



# NYCLU

NEW YORK CIVIL LIBERTIES UNION

125 Broad Street  
New York, NY 10004  
(212) 607 3300  
Fax (212) 607 3318  
[www.nyclu.org](http://www.nyclu.org)

## **Statement of the New York Civil Liberties Union**

**Before**

**The New York City Council  
Committee on Civil Service and Labor**

**Regarding**

**Resolution on A.1652/ S.1862  
Establishing the Farmworkers Fair Labor Practices Act**

**June 11, 2012**

My name is Socheatta Meng, and I am Legislative Counsel for the New York Civil Liberties Union (“NYCLU”). I would like to thank the Committee on Civil Service and Labor for inviting the NYCLU to provide testimony today on this Resolution in support of state legislation that would extend to New York’s farmworkers the fundamental rights and protections that are afforded other workers.

The NYCLU, the state affiliate of the American Civil Liberties Union, is a not-for-profit, non-partisan organization with eight offices across the state, and nearly 50,000 members. The NYCLU’s mission is to defend and promote the fundamental principles, rights and constitutional values embodied in the Bill of Rights of the U.S. Constitution and the Constitution of the State of New York.

This resolution urges New York State’s legislators to remedy an injustice that has existed for nearly a century – the exclusion of farmworkers from basic labor protections under state and federal law. Farmworkers form the backbone of New York’s multi-billion dollar agricultural industry. Yet, they have long been denied basic labor rights that other workers take for granted – a day of rest each week, overtime pay after an eight-hour workday, the right to organize and collectively bargain, and to unemployment pay when laid off. The Farmworkers Fair Labor Practices Act would give New York’s farmworkers these basic rights.

In New York, agriculture is a \$3.6 billion industry.<sup>1</sup> An estimated 80,000 to 100,000 migrant, seasonal, and dairy farmworkers labor on New York’s farms, making it possible for New York to be one of the nation’s agricultural leaders.<sup>2</sup> These farmworkers engage in intensive and grueling work; they plant and harvest our vegetables, pick our apples, care for and milk our dairy cows, and operate dangerous machinery and equipment.

Despite the essential labor that they provide, farmworkers work long hours and receive no overtime pay while engaging in one of the most dangerous professions. According to a 2007 study on farmworkers in the Hudson Valley, nearly one-third of those surveyed reported working at least 60 hours a week, without the legal right to overtime pay.<sup>3</sup> Nearly 60 percent of those interviewed reported they earned little more than the minimum wage.<sup>4</sup> Their income is so low that a substantial number of farmworkers – nearly 40 percent of those surveyed for this report –

---

<sup>1</sup> The National Association of State Departments of Agriculture, *New York State Department of Agriculture and Markets*, available at <http://www.nasda.org/cms/8815.aspx>.

<sup>2</sup> Worker Justice Center of New York, *Work Place Safety*, available at <http://www.wjcnyc.org/program/flsnys-work-place-safety-project>.

<sup>3</sup> Bard College Migrant Labor Project, *The Hudson Valley Farmworker Report: Understanding the Needs and Aspirations of a Voiceless Population* 8 (2007), available at <http://events.adelphi.edu/news/farmworkers/farmworker.report.pdf>. (This report is based on interviews conducted with over 100 farmworkers from 19 different farms in the Hudson Valley in 2002).

<sup>4</sup> *Ibid.* at 44.

had multiple jobs.<sup>5</sup> And despite the income from multiple jobs, nearly 90 percent of those interviewed had total incomes that were lower than the U.S. Federal Poverty Guidelines.<sup>6</sup>

Not only do farmworkers labor for long hours for low-pay, but they routinely risk their health and safety in doing so. According to the U.S. Department of Labor, farm work is one of the most dangerous – and fatal – occupations.<sup>7</sup> Farmworkers are seven times more likely than other workers to die from a work-related injury.<sup>8</sup> In the case of injuries, this rate is 20 percent higher for farmworkers than for all other workers.<sup>9</sup> This high risk of harm is related to many factors, including exposure to pesticides, and the use of dangerous farm machinery and equipment.

