

SB 502 Senator Carozza Written Testimony-Updated

Uploaded by: Carozza, Senator Mary Beth

Position: FAV

MARY BETH CAROZZA
Legislative District 38
Somerset, Wicomico,
and Worcester Counties

Education, Health, and Environmental Affairs
Committee



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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

February 18, 2021

The Senate Finance Committee

**SB 502 Labor and Employment - Maryland Wage and Hour Law - Agricultural Stands,
Retail Farms, and Farmers' Markets**

Statement of Support by Bill Sponsor Senator Mary Beth Carozza

Thank you, Chair Kelley and Vice Chair Feldman and member of the Senate Finance Committee for this opportunity to present Senate Bill 502 and to request your support. Senate Bill 502 simply clarifies the current agricultural exemption to the Maryland Wage and Hour Law **to include those employed at an agricultural stand, retail farm or farmers' market that primarily sells agricultural products that the employer has produced.**

As way of background, Senate Bill 502 is one of the initiatives included in the bipartisan Senate Small Business Workgroup's legislative package unveiled last session. The legislation was drafted last fall after workgroup members heard from their local farm bureaus and chambers of commerce members who raised concerns that the agricultural exemption in the new minimum wage law did **not** include agricultural stands and farmers' markets.

The current Maryland Wage and Hour Agricultural Exemption exempts those employed by an employer who is engaged in the processing of perishable food items, those employed in agriculture if the employer used no more than 500 agricultural-worker days per quarter during the preceding year, those engaged primarily in the range production of livestock, employed as a hand-harvest laborer or is paid on a piece-rate basis.

Senate Bill 502 clarifies the Agricultural Exemption in the current Maryland Wage and Hour Law by including those employed at an agricultural stand by including a retail farm or a farmers' market that primarily sells at retail perishable or seasonal

fresh fruits, vegetables, or horticultural commodities that the employer has produced.

I believe Senate Bill 502 is consistent with the original intent of the agricultural exemption to the new minimum wage law and simply clarifies the exemption to include agricultural stands, retail farms and farmers' markets as narrowly defined in the bill.

My panel today includes Colby Ferguson with Maryland Farm Bureau, Michelle Wright a Wicomico County farmer, and Lisa Gaver a tree farmer in Garrett County. They will explain more background and how this legislation will affect their farms, especially in the wake of a pandemic.

In closing, I want to thank all the local farm bureau and chambers of commerce members who worked with us to identify the problem with the current agricultural exemption and helped us craft a narrow, targeted bill to clarify and strengthen the agricultural exemption which will be helpful to our farm families across the State of Maryland. I respectfully request a favorable report of Senate Bill 502 in support of our **farm families**.

Senator Kelley.pdf

Uploaded by: Chambers, william

Position: FAV



February 16, 2021

Senator Delores G. Kelley
Chair, Senate Finance Committee
2 East, Miller Office Building
Annapolis, MD 21401

Dear Senator Kelley,

On behalf of the seven-hundred members, including many agricultural businesses, the Salisbury Area Chamber of Commerce respectfully requests a Favorable Report on Senate Bill 502- Labor and Employment-Maryland Wage and Hour Law-Agricultural Stands.

Senate Bill 502 would establish an exemption from the Maryland Wage and Hour Law (minimum wage) for an individual employed at an agricultural farm stand that sells perishable or seasonable produce that the employer has produced on his/her farm. This provision was inadvertently left out of the minimum wage legislation of 2018. There are more than 1,400 family farm stands in Maryland which are primarily seasonal in nature. These small businesses largely employ young individuals in their first ever job, almost all high school or college students for this seasonal work.

Due to the volatile business that farming is, weather dependent, commodity pricing on a national scale and market competition from commercial produce markets (grocers), these farm stands can mean the difference between a family farm staying solvent year over year. Being required to comply with the mandated minimum wage at its current and future levels, places these family owned and operated stands in an uncompetitive disadvantage relative to commercial grocers.

Small businesses and agricultural businesses in Maryland are driving forces for job creation and economic vitality statewide. We urge a Favorable Report on SB 502.

Sincerely,

William R. Chambers
President/CEO
Salisbury Area Chamber of Commerce

SALISBURY AREA CHAMBER OF COMMERCE

The Voice for Business on Delmarva

Support of SB 502 - Labor and Employment - Maryland

Uploaded by: Ferguson, Colby

Position: FAV



Maryland Farm Bureau, Inc.

3358 Davidsonville Road • Davidsonville, MD 21035 • (410) 922-3426

February 18, 2021

To: Senate Finance Committee

From: Maryland Farm Bureau, Inc.

Re: **Support of SB 502 - Labor and Employment - Maryland Wage and Hour Law - Agricultural Stands, Retail Farms, and Farmers' Markets**

On behalf of our member families, I submit this written testimony in support of SB 502, legislation that establishes an exemption from the Maryland Wage and Hour Law for an individual employed at an agricultural stand, a retail farm, or a farmers' market that primarily sells agricultural products that the farmer has produced. If passed, the minimum wage would be \$10.10/hour.

