



The New York Farmworker: Hours, Wages & Injuries

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“This is dangerous work.
We don’t talk about it
because we want and need
to work. To be hired, you
can’t be known as someone
who talks about the
risks of this job.”



All quotations in this report are from New York Farmworkers.

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Executive Summary

This report is based on 530 surveys with New York State farmworkers on more than one hundred farms. This is the largest number of the state’s migrant, seasonal, and year-round farmworkers to participate in a single survey.¹ The goal of the survey was to collect data about farmworkers’ on-the-job injuries, compensation for lost worktime, working hours, and wages. This survey also sought to evaluate the implementation of the overtime provision of New York’s 2019 Farm Laborers Fair Labor Practices Act (FLPA).

Historically, farmworker voices have been absent in public discussions of New York farmworker policy. The state’s farmworkers are generally not citizens—they are undocumented and guestworkers—so they have good reasons to hesitate before speaking up about problems related to their workplaces, particularly if their housing is tied to their jobs. Many farmworkers fear that their employer may retaliate against them by cutting their hours, firing them, illegally evicting them, or calling immigration authorities.² This report foregrounds farmworkers’ experiences and opinions to help mitigate the absence of their voices in policy debates about their working conditions and wellbeing.

KEY FINDINGS

Respondent Demographics:

- 63% of respondents are from Long Island and 37% are from Upstate.
- The vast majority of respondents (91%) hail from two regions—Long Island (63%) and the Finger Lakes (28%).
- Men are 55% of respondents and women are 45%.
- The main sectors represented in this data are nurseries (21%), greenhouses (21%), vineyards (20%), fruit and vegetable farms (17%), and dairies (16%).

Percentages of ten or more are rounded to the nearest whole number; as a result, for some responses, the sum of percentages may not equal 100.

Lost-Worktime Injuries:

- 19% of respondents reported having a workplace injury that resulted in lost worktime.
- 33% of those with a lost-worktime injury are employed in dairy and 24% work on fruit and vegetable farms.
- The percent of Upstate respondents (29%) who reported a lost-worktime injury is more than double the percent of Long Island respondents (13%) who reported a lost-worktime injury.

These data do not cover all workplace injuries, only those that resulted in lost worktime.

The data reveal that almost one-fifth of respondents reported losing worktime as a result of being injured. Upstate dairy respondents reported the highest rate of lost-worktime injuries. Note that research reveals that many farmworkers continue to work even when they are experiencing pain due to a workplace injury.³

Payment for Lost-Worktime Injuries:

- 49% of those who reported having a lost-worktime injury said they did not receive payment of any kind for the lost worktime or medical bills.
- 44% reported receiving some type of payment for lost worktime or medical bills.

Farm injuries are a significant problem. Compared to other workers, farmworkers have fewer safety protections, reduced access to medical care, and “noteworthy physical and mental health hazards.”⁴ Research estimates that the federal statistics on work-related nonfatal injuries in agriculture were undercounted by 77.6%⁵ (see p. 23).

Of all the findings in this report, the lack of payment for lost-worktime injuries is the most significant, and could potentially have a long-term effect on workers’ health. The FLPA requires that all agricultural employers provide workers’ compensation and disability insurance for their employees. Farmworkers are also eligible for paid sick leave under the New York State Sick Leave Law.

It is clear that workers are not pursuing workers’ compensation claims, nor paid sick leave under the New York State Sick Leave law. This is likely due to lack of knowledge, language barriers, fear, or because some employers take workers to the doctor themselves and pay out of pocket. Workers may not realize that without a workers’ compensation claim, they will likely have to pay for long-term injuries themselves or just suffer without further treatment.

Worker Quotes

The injury stories in this report detail workers’ pain, frustration over lost wages, how medical bills were paid (by respondents themselves or employers, generally not by workers’ compensation), and feelings that their employers do not care about them. Additional quotes relate to workers’ thoughts on pay, overtime, days off, union organizing, and other workplace conditions.

Hours Worked:

- 56% of respondents reported working 60 or fewer hours a week.
- 44% reported working more than 60 hours a week.

Overtime Pay:

- 72% of respondents who log more than 60 hours a week reported receiving the legally required overtime rate of time-and-a-half after 60 hours.
- 25% of respondents who log more than 60 hours a week reported not receiving the overtime rate of time-and-a-half after 60 hours (wage theft).

The FLPA instituted the first-ever overtime threshold for New York farmworkers at 60 hours. In 2024, as the overtime threshold decreases, workers' income can increase without added cost to employers, who are eligible for a refundable tax credit of 118% of the overtime premium.⁶ This means farm employers will pay the same as if the overtime threshold was at 60 hours.