This exclusion of farmworkers from labor rights and protection is not justifiable – not as a matter of law and not as a matter of farm industry economics. Contrary to what opponents claim, New York’s farm economy will not suffer if basic labor law protections are extended to farmworkers. In fact, the New York farm industry has been flourishing, and is expected to continue doing so due to increased demand for products that New York specializes in such as beef and dairy.<sup>10</sup> In the case of dairy, production has risen nearly 60% in the last five years due to the surge in popularity of Greek yogurt.<sup>11</sup> Additionally, the state’s lawmakers and political leaders also give strong financial support to the state’s farm industry. For example, the state and

---

<sup>5</sup> *Ibid.* at 46.

<sup>6</sup> *Ibid.* at 46.

<sup>7</sup> U.S. Department of Labor, Occupational Safety and Health Administration, *Agricultural Operations*, available at <http://www.osha.gov/SLTC/agriculturaloperations/index.html>.

<sup>8</sup> *Ibid.*

<sup>9</sup> *Ibid.*

<sup>10</sup> U.S. Department of Agriculture, Economic Research Service, “Net Farm Income is Expected to Decline in 2012 But Remain at Near Record Levels,” *Amber Waves: The Economics of Food, Farming, Natural Resources, and Rural America* (Mar. 2012).

<sup>11</sup> William Neuman, “Greek Yogurt a Boon for New York State,” *THE N.Y. TIMES* (Jan. 12, 2012), available at <http://www.nytimes.com/2012/01/13/business/demand-for-greek-style-helps-form-a-yogurt-cluster-in-new-york.html>. In this article Julie C. Suarez, the director of public policy for the New York Farm Bureau, is quoted as saying that “[t]he growth in dairy manufacturing, particularly in the Greek yogurt category, has really been a fantastic boon for New York dairy farmers.”

Genesee County recently agreed to provide approximately \$26 million in tax credits and other incentives to PepsiCo and a German dairy company that plan to open a new yogurt factory in Batavia, New York.<sup>12</sup> Considering the farm industry's stability and growth, providing protections such as overtime pay and a day of rest would impose minimal costs on farms.

How is it that in 2012 farmworkers are excluded from basic labor law protections? What many may not know is that this exclusion is a legacy of the Jim Crow era. When President Franklin Roosevelt advanced major reforms to workers' rights during the New Deal period, Southern segregationist legislators refused to support these measures unless farm laborers and domestic workers – then primarily black persons – were excluded. As a result of this deal, the exclusion of farmworkers from state and federal protections is still the case today.

In 2010, New York ended this sorry legacy for the state's domestic workers. The Domestic Workers' Bill of Rights gave these workers the right to fair pay and basic protections of health and safety. New York's farmworkers, however, continue to labor in the shadow of Jim Crow. And this injustice is still a matter of color and ethnicity. While farmworkers were once primarily black, today they are primarily Latino. In light of this history, the modern-day exclusion of farmworkers from the protection of state labor laws is particularly disgraceful.

The NYCLU urges the City Council to pass this Resolution, thereby impressing upon our state's lawmakers the importance of the Farmworkers Fair Labor Practices Act. Farmworkers deserve the same fundamental rights and protections that are afforded other workers, and our state leaders must immediately act to end this injustice.

---

<sup>12</sup> Thomas Kaplan, "Another Yogurt Factory Planned for Upstate," THE N.Y. TIMES (Feb. 24 2012), *available at* <http://cityroom.blogs.nytimes.com/2012/02/24/another-yogurt-factory-is-set-to-open-upstate>.

**Rural Migrant & Ministry**

*Justice for Farmworkers Campaign*

Testimony by

Gerardo Gutiérrez, Jr. Esq.