Most of the employees that fill these seasonal farm market jobs are youth between 16 and 18 years old. In most cases, this is their first job. The cost of labor is a major issue with farm profitability especially when the farmer retains ownership in their crop and looks to retail it to the consumer. Even at a retail price, margins are very small. Increasing the minimum wage 33% prevents a farmer from offering youth opportunities to have their first job at their operation. This bill would allow the farmer to offer those beginning jobs without a massive increase in labor costs.

MDFB Policy: We support maximum opportunities for youth to work on farms. We believe youth gain important life skills, learn safety around animals and equipment, benefit from involvement in programs like 4-H and FFA, become interested in careers in agriculture, better understand that farmers are professionals and use best management practices, and establish a strong work ethic. Therefore, we urge government not to limit these opportunities.

MARYLAND FARM BUREAU SUPPORTS SB 502 AND ENCOURAGE A FAVORABLE REPORT

Colby Ferguson

Director of Government Relations

For more information contact Colby Ferguson at (240) 578-0396

SB502- Greater Bethesda Chamber - FAVORABLE.pdf

Uploaded by: Italiano, Ginanne

Position: FAV

February 16, 2021

Senator Dolores G. Kelley
Chair, Senate Finance Committee
Maryland State Senate
3 East, Miller Senate Office Building
Annapolis, MD 21401

RE: SB502 – Labor and Employment – Maryland Wage and Hour Law – Agricultural Stands, Retail Farms and Farmers’ Markets

Position; SUPPORT

Dear Chairwoman Kelley, Vice Chair Feldman, and Members of the Committee:

On behalf of our 500-member businesses and more than 45,000 employees in Montgomery County, The Greater Bethesda Chamber of Commerce is in **Support of SB502-Labor and Employment–Maryland Wage and Hour Law – Agricultural Stands, Retail Farms and Farmers’ Markets.**

Senate Bill 403 would establish an exemption from the Maryland Wage and Hour Law (minimum wage) for an individual employed at an agricultural stand that sells perishable or seasonable fresh fruits, vegetables or horticultural commodities that the employer has produced.

There are over 1,400 family farm or agricultural stands in Maryland that primarily operate on a seasonal basis. Most of the employees working these stands are young adults, working their first job or college students and high school students working seasonally. The Greater Bethesda area and Montgomery County is home to many of these markets which our residents and businesses enjoy supporting.

The current mandated minimum wage puts the owners of the farmers markets at a competitive disadvantage vs the commercial grocery stores. These are small business owners that are most often seasonal in nature and are fighting to stay in business just for part of the year. Having to pay the current minimum wage just adds to the pressures they have for doing business in the State. The margins for the farmers markets are very small vs grocery store owners and the increasing minimum wage is one more issue that makes it so difficult for farmers in the State.

We thank Senators Carozza, Gallion, Peters, West, Klausmeier and Ready for sponsoring this legislation and urge the Senate Finance Committee to **vote FAVORABLE.** Thank you for your consideration of our remarks.

Sincerely,



Allie Williams
President & CEO

SB502 Testimony min wage.pdf

Uploaded by: Wright, Michelle

Position: FAV

Good Afternoon,

My name is Michelle Wright and I live in Wicomico County. I am co-owner of a road side farm market located on Rt. 50. Our family farms approximately 800 acres of produce, corn and soybeans, as well as, we grow chickens for Perdue Farms. The majority of the produce is sold directly to our customers that visit our produce market.

Being a seasonal business, we employ 20 to 25 depending on the time of the year. Their daily tasks include stocking shelves, waiting on customers and daily cleaning and sanitizing. Keep in mind that we are typically providing their first job experience. We teach them life-long job skills that they will hopefully carry with them after graduating from school, college, or trade school. The young people don't have any prior job experience. We believe that an entry level position for someone with little to no job experience does not justify a \$12.50 per hour wage.

The financial impact is huge for agricultural stands, retail farms, and farmer's markets. The current minimum wage increase for 2021 and 2022 would require us to pay at least an additional \$16,000 in payroll plus the additional payroll taxes and interest to borrow the money. To give an example, we would need to sell an additional 37,000 ears of corn to cover this increase. The business of agritourism and selling produce on Maryland's Eastern Shore does not have a large margin to absorb this exorbitant wage increase.

-This wage increase will force our family to make some very difficult decisions such as:

*Do we hire experienced/older help to get more for our money?

*Do we hire less people and add to our current workload?

*Do we increase the cost of food/products/services?

*Find creative ways to cover hours open with less people?

