

# Electronic Alert

Volume 25, Issue 9

March 4, 2022

---

## Oregon Legislature Approves End to Agricultural Worker Overtime Exemption

By Wilson Jarrell

Yesterday, the Oregon legislature passed a contentious bill to end the long-standing overtime exemption for agricultural workers.

House Bill 4002 operates to phase out the overtime exemption over the next five years, while temporarily providing tax credits to farmers to compensate for the inevitably higher labor costs. The bill defines agricultural worker broadly, applying the term to any individual who performs services in the following areas:

- Farming in all its branches, including the cultivation and tillage of the soil;
- Dairying;
- The production, cultivation, growing, and harvesting of any agricultural or horticultural commodity;
- The raising of livestock, bees, fur-bearing animals, and poultry; and
- Any other practice performed by a farmer or on a farm as an incident to or in conjunction with farming operations, including preparation for market, delivery to storage or to market, or delivery to carriers for transportation to market.

The bill excludes individuals who are otherwise exempt from minimum wage requirements under ORS 653.020(1), as well as employees exempt from minimum wage and overtime requirements who qualify as administrative, executive, or professional salaried employees.

The phase-in schedule gradually reduces the number of hours agricultural workers in Oregon need to work in a workweek to receive overtime pay:

- 55 hours beginning January 1, 2023;
- 48 hours beginning January 1, 2025; and
- 40 hours beginning January 1, 2027.

Similarly, a tax credit will be available for employers of agricultural workers in three separate tiers, based on whether they employ more than 50 workers, between 25 and 50 workers, or less than 25 workers. The tax credit will be equal to a percentage of the additional wages paid as required overtime, and that percentage will decline over time as follows:

	2023	2024	2025	2026	2027	2028
Less than 25 workers	90%	80%	80%	60%	60%	60%
25 to 50 workers	75%	60%	60%	50%	50%	50%
More than 50 workers	60%	60%	45%	30%	15%	15%

A special tax credit applies to dairies, which will receive a 100% tax credit with no time limit if they have fewer than 25 workers, or fall into the middle tier above (with its associated time limit) if they have more.

The bill is currently awaiting the Governor’s signature.

*For questions about the end to Oregon’s agricultural overtime exemption and what this bill means for your workplace’s unique circumstances, contact Wilson Jarrell at 503-276-2181 or [wjarrell@barran.com](mailto:wjarrell@barran.com).*