The data expose wage theft—one in four respondents who work more than 60 hours a week said their employer violated their right to overtime pay.

Method of Wage Payment:

- 95% of respondents receive either a hard-copy check or direct deposit for their wages.
- 5% are paid in cash.
- Less than one percent is paid both in check and cash.

In 2022 there were different minimum wage rates for Long Island (\$15.00) and Upstate New York (\$13.20); this accounts for the increased wages on Long Island.

Hourly Wage:

- 96% of respondents are paid at least the minimum wage.
- 4% are paid below the minimum wage (wage theft).
 - Those who are paid below the minimum wage (19 respondents) also reported a higher rate of overtime pay wage theft and a higher rate of injuries that resulted in lost worktime.
 - 32% of those not receiving the minimum wage work in dairy.
- Statewide: the 2022 average hourly wage is \$15.55.
- Long Island: the 2022 average hourly wage is \$16.19, \$1.19 more than the minimum wage
- Upstate: the 2022 average hourly wage is \$14.40, \$1.20 more than the minimum wage.

The data show that the vast majority of respondents are paid the minimum wage or higher. While the number of respondents receiving less than the minimum wage (wage theft) is small, the data suggest that employers who do not pay the minimum wage also tend to violate other worker protections and oversee workplaces that are more dangerous.

POLICY RECOMMENDATIONS

BIDEN ADMINISTRATION:

Under the Biden administration, the U.S. Department of Homeland Security (DHS) amended its deferred action program (which temporarily prevents detention or deportation) to include those involved in an active labor investigation. Those granted deferred action are generally permitted to remain and work in the US for an additional two years.

The deferred action program should allow those with a work-related injury or illness to stay in the U.S. for necessary medical treatment, to **assure appropriate medical attention for those who contribute their labor to U.S. farms**. In addition, H-2A visa holders with a work-related injury should be given extensions on their visas to seek medical attention in the U.S.

CONGRESS:

Since 1976, Congress has added a small farms rider to the Annual Labor-Health and Human Services Appropriations Bill, which exempts farms with fewer than eleven non-family employees from Occupational Safety and Health Administration (OSHA) enforcement authority.



Prevent the addition of this rider to the Annual Labor-Health and Human Services Appropriations Bill, to address the lack of attention to, and absence of data on, farmworker injuries. This would **allow for more accurate data on farm-related injuries** and better inform policy decisions about farm safety and health. At a minimum, Congress should allow OSHA to investigate fatalities on all farms. This would **improve tracking of work-related fatalities** and prevent the miscategorization of fatalities as not work related. This, in turn, would facilitate families' claims for death benefits from workers' compensation.

THE NEW YORK STATE LEGISLATURE AND THE GOVERNOR:

Increase funding for the New York State Department of Labor (NYSDOL) to conduct outreach to farmworkers to **better educate workers about their rights and identify labor law violations**. This would help **prevent the wage theft revealed in this report** and is particularly critical as the agricultural overtime threshold is lowered every two years.

Provide additional funding for the New York State Department of Labor to **prioritize anti-retaliation reports**, a pressing concern as farmworker unionization efforts increase.

Pass the Securing Wages Earned Against Theft Bill (SWEAT) (Senate Bill S1977, Assembly Bill A46) that, in cases of wage theft, would allow an individual, the NYSDOL, or the state Attorney General to file a wage lien on an employer's property. This would **add an additional mechanism to assure workers are paid for the hours that they worked**.

Pass the Empowering People in Rights Enforcement Bill (EMPIRE) (Senate Bill S541A, Assembly Bill A5876A) to allow workers or their representatives to initiate public enforcement actions against employers (currently only the NYSDOL can begin such actions) to compel employers to follow the state labor law. This would **expand the enforcement of labor protections** and add an additional mechanism to compel employers to respect workers' rights.

Create designated funding for community-based organizations to conduct wage theft prevention training with farmworkers. Educating workers about wage laws and how to report wage theft is critical to **mitigate the underpayment of farmworker wages**.

Pass Senate Bill S1161, Assembly Bill A2034 to increase the workers' compensation minimum weekly benefit and set it at one-fifth of the statewide average weekly wage. This would align the New York workers' compensation minimum weekly benefit calculation with New Jersey. The current minimum weekly benefit of \$150 is inadequate, and unfair to farmworkers whose employers pay them off the books. Increasing the weekly minimum benefit would **encourage more injured farmworkers to assert their rights**.