Justice for Farmworkers  
Campaign Coordinator

to the

New York City Council

Committee on Civil Service and Labor

On

Farmworkers Fair Labor Practices Act Resolution

June 11, 2012

Good Morning Mr. Chairman, Members of the Committee and the New York City Council and thank you for giving me the opportunity to testify before you on the proposed resolution.

On behalf of the Rural Migrant Ministry and the Justice for Farmworkers Campaign, I rise in strong support of the resolution urging the New York State Senate and Assembly to pass the Farmworkers Fair Labor Practices Act and for the Governor to sign this important legislation into law.

For far too long, farmworkers have been excluded from those rights afforded to practically every other employee. Since the 1930s they have not had the right to over-time pay, a day of rest, or collective bargaining.

These exclusions from the law or denial of rights do not make distinctions among race, age, gender or even legal status. It is crystal clear that if you are a farmworker in New York State, you do not have these rights.

The reality is that farmworkers not only take on physically demanding work, but as a reward for entering this field they are stripped of very basic rights. Farmworkers have unwittingly joined a class of workers who is not and has not been treated fairly under the law for the last years.

I commend this Committee's resolution and for its willingness to stand side by side with those workers who are among the most vulnerable and disenfranchised – the farmworkers.

They have no money so they cannot hire lobbyists in Albany to speak for them. They have no money so they cannot hire lawyers to fight for them in court. They have no money so their voice is not heard.

It is resolutions such as the one proposed by this committee and legislation such as the bill introduced by Assemblywoman Nolan (A.1652) and Senator Espaillat (S.1862) that sends the important message that some of us are listening.

It needs to be clear that the Assembly Nola's and Senator Espaillat's bills will not give farmworkers additional rights which other employees do not have, they simply level the playing field for farmworkers. These bills bring farmworkers out of the 1930s when these exclusions originated and into the 21<sup>st</sup> century where fairness and equality are valued and workers are protected. It will give farmworkers the rights that other take for granted.

The policies underlying the current treatment of farmworkers are based on the questionable, but longstanding arguments made by the agricultural industry regarding its vulnerability to seasonal and other natural forces.

The agribusiness industry argues that if farmworkers were given the same rights and protections afforded to other laborers, this industry would be irreparably harmed. They argue that there could be work stoppages during peak planting and harvesting seasons. Furthermore,

they argue that the added costs for overtime pay, unemployment insurance coverage and workers' compensation coverage will put farmers out of business.

Yet, as we look around, the very rights and protections afforded by Assembly bill 1652 and Senate bill 1862 are provided to farmworkers in other states such as California, Minnesota, Hawaii, Maryland to name a few, and the agricultural industry in these states has survived and in many cases has prospered.

Moreover, it must be pointed out that New York is home to other industries that are seasonal and vulnerable to natural forces and other external forces, such as tourism and construction. Yet, these industries are required to provide the basic labor protections that are denied to farmworkers.

In January of this year, The New York Times reported that in the State of New York, dairy production rose nearly 60 percent in the last five years due to a surge in the popularity of Greek Yogurt.<sup>1</sup> Julie C. Suarez, the director of public policy for the New York Farm Bureau, told The New York Times that "[t]he growth in dairy manufacturing, particularly in the Greek yogurt category, has really been a fantastic boon for New York dairy farmers."

With the skyrocketing demand for New York dairy, which is the leading agricultural product, the question still remains, why do we exclude farmworkers? What makes them different that we would deny them equality? The answer, "we cannot afford it" by opponents to the Farmworkers Fair Labor Act is no longer enough. The rationale for sustaining the current policy of treating farmworkers differently from other workers is unsubstantiated.

History continually offers us opportunities to affirm our humanity and our commitment to dignity and fairness for all. Resolutions as the one proposed today and bills such as A.1652 and S.1862 do just that. They are aimed to bring justice and fairness to those who have been long forgotten by the law – the farmworkers.