Our family urges each of you to vote in favor of SB502 to exempt agriculture stands, retail farms and farmer's markets from the Maryland Wage and Hour Law. This was brought to your attention last year but time lapsed before you could vote. We appreciate your willingness to revisit this bill now and your commitment to our beautiful state of Maryland and the agriculture industry. If you need more information or have any questions, please don't hesitate to contact me.

L. Michelle Wright

Vice President, Cornerstone Farms, Inc. T/A Wright's Market

9300 Old Railroad Road

Mardela Springs, MD 21837

410-251-1388

michelle@wrightsmarket.com

SEIU Testimony OPPOSING SB502 FF\$15 Exemptions for

Uploaded by: Cavanagh, Terry

Position: UNF



SEIU MARYLAND & DC STATE COUNCIL

1410 Bush Street, Suite F, Baltimore, Maryland 21230

Testimony in **OPPOSITION to Senate Bill 502**

Labor and Employment – Maryland Wage and Hour Law – Agricultural Stands,
Retail Farms, and Farmers’ Markets

Senate Finance Committee

February 18, 2021

1:00 PM

Presented to: Delores G. Kelley, Chairman

By: Terry Cavanagh, Executive Director

SEIU Maryland & DC State Council urges a **Unfavorable Report to SB 502.**

We are proud to lead the ***Fight For \$15 Campaign*** nationally and in Maryland. We worked with many of you to pass the bill that gradually increases Maryland’s minimum wage to \$15 per hour in another few years.

SEIU is the largest union in North America. We unite workers in health care, public service, including public education, and property services to improve lives and the services we provide. We represent over 50,000 workers in the Maryland/DC/Virginia region. Our members have been active in passing ***Fight For \$15*** laws across the country because many of us earn low wages and understand that higher minimum wages not only help those on the bottom, but make it possible to negotiate higher wages for others.

We appreciate and understand that the sponsors of this bill are trying to meet the needs of certain small employers. However, while this appears to cover a category of employers for which there may be sympathy, we’ve seen insufficient evidence that they should be granted a special exemption.

The image of a farm stand is one that is common in Maryland. As we drive around our state, we may see a stand at the roadside, selling a family’s locally grown strawberries, tomatoes or corn and operated by a family member. Of course, those are the very situations that the General Assembly recognized when you granted fourteen (14) exemptions to the bill. Who is covered by this bill who does not already qualify for an exemption?

Besides the family farm stand, who else would qualify if this bill became law who isn't already exempt? Last year I gave the example to two businesses in Dorchester County I frequent. One, Simmons Market, a family-owned and operated business in downtown Cambridge since 1933 and Emily's Produce, also a family-owned and run business that is about two miles outside of Cambridge. Both are wonderful businesses that are more than worth your patronage. Although different, they sell many of the same items, such as meats, produce, jams, bread, cheese, eggs and sandwiches. Why would we give one an advantage over the other? As far as I know, both pay more than the minimum wage. Some of the retail farms see a large number of items, many from outside the area and have many employees, even during the off-season. Should those workers lose protection and those employers gain an unfair advantage over their competitors?

One legislator who supported the bill stated that Simmons was Walmart compared to Emily's. I resisted the temptation to respond and did NOT say, *"either you are unfamiliar with Walmart or unfamiliar with Simmons Market, because Walmart it is not"*

This would apparently exempt farmers' markets. Many of the vendors at these markets already qualify for one exemption or another. What is their rationale for being exempt? Farmers' Markets have seen a great increase in business over the last several years. Do we grant them an exemption as they increase their share of the market and penalize their competition?

Since many of the advocates for this kind of legislation are the same forces that opposed the Fight For \$15 bill, this begins to look like the camel's nose coming under the tent. We ask you to continue to protect Maryland's low-wage workers and reject this proposal.

We urge a Unfavorable Report on SB 502. Thank you.

SB 502 - Maryland Wage and Hour Law - Agricultural

Uploaded by: Cook, Chuck

Position: UNF



MARYLAND STATE & D.C. AFL-CIO

AFFILIATED WITH NATIONAL AFL-CIO

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President

Donna S. Edwards

Secretary-Treasurer

Gerald W. Jackson

**SB 502 – Labor and Employment – Maryland Wage and Hour Law – Agricultural Stands,
Retail Farms, and Farmers’ Markets
Senate Finance Committee
February 18, 2021**

OPPOSE

**Donna S. Edwards
President**

Maryland State and DC AFL-CIO

Madam Chair and members of the Committee, thank you for the opportunity to submit testimony in opposition to SB 502 – Labor and Employment – Maryland Wage and Hour Law – Agricultural Stands, Retail Farms, and Farmers’ Markets. My name is Donna S. Edwards, and I am the President of the Maryland State and District of Columbia AFL-CIO. On behalf of the 340,000 union members, I offer the following comments.

