

FACT SHEET



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Remove the Ag. Exemption with Min. Wage Increase!

HB 395 – Delegate Ward
SB 7 – Senator Saslaw

Problem: A vestige of Jim Crow-era state laws, Virginia continues to exempt farmworkers from the protections of the Virginia Minimum Wage Act.

The farmworker exemption from the protections of the Virginia Minimum Wage Act (“VMWA”) has deep, historic, racist roots. Tracking the development of minimum wage laws shows the clear underlying racial animus of the farmworker exemption. Farmworkers were first excluded from the Fair Labor Standards Act (“FLSA”) when it passed in 1938, and historical records show that that exclusion was racially motivated. In one particularly acute example, Representative J. Mark Wilcox of Florida noted at the time, according to the 1937 Congressional Record: “There has always been a difference in the wage scale of white and colored labor . . . [y]ou cannot put the Negro and the white man on the same basis and get away with it.”

Policy Solution: While raising the minimum wage, we should simultaneously repeal § 40.1-28.9(A)(1), the subsection of the statute that exempts farmworkers.

In 2017¹, the USDA reported that the U.S. is food secure, and agriculture is thriving:

“88.2 percent of U.S. households were food secure throughout the year, meaning that they had access, at all times, to enough food for an active, healthy life for all household members,” and that **“since the mid-1990s, the median income of U.S. farm households has surpassed that of nonfarm households.”**

¹ FAQs, USDA, Economic Research Service, available at <https://www.ers.usda.gov/faqs/>.

“U.S. agriculture enjoys a trade surplus, with the value of exports exceeding imports. In fiscal year 2016, the value of agricultural exports reached \$129.7 billion compared to \$113.1 billion worth of agricultural imports, resulting in a trade surplus of \$16.6 billion. **The level of the surplus varies over time, and reached a high of \$43.1 billion in fiscal year 2014 when agricultural exports reached a record \$152.3 billion.”**

At the same time, a 2018 report by Farmworker Justice², relying on data from 2015-2016, reported that farmworkers continue to suffer:

The average total individual income of farmworkers was in the range of \$17,500-\$19,999.11. Thirty-three percent of farmworker families had incomes below poverty. However, because the survey results did not include dependents living outside of the United States, **this number likely *grossly underestimates* how many farmworker families are living in poverty.**

Most farmworkers (53%) have no health insurance, and limited access to health care, making them particularly vulnerable to environmental and occupational health hazards. Only 18% of employers offer health insurance to their workers.

Let’s remove vestiges from the Jim Crow era in Virginia’s minimum wage code!

The farmworker exemption from the VMWA is inequitable, unfair, and racist. It should be removed for the protection of farmworkers and their families, who perform some of the most difficult work in Virginia.

² Selected Statistics on Farmworkers (2015-2016 Data), Farmworker Justice, <https://www.farmworkerjustice.org/sites/default/files/resources/NAWS%20ata%20FactSheet%2005-13-2019%20-%20final.pdf> (relying on data from U.S. Department of Labor’s National Agricultural Workers Survey, 2018).