If it is not because it is the just thing to do, we should urge our leaders in Albany to give farmworkers the rights they deserve because it would be good for farmers. At a time when agribusiness in New York and the dairy industry are booming, now is the time to guarantee farmers prosperity by strengthening their workforce. A strong workforce needs to be well rested, it needs to be appreciated and it needs to be taken care off. A strong workforce is tantamount to a strong agricultural industry. You cannot have a strong agricultural industry without a strong workforce. These are the two sides of the same coin. You cannot separate them or have one without the other. The Farmworker Fair Labor Practices Act (FFLPA) is essential to ensure that a strong workforce exists. Farmworkers serve as the backbone of New York's largest, and still growing, industry. It is time, once and for all to afford the people who serve as the foundation of New York's most expansive industry the same rights as those recognized for almost every other worker in our state.

Thank you for your time and I urge the swift passage of this resolution.

---

<sup>1</sup> <http://www.nytimes.com/2012/01/13/business/demand-for-greek-style-helps-form-a-yogurt-cluster-in-new-york.html>



New York Farm Bureau • 159 Wolf Road P.O. Box 5330 • Albany, New York 12205 • (518) 436-8495 Fax: (518) 431-5656

June 7, 2012

New York City Council  
Committee on Civil Service and Labor  
Monday, June 11, 2012 at 10:00 a.m.  
16th Floor Hearing Room  
250 Broadway  
New York, NY

**Re: Preconsidered Res. No. \_\_\_: Resolution calling on the New York State Legislature to pass and the Governor to sign into law A.1652/S.1862, establishing the Farmworkers Fair Labor Practices Act.**

New York Farm Bureau is the state's largest general farm organization representing almost 30,000 member families. Ninety nine percent of New York's farms are family run operations that include not only direct relatives, but also our employees, both year round and seasonal. By virtue of the nature of the business, farmers themselves are also farm workers, dedicating many hours alongside their employees in order to run a successful farm operation.

Agriculture faces numerous challenges, especially in New York. Profitability and, in fact, basic survival is the main concern of our family farms. While food is a basic need, there is no sector of agriculture that was left untouched by the long term effects of the global meltdown. Despite the fact that most consumers think of agriculture as local, the reality is our farms are in a global marketplace. The difficulty in transitioning to that marketplace is illustrated perhaps best by our dairy farms statistics.

Between 2009 and 2010 we have lost 300 farms<sup>1</sup>, irrevocably, from producing the myriad of agricultural products such as dairy, fruits and vegetables in New York State. These farms will never again produce products for New York to consume, and that is a travesty that consumers and policy makers need to stand up and fight. Policy choices can't be made at the state level on issues to drive costs up further – or we will be in

---

<sup>1</sup> National Agricultural Statistics Service



danger of losing even more farms and eventually endangering our fresh local food supply.

Agriculture is a different industry than manufacturing widgets. We are at the mercy of unreliable weather, global markets and volatile pricing, and a public that demands higher standards for New York and United States agriculture than it enforces on imported products. Unlike our main competitors in South America and China, we pay fair wages, adhere to strict environmental standards, and, for those of us farming in New York, deal with a business climate that is among the most expensive due to high taxes, insurance costs, energy and labor.

I have attached copies of New York Farm Bureau's memorandum of opposition to the proposed legislation, and I have attached a fact sheet which provides a detailed description of the laws and regulations that New York farmers already comply with concerning labor, and compares other state labor laws to New York's. The fact of the matter remains that this legislation was originally drafted almost 20 years ago, and is outdated and unnecessary, and doesn't even reflect what the farm workers themselves would benefit from.

The central point I want to make is that this issue is not one of justice. Whether or not a worker receives overtime is not a moral issue, otherwise we would all be receiving overtime, whether we're the farmer, the farm worker, the legislative employee, or the Wal-Mart worker.

Immigration reform is a justice issue.

Human trafficking and unscrupulous coyotes working on the border of the United States and Mexico is a justice issue.

Freedom from workplace violence is a justice issue.