There are, currently, fourteen exemptions to minimum wage law in Maryland. From workers at drive-in theaters, to workers at a drug store that sells food for on-site consumption and has a gross income of \$400,000 per year, or less. At least four of the exemptions to paying workers minimum wage relate directly to agriculture, with a fifth one being regularly enjoyed by the industry via the exemption on immediate family members.

We see no reason to continue adding exemptions to paying Marylanders minimum wage. The argument, no doubt, will be made that workers at agricultural stands, retail farms, and farmers’ markets do not deserve to be paid appropriately because of the extremely low profit margins of farms. The problem is that the production of our food and the work provided to do so is already exempted under existing law. This activity is for retail sale of produce. Our grocery stores need to pay minimum wage, and they are engaged in direct retail sales, as well. We will also hear that most workers at these stands are teenagers, that this is their first job, and we cannot deny them the ability to work with onerous wages placed on the employers. Under current minimum wage law, those between 16 and 18 are already paid lower than minimum wage, and are, therefore, already exempted from the full minimum wage for adults.

We raised the wage in Maryland, and a full phase-in is still five years away. This is no time to take a step backwards and deny more workers the minimum wage. **For these reasons, we urge an unfavorable vote on SB 502.**

SB502 Opposition FF15 Coaltion.pdf

Uploaded by: DUMAIS, BRIG

Position: UNF



SB502: MD Wage and Hour Law
Agricultural Stands, Retail Farms, and Farmers' Markets
Official Testimony
Position: **UNFAVORABLE**

Members of the Senate Finance Committee,

My name is Brig Dumais, and I'm a Business Organizer with the Fight for 15 Coalition. I'm extremely disappointed to hear about SB502, a bill gutting the Fight for 15 bill that passed in 2019. A lot of compromises were made in the original Fight for 15 bill that exempted far too many workers already. It's incredibly disheartening that efforts to further weaken the bill are still being pursued, especially because we haven't even reached the \$15/hour minimum wage yet. Adding insult to injury, we are in the middle of a severe pandemic, and agricultural workers are essential workers. Now is the time to pay them *more*, not keep their base wages too low.

As I have said over the last several years, raising the minimum wage to \$15/hour for all workers good for business and spurs much needed economic growth.

- 1) **Workers are consumers too.** If people are not earning a living wage, they are not able to spend money at local businesses because they are living paycheck to paycheck. Raising wages enables low wage workers to support small businesses.
- 2) **Keeping wages low puts small businesses at a competitive disadvantage** because working people will shop based on what they can afford, and bigger businesses tend to have lower prices.
- 3) **Living wages reduce the overall cost of business.** Jobs that pay the lowest wages have the highest turnover rates. Retaining employees long term by paying them living wages ultimately saves money by reducing the costs of recruitment and training-- both of which are costly for business owners. Furthermore, long term employees make fewer mistakes, have increased productivity, and produce less waste, saving businesses owners even more money.
- 4) **Living wages mean better customer service.** In the age of online shopping, one of the things that keeps customers returning to brick-and-mortar stores is high quality customer service.

When workers are less stressed about their income, they are more attentive on the job and more friendly to customers. Workers feel valued when they earn a living wage, and when they feel valued they will contribute more to the success of the business where they work.

5) **Lower poverty rates reduce the strain on social safety-net program.** When workers can't pay their bills, they are often forced to rely on programs like Section 8, SNAP, etc. While it is good to have these programs as a safety net, it is not sustainable for workers to have to rely on them long term, so businesses need to pay their employees enough that they will not need such programs to survive. With COVID19, there is even more strain on safety net programs than before.

Implementing additional carve-outs after the Fight for 15 bill has already passed is a bad precedent that will create a slippery slope to further eroding the \$15/hour minimum wage, leaving more and more working families behind. Our economy is only as strong as the lowest paid worker. When workers are doing well, the economy does well. It's that simple. I strongly urge the Committee to issue an **unfavorable** report on SB502.

With all due respect,

Brig Dumais
Fight for 15 Coalition, Business Organizer
443-243-2078, Brigette.dumais@1199.org

PJC Opposition of SB 502 - Agricultural Exemptions

Uploaded by: Dworak-Fisher, Sally

Position: UNF



Sally Dworak-Fisher
Public Justice Center
201 North Charles Street, Suite 1200
Baltimore, Maryland 21201
410-625-9409, ext. 273
dworak-fishers@publicjustice.org

SB 502

Labor and Employment

Labor and Employment – Agricultural Stands, Retail Farms, Farmers’ Market Exemptions Hearing of the Senate Finance Committee, February 18, 2021

Position: UNFAVORABLE

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. The PJC **OPPOSES SB 502** and requests an **UNFAVORABLE** report.

SB 502 is an Unconscionable Response to a Non-existent Problem.

