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Empire State
Council of Agricultural Organizations, Inc.



FARM CREDIT EAST



Northeast
Agribusiness
& Feed Alliance



November 23, 2020

The Honorable Andrew M. Cuomo, Governor
State of New York
Executive Chamber, State Capitol
Albany, NY 12224

Dear Governor Cuomo,

We the undersigned organizations are reaching out to relay an especially important message: the 60-hour overtime threshold is the absolute minimum our industry can tolerate without rendering irreparable long-term damage to our industry. The Wage Board record is clear: a 60-hour overtime threshold is manageable, but anything less than 60 hours will require the agriculture industry to make significant alterations, continuing only where labor is not required. Farmers growing labor intensive crops like fruits, vegetables and other commodities that cannot be automated, will not remain profitable while they compete in the marketplace. Even commodities that can adopt some labor-saving practices will see a financial impact. We respectfully request that New York keep the farmworker overtime threshold at 60 hours.

The farm community came to the table in the 2019 legislative session to establish the delicate balance required to address social justice issues, while maintaining economic stability in the agriculture industry. We could have chosen to continue our traditional posture of full opposition to changing existing labor laws governing farmworkers. Instead, we opted to be an active part of the solution.

Through dozens of hours of hearings hosted by the Senate Labor and Agriculture Committees, we demonstrated to legislators how passionate our industry is and how legitimate our arguments are for carefully balancing social justice and economic stability. State lawmakers came to understand that, unlike other industries, that may have similar employee conditions and characteristics, none are price takers as are farmers. Commodity markets are dictated by the lowest possible price, prices that farmers must take. As food producers, the market's constant downward pressure on prices require continuous production efficiency improvements to remain economically competitive. At the end of the hearing process, all parties agreed that the right overtime threshold for farm workers in New York State is 60 hours per week.

The wage board requirement, as part of the 2019 Farm Workers Fair Labor Practices Act, was a last-minute addition to the legislation to which the farm community expressed concern as it did not provide the time or representation that the industry believed was important to make an informed decision. The concerns expressed with the timeline for the Wage Board have come to fruition and has been further compounded by the COVID-19 pandemic. Now our "one year snapshot" of the impact of the law also has a number of other unpredictable factors beyond what any of us predicted including: labor shortages, loss of markets, and needing to adapt to an ever-changing regulatory framework to keep our families, employees, and consumers safe.

The seasonal farmworker community is disappointed with the 60-hour overtime threshold. Seasonal farmworkers are very motivated to work as many hours as they can, to earn as much as they can during a relatively short period of time, to support their families. Farm employers have no other economic choice but to reduce work hours below the 60-hour threshold to profitably grow a crop and many farmworkers were very disgruntled that their hours were reduced in 2020. There will be some seasonal farmworkers who will not return to New York next year because they can get employment in other states that will not restrict their working hours. Reducing the overtime threshold below 60 hours per week will only exacerbate this situation. The most unfortunate aspect of this situation is that farmworkers are earning less income because of the overtime threshold.

Please know that if the overtime threshold for New York farm workers is lowered to a level below 60 hours per week, the face of New York agriculture will be irreparably altered and we will no longer remain economically competitive in the crops and commodities that require a labor force. As farmers testified this year before the wage board, varieties of vegetables that require hand labor will continue to disappear, increasingly relying on imports from places that do not have strong worker protections like in New York State. Orchards will be pulled in lieu of field crops that only require machines for planting and harvest. Dairy farms will turn to robotic milking machines at a faster rate than today. Our regional and worldwide competitors—who have no such requirements—will only gain advantage from these changes, not New York farmers.

We recognize that New York is leader in the nation in many areas, and even though we currently may be leading other states when it comes to farm labor protections, we are on the precipice of policy that will lead farmers out of business. We the undersigned organizations respectfully request that the 60-hour overtime threshold be made permanent. Our industry's future, particularly the next generation of New York farmers and the communities they support, are dependent upon it.

Thank you for your serious consideration of our request.

David Zittel, President
Agricultural Affiliates

Leonard DeLalio
DeLalio Sod Farms, LLC

Brad Keating, Senior Vice President
& Chief Operating Officer
Dairy Farmers of America – Northeast Area

Thomas W. Cosgrove, Chair
Empire State Council of Agricultural Organizations

Greg DeBuck, President
DeBuck's Sod Farm of New York, Inc.

Thomas W. Cosgrove, Executive Vice President
Farm Credit East

Michael Braddel, Owner
Lakeside Sod Supply Company, Inc.

Ned Morgan, Owner
Morgan Farms, LLC

Jesse Mulbury, Chairman
New York Apple Association

Jason Swede, President
New York Corn and Soybean Growers Association

Jeff Williams, Director-Division of Public Policy
New York Farm Bureau

Jeremy Schulz, President
New York State Agribusiness Association

Elizabeth Malchoff, President
New York State Berry Growers Association

Christopher Ericson, President
New York State Brewers Association

Sue Adams, President
New York State Flower Industries

Steve Coye, President
New York State Grange

Ward Dobbins, President
New York State Horticultural Society

Tony VanGlad, President
New York State Maple Producers Association

Anthony Caggiano, President
New York State Nursery and Landscape Association

Brian Reeves, President
New York State Vegetable Growers Association

Charles Fleming, DVM, President
New York State Veterinary Medical Society

Erica Paolicelli, President
New York Wine Industry Association

John Clark, President
Northeast Agribusiness and Feed Alliance

John Dickinson, Chair
Northeast Dairy Producers Association

Daniel J. Wolf, President & Chairman of the Board
Upstate Niagara Cooperative, Inc.

James Buelow
Worcester Creameries