No farmer has ever asked to be exempted from issues concerning such basic moral justice. In fact, farmers are one of the few employers who regularly stand with our workers, and face the public negative consequences, advocating for immigration reform so that the immigrant workers who risk their lives at times to cross the border and come to our farms can do so safely and with dignity. New York Farm Bureau as an organization supported the 2007 enactment of the state's first anti-Human Trafficking statute. And we have never, ever, condoned or asked to be excluded from laws designed to prevent, control and enforce, workplace violence or harassment.

It is illegal to pay someone less than the minimum wage.

It is illegal to discriminate against an employee on the basis of their ethnicity.

It is illegal to harass an employee in or outside the workplace.

It is illegal to watch an employee be injured on the job and not take action.  
It is illegal to employ a child in the fields for long hours and no pay.  
It is illegal to have uninspected migrant farm worker housing.  
It is illegal not to have adequate water and field sanitation in the fields.  
It is illegal to employ someone in a condition of "labor servitude".

And, it is presumptuous to assume that workers in agriculture have no choice. That is the true loss of dignity of farm employment.

This legislation will fundamentally change all of New York agriculture. It will fundamentally damage our family farms ability to produce local food for local New Yorkers. It is overly simplistic to say that we should just charge more for our product. We're already a high cost state, and while our farms are in New York we are very much in a global market. High end consumers may care about paying an additional premium for our products – but every day families struggling in today's local climate care more about the price and quality of the food, regardless of where it comes from. We can't pass along a higher cost.

Either our farms will become smaller and produce less so that they rely only on family labor, and produce more row crops rather than fresh fruits and vegetables or perishable dairy, or they will become large enough so that mechanization is more of an option, such as installing robotic milking parlors. Workers themselves will lose out under this scenario, either because the farms have downsized and aren't employing workers; or because our farms limit hours during a short season and the worker is then forced to go from farm to farm, becoming much more like a lower income resident cobbling together several jobs to live from hand to mouth.

This outdated bill doesn't fit with the needs of modern agriculture, and contains absolutely nothing in it to make sure that New York State will continue to have family farms in the future. Instead, it simply drives up our costs and our labor regulations to a level that is second only to California, a state with a much larger agriculture, better growing degree days, and significantly larger farms.

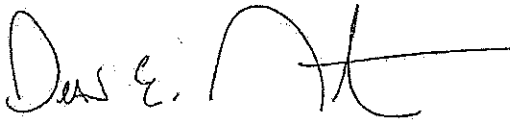
It's not a surprise to anyone that the state and its residents are reeling right now. Trying to recover from the terrible global meltdown, trying to get our fiscal house in order as a state, and trying to increase employment numbers and provide for basic needs like food and shelter in a difficult economic climate.

What happens if, because of New York's high business climate, we continue to lose our processing infrastructure? The loss of processors will lead to the loss of farms. And New York can't afford to lose any more of our family farmers.

These are the issues we are dealing with right now in New York agriculture. These are the problems we are facing, and we should not be spending our time fighting a bill that is outdated, unnecessary, and will cause financial devastation and significant restructuring to New York agriculture. We need to work on getting a better business climate in New York State, re-building our agricultural, processing and distributional infrastructure through initiatives such as the Hunts Point Market re-design, and finding new and innovative ways to help our farm families compete in this global marketplace.

Thank you for your time and I appreciate the opportunity to express my concern regarding this legislation. Please feel free to contact at any time with further questions you may have regarding this legislation or agriculture in New York.

