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HB 1123
Labor and Employment – Maryland Wage and Hour Laws – Agricultural Stands
Hearing of the House Economic Matters Committee
March 3, 2020

POSITION: OPPOSE

The Public Justice Center (PJC) is a not-for-profit civil rights and anti-poverty legal services organization which seeks to advance social justice, economic and racial equity, and fundamental human rights in Maryland. Our Workplace Justice Project works to expand and enforce the right of low-wage workers to receive an honest day's pay for an honest day's work through litigation and public policy. The PJC **OPPOSES HB 1123** and requests an **UNFAVORABLE** report.

HB 1123 will prevent workers from meeting their and their families' basic needs. The decision to buy local food and produce has grown over recent years. Local farmers markets, for example, have gone from 2,000 markets in 1994 to 8,600 in 2019.¹ This growth has provided job opportunities. A variety of people from different walks of life work at farm stands. Reducing protections for workers in one job requires them to find another job to fill the gap. But one job should be enough, and workers should be paid in full for the work they do. HB 1123 will prevent this from happening, decrease worker income, and make it more difficult for workers to meet their and their families' basic needs.

HB 1123 is NOT limited to family farms and will create an easy-to-exploit loophole. HB 1123 has been cast as a bill that will create a limited exemption for small family farms that put up small stands to sell their produce on the side of the road. Yet the language of the bill is not so limited and will unnecessarily expand the numbers of workers left without the bedrock protections of our minimum wage laws. As an initial matter, the term "agricultural stand" is not defined, other than a qualification that it primarily sells retail fruits and vegetables and the like. Farms with small markets, -- stands with ice cream shops, petting zoos, and events -- could claim it is a "stand" and exempt their employees. Relatedly the term "family" appears nowhere in the bill. To the contrary, a large agribusiness could set up a "stand" and claim all people who work at it are not entitled to minimum wage.

HB 1123 hurts workers by creating an unnecessary exemption. The current exemptions in the Maryland Wage and Hour Law are more than sufficient to address Maryland's business and agricultural needs. Immediate family members of an employer are already exempt, certain agricultural workers are also exempt while others are

¹ Jodi Helmer, National Public Radio, *Why Are So Many Farmers Markets Failing? Because the Market is Saturated*. <https://www.npr.org/sections/thesalt/2019/03/17/700715793/why-are-so-many-farmers-markets-failing-because-the-market-is-saturated> (Mar. 17, 2019).

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denied overtime unless they work more than *60 hours* per week, and all businesses engaged in canning, freezing, packing or processing seasonal fruit or vegetables likewise benefit from being able to pay their workers less than the minimum wage.² This vast web of exemptions should not be expanded further to deny more vulnerable workers the bedrock minimum wages to which every Marylander should be entitled. The Maryland minimum wage rate just increased in January of this year.³ Understanding that an employer's ability to pay its employees may differ depending on the size of the employer, the Maryland Minimum Wage law outlines a ladder of minimum wage steps from the present until 2026. This ladder already includes consideration of small businesses and their operations. An exemption to further exclude more workers from protections is not needed and will do greater harm than good.

For the foregoing reasons, the PJC **OPPOSES HB 1123** and urges an **UNFAVORABLE** report. Should you have any questions, please call Sally Dworak-Fisher at 410-625-9409 ext. 273.

² Md. Code Lab. & Empl. § 3-403(6)(9) and (12); Md. Code Lab. & Empl. § 3-420(c).

³ Md. Code Lab. & Empl. § 3-413(c)(1) and (2)

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