

March 30, 2020

The Honorable Ralph S. Northam  
Governor of Virginia  
Patrick Henry Building  
1111 East Broad Street  
Richmond, Virginia 23219

Re: We urge you to amend the minimum wage bills (SB7/HB395) to protect farmworkers

Dear Governor Northam:

On behalf of the Legal Aid Justice Center, I write to urge you to amend the “minimum wage bills,” SB7 and HB395, to **remove the exemption for farmworkers and the new exemption for H-2A and H-2B visa holders** inserted by the General Assembly during the 2020 Regular Session.

It has long been the case, but is dangerously clear now in the time of the COVID-19 pandemic: farmworkers and other agricultural and food-chain workers are essential to our survival, for our health and our economy. The U.S. Department of Homeland Security in its March 19, 2020, “Memorandum on Identification of Essential Critical Infrastructure Workers During COVID-19 Response”<sup>1</sup> identified farm and fishery labor workers, as well as farm support service workers, as among the critical infrastructure workers that State and local officials should consider as they work to “protect their communities, while ensuring continuity of functions critical to public health and safety, as well as economic and national security.”

If farmworkers and other food industry labor workers are “essential” during a time when their health and safety is just as at risk as the rest of our workforce—if not more so based on the dangerous work they perform and their lack of legal and physical protections—we cannot justify categorically eliminating them from basic wage and labor protections given to those who work in offices, schools, retail businesses, and other industries who are better able to seek shelter and ensure their health needs are met. Many of Virginia’s farmworkers have low incomes, lack access to medical care or the ability to pay for care, live in isolated but crowded work camps, and are often not fluent in English—all of which reduces the likelihood of testing, reporting, treatment, and recovery from COVID-19 exposure. And all of which increases their vulnerability to becoming ill.

But even outside of a pandemic, farmworkers face these challenges and barriers. And still we leave them unprotected by our basic state wage law, and in doing so, we continue to cement decades of Jim Crow-era discrimination in our statutes. We continue to stratify our workforce in ways that place the greatest health and economic burdens on the very workers our laws protect the least. Virginia—given our shameful and harmful roots in slavery and the legal and de facto discrimination and violence that still followed after its abolition—should be a leader in protecting vulnerable and disenfranchised workers. We should serve as an example for other states in how to value people over profits. Yet we lag behind many states who already have these basic legal protections for farmworkers in place.

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<sup>1</sup> <https://www.cisa.gov/publication/guidance-essential-critical-infrastructure-workforce>, last retrieved March 30, 2020.

Farmworkers are, quite literally, helping to put food on the tables of Virginia families, in both prosperous times and during the multi-faceted crises this COVID-19 pandemic creates and exacerbates. They do so under back-breaking conditions, often living far from their families and in lodging inappropriately described as “dormitory-style,” as it is worlds apart from the arrangements we provide for our college students. And yet, a significant portion of our economy would collapse without them.

Governor Northam, you have before you a critical way to demonstrate just how valuable our farmworkers are to the Commonwealth. You have a critical decision before you to further abolish the vestiges of Jim Crow from our code. And you have a critical opportunity to ensure farmworkers have the legal protections that justice and equality demands of a fair society. **We urge you, in this essential moment, to amend SB7 and HB395 to remove the farmworker and H-2A/H-2B exemptions from the wage laws sent to your desk by the General Assembly.** These exemptions find their roots in racism as much as any law ever on our books. We cannot continue to put industry profits above the individual people who are doing the hard work, or value an industry more than the workers who make it possible. We cannot continue to reinforce a class system that perpetually keeps agricultural workers—mostly Black and Brown Virginians—as the lowest forgotten tier. Please eliminate these exemptions in the bills before you and make this right.

Please let me know if I can answer any further questions or address any concerns.

Sincerely,



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