Sincerely,

A handwritten signature in black ink, appearing to read "Dean E. Norton". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Dean Norton  
President  
New York Farm Bureau

SHRONS  
YIGZOR  
YI  
OP  
S

**New York Farm Bureau**

159 Wolf Road, PO Box 5330  
Albany, NY 12205  
(518) 436-8495 \* Fax: (518) 431-5656



May 1, 2012

A.1652      Assemblywoman Nolan      Assembly Labor Committee

S.1862      Senator Español      Senate Rules Committee

***AN ACT TO AMEND THE LABOR LAW, REQUIRING COLLECTIVE BARGAINING, OVERTIME AND DISABILITY FOR FARM EMPLOYEES***

The New York Farm Bureau is the state's largest farm organization. Our membership is representative of the many different aspects of agricultural production within this state. Agriculture itself is a unique industry, which faces many different challenges on a day-to-day basis. The seasonality of our labor force, the perishability of our products, and the low prices farmers receive for their crops make agriculture one of the toughest, yet most personally rewarding, industries in the state.

Farm families in New York do provide a substantial amount of the food that we eat. However, more and more of our produce is being shipped in from other countries with much lower labor costs and much lower regulatory standards for food and environmental quality than our own. New York's farm families are regulated by a myriad of local, state, and federal agencies. Agricultural workers are covered by both the Migrant and Agricultural Seasonal Protection Act and the Agricultural Fair Labor Standards Act at the federal level, and are covered under state minimum wage laws, the state sanitary housing code for farm employees, and both federal and state Worker Protection Standards to ensure safe environmental working conditions. All farm workers are also required to have a completed farm work agreement with their employer, which covers pay rates, housing benefits (most farm workers also receive housing) and working conditions.

This bill would dramatically increase the cost of farming in New York State at a time when most residents are experiencing the same financial crisis as our farming families and worrying about how to afford food on their tables. This bill would have a tremendous impact on New York's smaller farmers, while also putting tremendous pressure on the larger family farms that provide the bulk of the fresh New York-grown products we enjoy eating.

New York State is one of numerous states that adopts the federal labor standards for agricultural workers. Only seven states have a state-mandated agricultural overtime requirement, most of which have adjustments that take into account the seasonality and perishability inherent in agricultural operations. Since crops are perishable and the growing season in New York is short, there are times of the year when agricultural workers, alongside the farmers, are working long hours. However, factual statistics from the National Agricultural Statistics Service (a branch of the federal USDA) demonstrate that farm workers in New York make an average of \$10.00 an hour and work an average

**Public Policy Division**

Julie Suarez, Director ~ Jeff Williams, Deputy Director  
Catherine Mural, Nicole Willis, Kelly Young

# SEHSOPO YHGNORHS

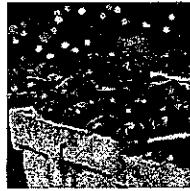
of 41 hours per week (2009 Farm Labor Survey). There is a reason that many immigrants travel great distances to work on our farms on a seasonal basis—because New York State farmers provide good working conditions and wages.

Farmers are already rigorously regulated and inspected employers. The agricultural workforce is a crucial part of our farms. If farmers in this state did not treat their employees correctly, and fairly, in this era of tight labor markets, they would not have a workforce to harvest their crops. We cannot continue to overly regulate and place onerous mandates on our farm families, and we cannot support legislation that simply puts more laws on the books without addressing some of the more basic needs of our farm workers and our farmers.

New York Farm Bureau respectfully opposes this legislation for its failure to comprehensively examine and listen to real farmers discuss the difficulties of running a farm business and competing in a global economy. This bill does not accurately reflect either the needs of farm workers—who have self-identified in an independent study the need for housing, health care, and immigration services—or the needs of farm families.

**Public Policy Division**

*Julie Suarez, Director ~ Jeff Williams, Deputy Director  
Catherine Mural, Nicole Willis, Kelly Young*



# Farm Labor Laws

## New York Farm Workers Are Already Protected

### What Protections Do Farm Workers Have In New York?

**Unemployment Insurance:** New York has adopted the federal threshold, so once a farm employs 10 or more employees or reaches \$20,000 in payroll in a quarter, the farmer must pay unemployment insurance.

**Workers Compensation:** New York requires workers compensation for farm employees if the farm has an annual payroll of \$1,200. Unless a farm relies solely on family labor, virtually all farms are required to provide workers comp.