In the midst of a global pandemic when families are struggling to pay rent and keep food on the table, this bill would exempt more hard-working Marylanders from the very bare minimum wages to which they might otherwise be entitled. This effort to deny the bedrock minimum wages to more Marylanders is not only unconscionable, it is not necessary. Maryland’s Wage and Hour Law contains myriad exemptions that already deny far too many workers their basic right to earn the state’s minimum wage, including many who would likely be twice exempt if this bill passes. For example, the following individuals are already denied the right to be compensated even at the bedrock lowest rate applicable in Maryland:

- individuals at least 62 years old and employed no more than 25 hours in a week;
- children, parents, spouses, or other members of the immediate family of the employer;
- individuals working for an employer engaged in canning, freezing, packing, or first processing of perishable or seasonal fresh fruits, vegetables, or horticultural commodities, poultry, or seafood
- certain individuals working in agriculture;
- individuals compensated on a commission basis;
- individuals working principally in the range production of livestock; and/or
- certain individuals working as a hand-harvest laborer and is paid on a piece-rate basis in an operation that, in the region of employment, has been and customarily and generally is recognized as having been paid on that basis.

Some of these workers are likely employed at the various agricultural stands, retail farms, or farmers markets this bill seeks to add, and therefore already exempt.

Moreover, there is no economic justification for this exemption. This is nothing more than a windfall for businesses at the expense of the employees who work for them. By selling directly to consumers or the public via stands, retail farms, or farmers’ markets, these farms increase their profits. Selling directly is a business decision that maximizes

The Public Justice Center is a 501(c)(3) charitable organization and as such does not endorse or oppose any political party or candidate for elected office.

efficiencies and cuts out the middlemen; businesses save costs by avoiding having to pay for transportation or shipping to grocery stores or elsewhere. Thus, from an economics perspective, increased profit is baked into the direct-sale arrangement, and there is no compelling economic reason to relieve these businesses of any obligation to pay their employees the minimum wage. As such, this bill is a solution in search of a problem. Maryland should instead work to ensure that its minimum wage is guaranteed to more workers, not fewer.

SB 502 is anything but a 'technical fix.' It is a dangerous loophole.

Far from a technical fix, the bill would create a dangerous loophole given the combination of vague language and broad of the terms. It would exempt any individual who:

IS EMPLOYED AT AN AGRICULTURAL STAND, A RETAIL FARM, OR A FARMERS' MARKET THAT PRIMARILY SELLS AGRICULTURAL PRODUCTS THAT THE EMPLOYER HAS PRODUCED.

Relevant terms are undefined and subject to manipulation. For example, what is an "agricultural stand"? The term is not limited by square footage, nor number of employees, nor by whether it is enclosed or free standing. Further, the bill exempts those workers employed by entities that "primarily" sell "agricultural products that the employer has produced" but what constitutes "primarily" and who determines whether the employer produced the products is unclear. Relatedly, the terms are exceedingly broad, with the addition of "retail farms" and "farmers markets." Last year's fiscal note indicated that Maryland had approximately 147 farmers markets and 1,347 farms that sell to the public. Baltimore City alone hosts at least one large farmers market under the Jones Falls Expressway, with dozens of vendors and their employees working each weekend. Assuming farmers market average 20 employees, and each retail farm averages 5 employees, close to 10,000 workers could lose minimum wage coverage under this bill.

SB 502 Would Disproportionately Hurt Black, Immigrant, and Women Workers.

Over the last several decades, wages have stagnated despite increased worker productivity. Large percentages of workers earn wages that fall below what is needed to pay rent, buy food, and care for their families, with one in nine workers paid wages that fall below the poverty guideline for a family of their size.¹ Yet the racial composition of workers struggling with poverty level wages is not consistent across the board. To the contrary, racism in its various manifestations –occupational and housing segregation, barriers to education, anti-immigrant policies and criminal injustice –relegates many workers of color to the bottom rungs of the economic caste system. While fewer than 9% of white workers earned poverty level wages in 2017, nearly 20% of Latino workers and more than 14% of Black workers were paid such wages.² These disparities have not decreased over time: since the 1980's the share of Black workers earning poverty-level wages has consistently been 1.5 times that of white workers, while the ratio of the Latino workers earning such low wages has actually grown to 2.2 from 1.8 since 1986. At the same time, women are also overrepresented in low-wage jobs.³ In light of these stark disparities, any attempt to withdraw even the already-insufficient minimum wage should be flatly rejected.

For the foregoing reasons, the PJC **OPPOSES SB 502** and urges an **UNFAVORABLE** report. Should you have any questions, please call Sally Dworak-Fisher at 410-625-9409 ext. 273.

¹ David Cooper, *One In Nine Are Paid Wages That Can Leave Them In Poverty, Even When Working Full Time*, Econ. Pol. Inst. (June 15, 2018), <https://www.epi.org/publication/one-in-nine-u-s-workers-are-paid-wages-that-can-leave-them-in-poverty-even-when-working-full-time/>.