Increase funding for the New York State Workers' Compensation Board for enforcement and community outreach. This would **allow the Workers' Compensation Board to better fulfill its mission and protect the rights of more workers**. The Workers' Compensation Board is currently funded by assessments, which is not viable, especially considering the 2 percent cap on the growth of assessments for farmland.

Increase funding for the New York State Workers' Compensation Board to translate decisions and notices, currently only offered in English. Translation of these important documents would **create more accessibility for farmworkers who do not read or write in English**

Create designated funding for community-based organizations to conduct workers' compensation training with farmworkers. Educating workers about workers' compensation is vital to **ensure that workers who produce our food can secure appropriate medical services** when they suffer a work-related injury or illness.

Consider legislation to **better educate medical providers about workers' compensation**, to require them to provide information directly to workers about workers' compensation, and to file the standard CMS 1500 medical report in a timely manner.

Consider legislation to **improve farmworker access to medical attention**, such as requiring employers to transport workers for urgent medical care, this is especially important in remote rural areas.

Pass the Unemployment Bridge Program Bill (Senate Bill S3192, Assembly Bill A482) so that New Yorkers who are not eligible for regular unemployment insurance can receive compensation when they lose their jobs. This would **mitigate farmworkers' fear of retaliation** for reporting unsafe and/or unlawful working conditions.

Pass the State Language Access Bill (Senate Bill S3381A, Assembly Bill A503A), which would **extend language access requirements** (the translation of documents and forms) to all state and county agencies and departments. Currently this is only required by agencies under the Governor's jurisdiction.

Governor Hochul's "Strategic Industry Task Force Lessening Obstacles to Agriculture (SILO)," which addresses labor issues, should **include farmworkers and farmers who represent the interests of workers and the unions representing them.**

THE NEW YORK STATE DEPARTMENT OF LABOR:

Continue to **prioritize addressing anti-retaliation reports** from farmworkers, a pressing concern as unionization efforts increase across the state.

Create handouts with large text size and graphics to **better educate farmworkers about their rights.**

THE NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE:

Create an easy form and process for farm employers to request the 118% refundable tax credit for the overtime premium.



Background: New York Farmworkers

There is a significant dearth of data on farmworkers in the United States. This absence is particularly striking in contrast to the data available on farm owners and farm operations.

New York farmworkers fit into a variety of categories: seasonal or year-round; hired directly or hired via contractor; and varied legal statuses including citizen, green-card holder, H-2A foreign guestworker, or undocumented immigrant.⁷ Some migrant workers (this term excludes H-2A foreign guestworkers) tend to travel from within the United States to New York (typically within the Eastern Seaboard); they come and go in the same year. In contrast, other migrant workers stay in New York for a number of years or indefinitely. Farmworkers who are not U.S. citizens tend to fear that their employer may retaliate against them by cutting their hours, firing them, illegally evicting them, or calling immigration authorities.⁸

Crop work is seasonal, although some fruit and vegetable farms hire workers during the off-season months (e.g. to trim fruit trees and engage in farm maintenance). It is not uncommon for seasonal workers to live year-round in New York, including in employer-owned farm labor camps, even if they are not employed in the winter months.



Number of Farmworkers

There is no definitive estimate of the number of farmworkers in New York. The 2017 Census of Agriculture reports 55,945 employees are included in “hired farm labor” in the state. However, this number includes paid family members as well as “bookkeepers, office workers, maintenance workers, etc.”⁹ Additionally, New York farms hire contract workers—both domestic and foreign—including H-2A visa holders. The Census of Agriculture does not give a number for contract workers on New York farms. Rather, it reports the contract labor expenses, which comprise 15% of all labor expenses.¹⁰ A 2021 Legal Services Corporation report estimated 53,624 active farmworkers in New York State, including H-2A visa holders and other contract workers.¹¹

The number of H-2A workers is available. In 2017 (the year of the last Census of Agriculture), there were 5,603 H-2A visa entries to the United States for employment in New York. This is a lower number than the 6,870 positions certified. It is common for farm employers to ask for a higher number of guestworker positions to be approved, since weather and other conditions influence the actual number needed. In 2020, there were 7,406 H-2A visa entries to the United States for work in New York and 9,192 H-2A positions certified.¹² This represents a 32% increase in H-2A visa admissions of those destined for New York farms from 2017 to 2020.