**Farm Worker Housing:** New York has a separate state sanitary code for migrant and seasonal housing that is stricter than federal regulations. Farm worker housing in New York is regulated by four separate agencies: Occupational Safety and Health Administration, U.S. Department of Labor Wage and Hour Division, N.Y. Department of Labor Community Services Division and N.Y. Department of Health. Housing must have proper permits and be inspected before workers move in.

**Farm Work Agreements:** A farm work agreement is required by state law for all farm employees, both seasonal and year-round. Federal law also requires migrant workers to have an agreement. These agreements lay out the type of work to be performed, wages, work hours in a standard day and week, pay period, benefits and time off, housing and transportation arrangements, and other arrangements agreed upon by both employer and employee.

**Worker Protection Standards Program:** This federal regulation is issued by the U.S. Environmental Protection Agency and requires farmers to take specific steps to protect farm workers from pesticides used in agriculture. In New York, the Department of Environmental Conservation implements and enforces this program for the EPA.

### What Federal Laws Protect New York's Farm Workers?

**Fair Labor Standards Act:** This law establishes minimum wages for migrant and seasonal farm workers and H2A nonimmigrant agricultural workers. The specific types of labor and minimum ages for children working agricultural jobs is also established in this act.

**Migrant & Seasonal Agricultural Worker Protection Act:** This law requires employers to disclose to migrant and seasonal workers information in writing about wages, hours, workers compensation, crops and type of activities to be performed, the period of employment, and other working conditions. Transportation must be safe and properly insured and housing must meet health and safety standards, if provided. This law also states that workers must be provided with a written statement when paid.

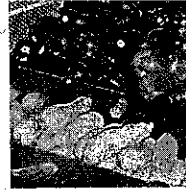
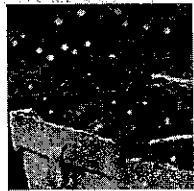
**Occupational Safety and Health Act:** This law includes standards for temporary labor housing, field sanitation (potable water, toilet and hand-washing facilities, etc.). Employers must develop a hazard communications program to provide written information about hazardous chemicals on the farm. Rules are also established for storing and handling anhydrous ammonia, tractor roll-over protection and other safety practices.

**Federal Insecticide, Fungicide & Rodenticide Act:** This law requires that all pesticides be registered with the U.S. Environmental Protection Agency and used as directed on the label. The law also includes a Worker Protection Standard (WPS) that requires employers to take steps to reduce worker exposure to pesticides and provide information to workers about the dangers of exposure.

***How Does New York Compare to Other States?***  
*See Over*



To Serve And Strengthen Agriculture



# Ag Labor Laws In The 50 States

## How Does New York Compare?

### Unemployment Insurance

Only a few states require a different threshold than the federal for agricultural employment. New York adopted the federal threshold, so once a farm employer has 10 or more employees or reaches \$20,000 in payroll in a quarter, the farmer must provide UI. The three states are California and Texas, with much longer growing seasons, and Rhode Island.

### Workers Compensation

Twenty-eight states, including New York, require workers compensation for farm employees. New York's threshold is an annual payroll of \$1,200, so virtually all farms that do not rely solely on family labor are required to provide workers compensation.

### Overtime Pay

Only four states require overtime pay for agricultural workers. These states are California, Hawaii (coffee harvesters exempt), Maryland (after 60 hours per week) and Minnesota (after 48 hours per week).

\*Wisconsin repealed it's agricultural overtime law in 2003.

### Farmworker Housing

New York is the ONLY state with a separate state sanitary code for migrant and season housing that is stricter than the federal code. New York is one of two states with a Farmworker Housing Program. New York has a revolving loan fund; Michigan provides grants to farm employers to improve housing.

### Collective Bargaining

14 states allow agricultural workers the right to collectively bargain. In California, if an employee is covered by a collective bargaining agreement that includes overtime wage rates, they are exempt from overtime provisions.