² David Cooper, *Workers of Color are Far More Likely to be Paid Poverty Level Wages than White Workers*, Econ. Pol. Inst. (June 21, 2018), <https://www.epi.org/blog/workers-of-color-are-far-more-likely-to-be-paid-poverty-level-wages-than-white-workers/>.

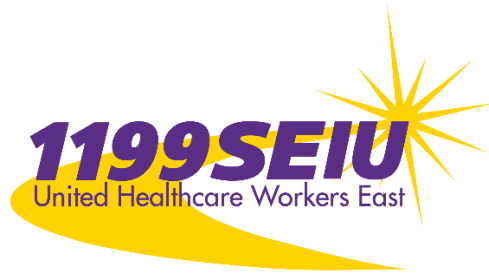
³ Anne Morrison & Katherine Gallagher Robbins, *Women's Overrepresentation in Low-Wage Jobs*, Nat'l Women's Law Ctr. (Oct. 2015), https://nwlc.org/wp-content/uploads/2015/08/chartbook_womens_overrepresentation_in_low-wage_jobs.pdf.

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Testimony-SB502-Maryland Wage and Hour Law - Agric

Uploaded by: jones, ricarra

Position: UNF



Testimony on SB502

Maryland Wage and Hour Law - Agricultural Stands, Retail Farms, and Farmers' Markets

Position: UNFAVORABLE

Dear Madam Chair and Members of the Finance Committee:

My name is Ricarra Jones, and I am the Political Director with 1199SEIU- the largest healthcare union in the nation, where we represent over 10,000 healthcare workers in Maryland. Given the number of essential workers we represent as well as the number of families that the Fight for 15 legislation will benefit now and, in the future, we adamantly oppose SB502.

Individuals who are employed at an agricultural stand, a retail farm, or a farmers' market are not individuals who need their wages cut to any extent. If passed, this legislation allows businesses to avoid the cost of paying these workers fair wages and thus, devaluing both the worker and the work that they execute.

By enacting this legislation, it would not only create a larger strain on the worker to make ends meet, but it would also cause the State to provide more financial support for these families including programs like SNAP and subsidized housing. Contrary to this position, if workers are able to benefit from the Fight for \$15 legislation, these workers would be better able to contribute to society and not worry about the basic need of being able to feed themselves, and their families.

For the reasons described above, we adamantly ask this Committee to oppose SB502.

Respectfully,

Ricarra Jones
Maryland/DC Political Director
1199SEIU United Healthcare Workers- East
Cell: [443-844-6513](tel:443-844-6513)

2021-02-18 SB 502 (Oppose).pdf

Uploaded by: Kemerer, Hannibal

Position: UNF

BRIAN E. FROSH
Attorney General



ELIZABETH F. HARRIS
Chief Deputy Attorney General

CAROLYN QUATTROCKI
Deputy Attorney General

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL

FACSIMILE NO.
410-576-7036

WRITER'S DIRECT DIAL NO.
410-576-6584

February 18, 2021

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

FROM: Hannibal G. Williams II Kemerer
Chief Counsel, Legislative Affairs, The Office of the Attorney General

RE: SB 502 – Labor and Employment – Maryland Wage and Hour Law – Agricultural Stands, Retail Farms, and Farmers' Markets – **Letter of Opposition**

The Office of Attorney General (the "OAG") urges this Committee to unfavorably report SB 502.

Senate Bill 502 seeks 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:

- Non-administrative 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 salesman;
- 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 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 at least \$11.75 per hour.

For the foregoing reasons, the Office of the Attorney General urges an unfavorable report on SB 502.

cc: Members of the Finance Committee
Senator Mary Beth Carozza
Senator Jason C. Gallion
Senator Douglas J.J. Peters
Senator Christ West
Senator Justin Ready

Labor and Employment - Maryland Wage and Hour Law

Uploaded by: Schablein, Jared

Position: UNF

**Labor and Employment - Maryland Wage and Hour Law - Agricultural Stands, Retail
Farms, and Farmers' Markets**

Bill Sponsor: Senator Carozza

Committee: Finance

Organization Submitting: Lower Shore Progressive Caucus

Person Submitting: Jared Schablein, LSPC Chair

Position: UNFAVORABLE

I am submitting this testimony in opposition to SB0502 on behalf of the Lower Shore Progressive Caucus. The Caucus is a political and activist organization on the Eastern Shore, unaffiliated with any political party, committed to empowering working people by building a Progressive movement on the Lower Eastern Shore.

A large segment of the membership of the Lower Shore Progressive Caucus work in the many different types of agricultural jobs that are on the Lower Eastern Shore. These workers are the lifeblood of the Eastern Shore economy and to have members of this body put forth legislation saying they deserve to make less than the rest of the state despite how difficult and vital their jobs are for the well-being of our region and state is nothing short of an insult. To make matters worse not a single legislator who has sponsored this bill has advocated for reducing their own salaries. These legislators expect to receive equal pay as legislators from other parts of the state and then turn around and demand rural workers work on reduced salaries.