Demographic Shift

Starting at the end of the 20th century, there was a shift in the composition of New York’s agricultural workforce by race, national origin, and legal status.¹³ The number of black farmworkers, including African American and Caribbean-born, declined as the number of Mexican and Central American immigrants grew. There was a corresponding decrease in citizens and green card holders and an increase in undocumented immigrants. The shift also included a decrease in workers who seasonally migrate from another state and an increase in seasonal workers who live year-round in New York. This began in crop work (roughly in the 1980s) and started later in dairy (in the early 2000s).

Agricultural Worker Defined¹⁴

Sometimes greenhouse, nursery, packing house, vineyard, and others are not considered agricultural employees and are therefore entitled to overtime pay after 40 hours. For example, when a greenhouse purchases plants that only need repotting and watering to be resold, that labor is not considered agricultural labor.¹⁵ If packing house workers pack products from a farm not owned by the same owner, those workers are not considered agricultural employees.¹⁶ Similarly, if vineyard workers do labor in the farm’s winery, that is not considered agriculture.¹⁷

A worker’s status is managed on a weekly basis—such workers may be considered agricultural employees for some weeks and not agricultural employees for other weeks. A vineyard worker who, for example, works most of a week outdoors in the vineyard and half a day in the farm’s winery is not considered an agricultural employee during that week and is entitled to overtime pay after 40 hours.¹⁸

There can be confusion about whether a worker is considered an agricultural employee or not. For example, one of the respondents stated, “I fix machinery and the farm considers me a mechanic, but I don’t get overtime after 40 hours.” Even though some mechanics do not engage with livestock or crops, they may be categorized as agricultural employees if the work they do “contributes to farm operations”.¹⁹

Union Organizing



With the passage of the FLPA, New York’s farmworkers earned the right to join a union through a card check process, overseen by the New York Public Employees Relations Board (PERB). Since farmworkers are excluded from federal collective bargaining protections, the National Labor Relations Act does not cover them; therefore a state agency must oversee farmworker unionization. On September 27, 2021, history was made when New York’s first farmworker union was certified by the PERB and RWDSU/UFCW Local 338 became the representative of employees at Pindar Vineyards in Peconic on Long Island.



“In terms of organizing, I am very nervous about losing my job. I know it’s technically illegal for the bosses to punish someone for wanting to organize, but I know workers who have been fired for this.”

“I am interested in learning more about the union. I was excited for Pindar workers to get their union.”



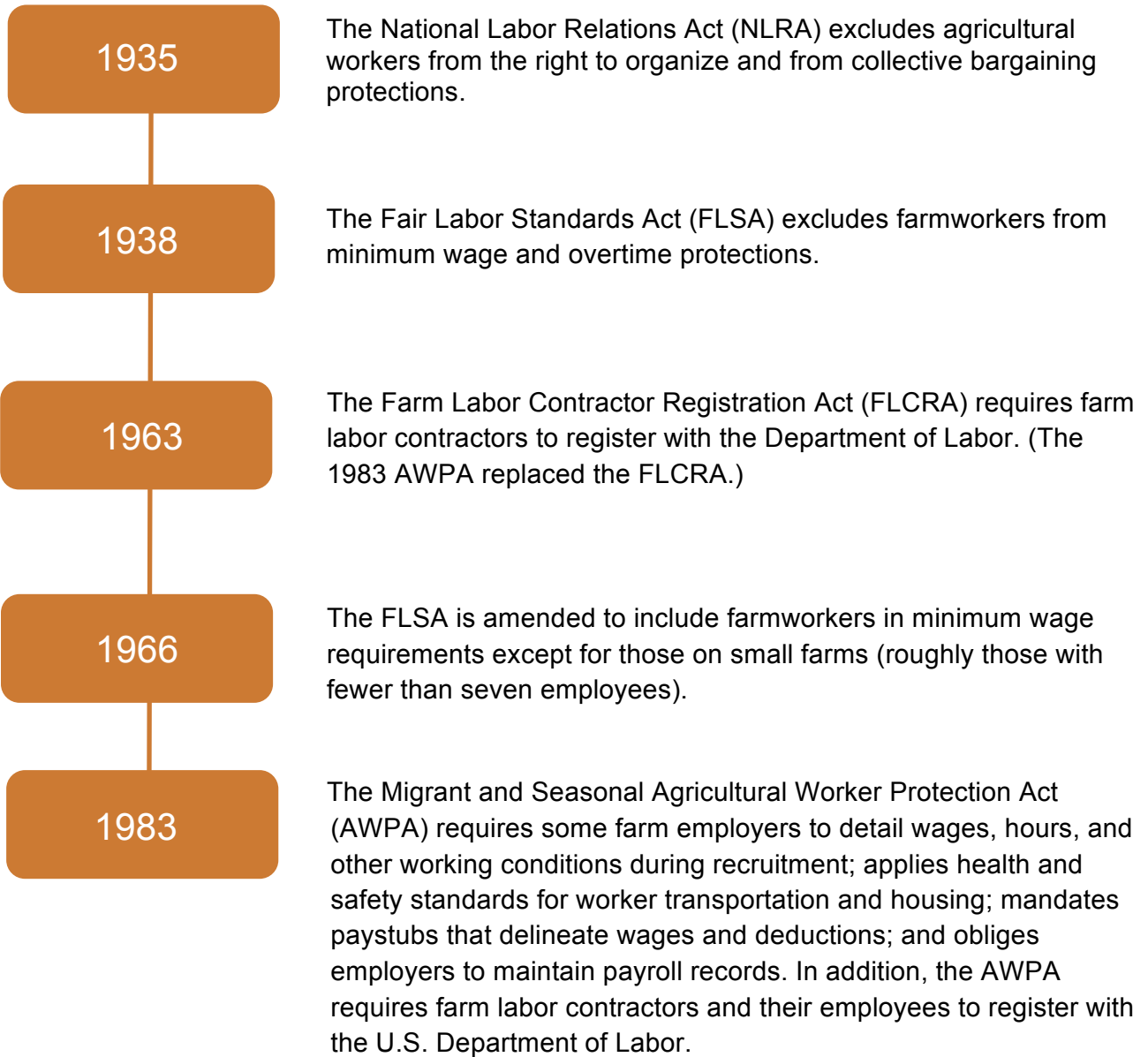
“I mostly like my work right now. I know about Pindar and think it’s very good. I know I have organizing rights, but I haven’t really thought about it much.”

