

# MAINE STATE LEGISLATURE

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# 131st MAINE LEGISLATURE

## FIRST REGULAR SESSION-2023

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Legislative Document

No. 398

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H.P. 249

House of Representatives, February 2, 2023

**An Act to Make Agricultural Workers and Other Related Workers  
Employees Under the Wage and Hour Laws**

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Reference to the Committee on Labor and Housing suggested and ordered printed.

*Robert B. Hunt*  
ROBERT B. HUNT  
Clerk

Presented by Speaker TALBOT ROSS of Portland.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 26 MRSA §603, sub-§3, ¶D**, as amended by PL 2007, c. 640, §1, is further  
3 amended to read:

4 D. An individual exempt from the definition of employee in section 663, subsection  
5 3, paragraph A, C, F, G, I or J;

6 **Sec. 2. 26 MRSA §603, sub-§3, ¶F**, as enacted by PL 1999, c. 750, §1, is repealed.

7 **Sec. 3. 26 MRSA §663, sub-§3, ¶A**, as amended by PL 1975, c. 717, §5, is  
8 repealed.

9 **Sec. 4. 26 MRSA §664, sub-§3, ¶F**, as amended by PL 2019, c. 387, §1, is  
10 repealed.

11 **Sec. 5. 26 MRSA §664, sub-§3-A** is enacted to read:

12 **3-A. Overtime rate for individuals employed in agriculture.** Notwithstanding any  
13 provision of subsection 3 to the contrary, an employer may not require an individual  
14 employed in agriculture as defined in the Employment Security Law and the Federal  
15 Unemployment Tax Act and an individual employed in certain activities related to  
16 agriculture to work more than 40 hours in any one week unless 1 1/2 times the regular  
17 hourly rate is paid for all hours actually worked in excess of 40 hours in that week as  
18 provided in this subsection. The regular hourly rate includes all earnings, bonuses,  
19 commissions and other compensation that is paid or due based on actual work performed  
20 and does not include any sums excluded from the definition of "regular rate" under the  
21 federal Fair Labor Standards Act of 1938, 29 United States Code, Section 207(e).

22 A. Beginning January 1, 2024, an individual employed in agriculture or an individual  
23 employed in certain activities related to agriculture may not be required by an employer  
24 to work more than 40 hours in any one week unless 1 1/2 times the regular hourly rate  
25 is paid for all hours actually worked in excess of 50 hours in that week.

26 B. Beginning January 1, 2025, an individual employed in agriculture or an individual  
27 employed in certain activities related to agriculture may not be required by an employer  
28 to work more than 40 hours in any one week unless 1 1/2 times the regular hourly rate  
29 is paid for all hours actually worked in excess of 45 hours in that week.

30 C. Beginning January 1, 2026, an individual employed in agriculture or an individual  
31 employed in certain activities related to agriculture may not be required by an employer  
32 to work more than 40 hours in any one week unless 1 1/2 times the regular hourly rate  
33 is paid for all hours actually worked in excess of 40 hours in that week.

34 For the purposes of this subsection, "an individual employed in certain activities related to  
35 agriculture" means the canning; processing; preserving; freezing; drying; marketing;  
36 storing; packing for shipment; or distributing of: agricultural produce; meat and fish  
37 products; and perishable foods.

38 **Sec. 6. Effective date.** This Act takes effect January 1, 2024.

1 **SUMMARY**

2 This bill provides that agricultural employees and seasonal farm employees are subject  
3 to the laws that place limits on mandatory overtime. It also provides that agricultural  
4 employees are subject to the laws that set a minimum wage and overtime rate. It provides  
5 that the laws that set an overtime rate apply to certain activities related to agricultural  
6 produce, meat and fish products and perishable foods. The bill phases in overtime pay for  
7 individuals employed in agriculture and certain activities related to agriculture.