The second reason we strongly oppose this bill is because farmworkers are essential workers. Since the start of the global pandemic there has been a major emphasis on highlighting the work and sacrifices of our essentials workers who keep things running at great risk to themselves and their families. Without the sacrifices of agricultural workers here on the Lower Eastern Shore

and across Rural Maryland we wouldn't have been able to keep our stores stocked and our society going during the pandemic. Also, these agricultural workers are often put in the most dangerous conditions and at the biggest risk of being exposed to Covid-19. There would be no cruel punishment than for this body to support legislation to reduce their pay after all the hardships they have endured and the work they do to keep our society functioning.

The third reason we strongly oppose this bill is because our workers need and deserve a livable wage. For decades, there has been a myth pushed that it is far cheaper to live in rural areas like the Lower Shore compared to more urban areas and that we can be paid several dollars less for our labor and still be able to survive. This has been proved false by a study conducted by Maryland Center on Economic Policy. Their study found that workers on the Lower Shore need to make between \$15.51 to \$18.56 an hour to be able to afford to live here. The study also found that the Lower Eastern Shore would be the biggest benefactor of raising the wage and lift many of our residents out of poverty. Eastern Shore workers are not inferior to other workers in Maryland and we can not afford to be excluded from the minimum wage increase.

For these reasons, the Lower Shore Progressive Caucus urges legislators to stand with Eastern Shore workers by opposing this bill and giving it an **UNFAVORABLE** report in committee.

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Position: UNF

Taking Away Worker Protections Would Move Maryland Backward

Position Statement in Opposition to Senate Bill 502

Given before the Senate Finance Committee

Lawmakers made a wise choice in 2019 by gradually raising Maryland's minimum wage to \$15 per hour over several years. Strong worker protections ensure that we all benefit as our economy grows, not just the wealthy few. Workers at farmers markets and farm stands work just as hard as anyone else—just as farm workers, young workers, and tipped workers do—and deserve the same protections. The Maryland Center on Economic Policy opposes Senate Bill 502 because it would reverse our state's progress toward an inclusive, healthy economy that works for all of us.

We should measure the health of our economy not simply by the number of dollars exchanged or the number of people who go to work each day, but by its ability to raise all families' standard of living. Yet our economy has largely moved in the opposite direction over the last half century. As total economic activity continued to grow, typical workers fell further behind while the wealthiest 1 percent doubled their slice of the economic pie.ⁱ

Basic standards like minimum wage and overtime protections push against this negative trend, helping to ensure that everyone shares in the benefits of a growing economy. But policymakers have too often undermined these protections by carving out special exclusions—in many cases with an explicit goal of excluding workers of color.ⁱⁱ Maryland's wage and hour laws already exclude a staggering number of workers, including:ⁱⁱⁱ

Certain seasonal employees; part-time employees younger than age 16; salesmen and those who work on commission; an employer's immediate family; drive-in theater employees; employees training in a special education program in a public school; employees of an establishment that sells food and drink for on-premises consumption and has an annual gross income of \$400,000 or less; employees employed by an employer who is engaged in canning, freezing, packing, or first processing of perishable or seasonal fresh fruits, vegetables, poultry, or seafood; and certain farm workers.

Adding yet another arbitrary exclusion would only serve to entrench our legacy of racist labor policy, chip away at the number of workers with full legal protection, and reverse Maryland's recent steps toward an inclusive, equitable economy.

For these reasons, the Maryland Center on Economic Policy respectfully requests that the Senate Finance Committee make an unfavorable report on Senate Bill 502.

Equity Impact Analysis: Senate Bill 502

Bill summary

Senate Bill 502 would exclude workers at farmers markets and farm stands from basic minimum wage and overtime protections.

Background

The General Assembly in 2019 passed legislation to gradually raise Maryland's minimum wage to \$15 per hour over several years. As introduced, the bill would have raised wages for 573,000 workers by \$2.6 billion and benefited 273,000 children once fully phased in.

However, lawmakers weakened the bill by adding a number of special carve-outs. While the minimum wage increase benefits hundreds of thousands of workers, it will also leave many behind:

- The law will continue to allow companies to pay tipped workers just \$3.63 per hour, less than 25 percent of the full minimum wage.
- The law will continue to exclude farm workers.
- The law takes away minimum wage protections from some young workers who stay at the same job for more than six months.
- The law does not include any provision to ensure the minimum wage keeps up with inflation in future years, meaning that workers will have to rely on lawmakers just to make sure the purchasing power of their wages doesn't erode over time.

