

Agricultural Worker Overtime

Understanding the Changes in the Law



Here are the highlights of changes coming to agricultural overtime eligibility since passage of a new law, and what those changes mean for agricultural workers and agricultural employers. The changes are expected to impact tens of thousands of agricultural workers and thousands of agricultural operations in Washington. The law, Engrossed Substitute Senate Bill 5172, took effect on July 25, 2021.

Key elements of the changes

- Dairy workers are entitled to overtime for hours worked over 40 in a workweek.
- Makes all agricultural workers eligible to earn overtime beginning Jan. 1, 2022.
- Under ESSB 5172, dairy workers cannot file claims for overtime hours worked prior to Nov. 5, 2020. However, dairy workers can do so if they feel they earned overtime pay after Nov. 5, 2020, but did not receive it.

Overtime phase-in schedule

- Incrementally reduces the number of hours agricultural employees need to work in a workweek before they are entitled to overtime pay:
 - As of Jan. 1, 2022: 55 hours
 - As of Jan. 1, 2023: 48 hours
 - As of Jan. 1, 2024: 40 hours
- The agricultural overtime exemption is removed from the Minimum Wage Act as of Jan. 1, 2022.

L&I enforcement

- If agricultural or dairy employees do not receive the overtime pay they are entitled to under the new law, they can file a worker rights complaint with L&I.
- The Employment Standards Program of the Washington State Department of Labor & Industries investigates all complaints.

- You can find information on filing a complaint, and the online complaint form, at www.Lni.wa.gov/workers-rights/workplace-complaints/worker-rights-complaints.

What you should also know

- The new law does not prohibit agricultural employees from working over 40 hours per workweek. It just determines when they need to be paid overtime.
- Employers can limit an employee's hours to 40 per workweek to avoid paying overtime.
- Overtime pay must be at least 1.5 times the employee's regular rate. Employees cannot waive their right to overtime pay.

Outreach and education

- The Employment Standards Program is holding a series of webinars and presentations for workers and employers. They are listed on L&I's "Workshops and Training Center" web page (www.Lni.wa.gov/Training). Look for them in the "Event Title" pulldown menu.

Resources

For more information on the changes in the overtime law, go to L&I's new web page on agriculture overtime at www.Lni.wa.gov/AgriculturalOvertime.

Questions?

Contact L&I's Employment Standards program at:

- Phone: 1-866-219-7321 (toll free)
- Email: ESFarmLabor@Lni.wa.gov

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