



FACSIMILE NO.

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL

WRITER'S DIRECT DIAL NO.

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TO: The Honorable Delores G. Kelley, Chair, Senate Finance Committee

FROM: Office of the Attorney General

DATE: February 20, 2020

RE: SB 403 — Labor and Employment – Maryland Wage –
Agricultural Stands (**OPPOSE**)

The Office of the Attorney General urges an unfavorable report on Senate Bill 403, a bill to amend Section 3-403 of the Maryland Labor and Employment Article. This legislation is designed to exempt from the State's minimum wage laws *all employees* "employed at an agricultural stand that primarily sells at retail perishable or seasonal fresh fruits, vegetables, or horticultural commodities that the employer produced."

We believe there are more than adequate exemptions from the State minimum wage under existing law. Under State law, the following categories of workers are already exempted from the minimum wage:

- Nonadministrative employees at an organized camp, including a resident or day camp;
- Part-time (less than 20 hours per week) employees under the age of 16;
- Outside salesmen;
- Individuals compensated on commission;
- Immediate family members (e.g. child, parent, spouse, etc.) of the employer;
- Drive-in theater workers;
- Special education program employees under a public school system;
- Workers involved in canning, freezing, packing, or first processing of perishable or seasonal fresh fruits, vegetables, or horticultural commodities, poultry or seafood;
- Volunteers supporting the activities of a charitable, educational, nonprofit or religious organization if the service is provided gratuitously and there's no employer-employee relationship;

- Agriculture employees if, during each quarter of the preceding calendar year, the employer used no more than 500 agricultural—worker days;
- Livestock range production workers;
- Hand-harvest laborers paid on a piece-rate basis if they commute daily from a residence to the farm and were agricultural workers less than 13 weeks of the preceding calendar year, or are under 17, employed with a parent or guardian, and are paid at the same rate that an employee who is at least 17 years old is paid on the same farm.

It is difficult to conceive of anyone who does not fall in one of the foregoing exemptions and yet actually works at an agricultural stand. However, such workers—toiling in the outdoors for many hours a day—certainly deserve to earn \$10.10 per hour.

For all of the foregoing reasons, we urge an unfavorable report on SB 403.

cc: Senate Finance Committee Members
Senator Mary Beth Carozza
Senator Thomas V. “Mike” Miller, Jr.
Senator Jason C. Gallion
Senator Katie Fry Hester
Senator Chris West