Equity Implications

Historically, policymakers have often excluded certain workers from basic standards like minimum wage and overtime protections in order to advance, protect, or compromise with a white-dominated racial hierarchy.^{iv} The workers harmed by these carve-outs do not always look the same as when the exclusions were created, but they are still more likely to face a range of economic roadblocks than those who benefit from the law's full protection:^v

- Although Senate Bill 502 targets a relatively small set of specific jobs—which means there are not enough data to evaluate the specific impacts, these jobs exist at the intersection of two disproportionately low-wage industries. While typical Maryland workers overall take home about \$59,600 per year, agricultural workers take home only \$27,100 and retail workers take home only \$34,700.
- Compared to other industries, agricultural workers in Maryland are disproportionately likely to be Latinx, white, or members of a racial group not represented in Census Bureau categories. Compared to other industries, retail workers are disproportionately likely to be American Indian/Alaska Native, multiracial, Black, or members of a racial group not represented in Census Bureau categories

Impact

Senate Bill 502 would likely **worsen racial and economic equity** in Maryland.

ⁱ Christopher Meyer, "What a \$15 Minimum Wage Would Mean for Maryland: Good Jobs, Secure Families, and a Healthy Economy," Maryland Center on Economic Policy, 2018, http://www.mdeconomy.org/wp-content/uploads/2018/02/MDCEP_FF15_report-2.pdf

ⁱⁱ Rebecca Smith, Sarah Paoletti, Erin Argueta, Robert Manzanares, Chris Newman, and Chivy Sok, "Labor and Employment Rights in the United States: A Critical Look at U.S. Compliance with the Convention on the Elimination of All Forms of Racial Discrimination," U.S. Human Rights Network, https://www.nelp.org/wp-content/uploads/2015/03/CERD_labor_chapter_FINAL_120607.pdf

ⁱⁱⁱ Senate Bill 403 Fiscal and Policy Note.

^{iv} Smith et al.

^v MDCEP analysis of 2014–2018 IPUMS American Community Survey microdata.

SB502_UNF_MFFWP.pdf

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Position: UNF



**Senate Bill 502 (Senators Carozza, Gallion, Peters, West, Klausmeier, and Ready)
Labor and Employment - Maryland Wage and Hour Law - Agricultural Stands, Retail
Farms, and Farmers' Markets**

Position: Oppose

February 18, 2021

Chair Kelley, Vice Chair Feldman, and Members of the Finance Committee:

On behalf of the coalition Marylanders for Food and Farmworker Protection (MFFWP), we respectfully urge you to oppose Senate Bill 502. MFFWP formed in 2020 to ensure safe and healthy conditions for farm, seafood, and poultry workers in Maryland during the COVID-19 pandemic. This bill would exempt those working at agricultural stands, retail farms, and farmers' markets from the Maryland minimum wage and have a harmful impact on workers.

Food and agricultural workers are often undervalued for the essential role they play in our communities, and they continue to be cut out of laws designed to protect workers. Most agricultural workers are already exempt from Maryland's minimum wage law, which is an injustice that the General Assembly should fix – not exacerbate by passing this legislation to exempt even more agricultural workers.

On March 19, 2020, the U.S. Department of Homeland Security issued a memorandum that declared agricultural workers as essential workers. Indeed, agricultural work is not easy; it can require long hours and exact a physical toll. These workers have made tremendous sacrifices on the COVID-19 frontline. It's not enough to praise essential workers; we must also pay them. And there is no reason to believe this work is easier simply because it is performed on a seasonal basis. In order to build a food system that is equitable and strengthens our local economy, we must value the work of the people that are feeding our communities and ensure that they are able to make ends meet and feed their own families. We should not exempt workers at agricultural stands from minimum wage requirements.

In 2017, according to the [U.S. Department of Labor](#), a quarter of all farm workers had a family income below the official poverty level, while most of the others teetered just above it. [Most of them](#) were forced to rely on at least one public assistance program. A growing body of research highlights that poor-quality or stressful jobs that do not provide adequate compensation may

have a more detrimental impact on health than unemployment.¹ Economic insecurity exacerbates health issues by making it more difficult to access health care and medicine, take time off, and have access to basic necessities. With our current, unprecedented rates of food insecurity and deeply challenging economic conditions, it is even more imperative to ensure that all Maryland workers have what they need to stay healthy and thrive.

For these reasons, we strongly oppose Senate Bill 502 and urge the Committee to give it an UNFAVORABLE report.

Marylanders for Food and Farm Worker Protection includes the following organizations:

CATA – the Farmworkers Support Committee

Center for Progressive Reform

Centros de los Derechos Del Migrante

Chesapeake Physicians for Social Responsibility

Clean Water Action Maryland

Fair Farms

Farmworker Justice

Food & Water Action

Friends of the Earth

Maryland Pesticide Education Network

Migrant Clinicians Network

Public Justice Center

Smart on Pesticides Coalition representing 105 organizations, businesses and institutions

¹ <https://academic.oup.com/ije/article/47/1/47/4079898>