its branches, including the
59 cultivation and tillage of the soil, the production, cultivation, growing, and harvesting of
60 agricultural, aquacultural, floricultural and horticultural commodities, dairying, the growing and
61 harvesting of forest products upon forest land, the raising and keeping of livestock, bees, fur-
62 bearing animals, and raising and keeping of poultry, swine, cattle and other domesticated animals
63 used for food purposes. Secondary agriculture shall include preparing commodities for market –
64 including cleaning, sorting, peeling, washing, packing, and delivering commodities to storage, to
65 market, or to a carrier for transporting to market. An employee who never engages in either
66 primary or secondary agriculture on a farm is not performing “agricultural and farm work” even
67 when they engage in practices incidental to or in conjunction with farming operations on a farm
68 and shall not be considered an agricultural employee.

69 SECTION 7. Said section 2 of said chapter 151 is hereby further amended by inserting,
70 after the definition of “Agricultural and farm work,” the following definitions:-

71 “Farm”, the site of agricultural business where both primary and secondary agriculture is
72 integral to the said agricultural business and are performed on a regular basis by agricultural
73 employees.

74 SECTION 8. Not later than six months after the effective date of this act, the department
75 of revenue shall promulgate regulations to implement Sections 1 and 2. With respect to Sections
76 1 and 2, the department of revenue shall issue regulations after input from stakeholders to
77 implement the tax credit including determining size of the credit farm employers shall receive.

78 Specifically, the department shall determine the percentage of overtime premium paid that shall
79 be offset by a tax credit, scaling the percentage according to farm size wherein farms with the
80 fewest number of agricultural employees engaged in “agricultural and farm work” receive the
81 largest tax credit amounting to no more than 40%, and farms with a greater number of
82 agricultural employees engaged in “agricultural and farm work” receive a progressively smaller
83 tax credit.

84 SECTION 9. Not later than six months after the effective date of this act, the department
85 of labor standards shall promulgate regulations to implement Section 3. With respect to Section
86 3, the department of labor standards shall issue regulations after input from stakeholders
87 clarifying the percent of primary and/or secondary agriculture an agricultural employee must be
88 engaged in during the work week for the employee to receive overtime after 55 hours instead of
89 after 40 hours.

90 SECTION 10. Sections 1 through 3 of this act shall become effective on January 1 of the
91 calendar year following the effective date of this act. Sections 4 through 10 shall become
92 effective immediately upon passage of the act.