### Disability Coverage

Only six states require disability coverage for off-the-job injuries. These states are California, Hawaii, Louisiana, Michigan, Ohio and Oklahoma.

### Benefits provided by New York State to the temporary and seasonal farm employee population:

- Agri-Business Child Care Centers—14 Child Care Centers in heavily agricultural areas to provide head start curriculum for children of migrant and seasonal farm workers.
- Migrant Health Care Clinics—Four are available as a partnership between state and federal funding.

*Both programs are strongly supported by New York Farm Bureau.*

*How Are Farm Workers Protected In New York? See Over*



*A Message from Assemblywoman*

**CATHERINE NOLAN**



*Chair, Education Committee  
37<sup>th</sup> Assembly District  
Queens County*

**CONTACT:**

**Date June 11, 2012**

Office of Assemblywoman Catherine T. Nolan  
Phone: 718-784-3194

### **Statement from Assemblywoman Catherine Nolan to the New York City Council Committee on Civil Service and Labor**

Several years ago I was invited by Reverend Witt to Orange County to see the working conditions that farm workers had to deal with on a daily basis. From this experience I saw the inequalities that these workers faced compared to others. These farmworkers had no bathroom breaks, no clean drinking water, low wages, no day of rest, and most importantly no ability to collectively bargain.

These inequalities been allowed to continue in New York State since the 1930's. Several pieces of the New Deal Legislation, most notably, the Wagner Act gave labor unions the ability to collectively bargain. This legislation, however, made exceptions for two distinct groups, domestic servants and farm workers. In 2010, New York State passed legislation giving domestic workers labor protections leaving farmworkers as the only group not afforded the same rights.

Throughout the years, many opponents of this legislation have argued giving farm workers the ability to unionize would severely hurt the family farms. The agricultural sector in this state, however, has changed drastically moving away from the family farms to much larger agricultural business centers that are able to turn huge profits because of the volume that is produced. A change in state policy about labor protections for farm workers would give farm workers basic human rights. This change in policy would also require farms to pay their fair share and treat their workers with dignity.

When I was Chair of the Assembly Labor Committee, we passed several pieces of legislation including the right to clean drinking water for farmworkers which is now law. The final push for additional legislation would be to secure collective bargaining rights so farmworkers could negotiate a fair day's wage for a fair day's work. This year, I introduced A1652 which would give farmworkers access to collective bargaining, overtime pay, worker's compensation and a day of rest. The Assembly has passed this very same legislation several times over the past 10 years.



I would like to thank the City Council for holding this hearing and bringing attention to this important matter that needs to be addressed. We hope that you can join us in this fight to secure the most fundamental human rights for the most forgotten workers in history – farmworkers.

-30-

District Office: 61-08 Linden Street, Ridgewood, N.Y. 11385 (718) 456-9492  
41-02 Queens Boulevard, Suite 2B, Sunnyside, N.Y. 11104 (718) 784-3194  
nolanc@assembly.state.ny.us

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card



I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_  
 in favor  in opposition

Date: June 11, 2012

(PLEASE PRINT)

Name: Gerardo Gutierrez, Jr. Esq.

Address: \_\_\_\_\_

I represent: Rural & Migrant Ministry

Address: PO Box 4757, Poughkeepsie, NY 12602

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card



I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_  
 in favor  in opposition

Date: JUNE 11 2012

(PLEASE PRINT)

Name: RABBI MICHAEL FEINBERG

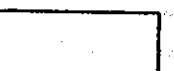
Address: 235 W. 107th ST #17-S NYC 10025

I represent: GREATER NY LABOR-RELIGION COALITION

Address: 125 MAIDEN LANE NY, NY 10038

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card



I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_  
 in favor  in opposition

Date: JUNE 11, 2012

(PLEASE PRINT)

Name: SOCHEATTA MENG

Address: 125 BROAD STREET NY, NY 10002

I represent: NEW YORK CIVIL LIBERTIES UNION

Address: SEE ABOVE