“I feel positive about the Pindar union. I’m not totally dissatisfied with my job, but it could be better.”



Background: Federal Farmworker Policies

Citations for all federal and state policies can be found in Appendix B.



“I have been working at the same farm for twenty years and don’t get a day off.”



Background: New York Farmworker Policies

1937

The New York Labor Law excludes agricultural workers. (The relevant provisions were superseded in 2019 by the FLPA.)

1996

New York amends the labor law to require all farm employers to provide clean, cool drinking water with individual cups within a reasonable distance from the job site. Previously the law required this for farms with five or more employees.

1998

New York amends the labor law to require access to portable toilets and hand washing facilities for all farmworkers. Previously the law required this for farms with 11 or more employees. The facilities must be within a one-quarter mile walking distance, except where it is prohibited by terrain. For fewer than five employees, transportation can be provided to a separate site.

1999

New York amends the labor law to include farmworkers in the state wage law. Previously, only the lower federal minimum wage law covered farmworkers.

2013

The New York Department of Labor amends the Minimum Wage Order for Farmworkers requiring farm employers to pay the state minimum wage to youth under the age of 18. Previously, there were separate, lower wage rates for the following categories: 16- and 17-year-old harvest employees, 16- and 17-year-old nonharvest employees, and those younger than 16 years old.

2019

The Supreme Court of New York, Appellate Division, Third Department, rules that the exclusion of farmworkers from New York's organizing rights and collective bargaining protections violates the New York State Constitution Article I, § 17, which guarantees these rights to all the state's workers.

2019

New York's Farm Laborers Fair Labor Practices Act (FLPA) changes the definition of employee in the New York Labor Law to include farmworkers; previously, they were excluded from this definition. This means that future changes to state labor law will apply to agriculture. The FLPA also grants farmworkers (as of Jan. 1, 2020):

- Collective bargaining protections under the authority of the state Public Employees Relations Board (PERB). Strikes are prohibited.
- Overtime pay at time-and-a-half after 60 hours.
- A 24-hour day of rest in every calendar week
- Time-and-a-half pay if a farmworker voluntarily chooses to work on the day of rest, regardless of how many hours they log in that week.
- Disability insurance, which was not previously required.
- Workers' compensation. Previously the law only applied to farms with an annual payroll greater than \$1,200. The Workers' Compensation law requires employers to report a workplace injury or illness to their insurance carrier in a timely manner. In addition, FLPA changed the Workers' Compensation Law to require supervisors and contractors to report all workplace injuries to the farm employer.
- Inclusion in New York's 2018 Paid Family Medical Leave Act.
- Unemployment insurance on farms with \$300 or more payroll in any calendar quarter. Previously the law only applied to farms with an annual payroll greater than \$20,000 or farms that employed at least ten employees for 20 weeks of the year. The FLPA also removes the requirement that employers must pay unemployment insurance for H-2A foreign guestworkers.
- The establishment of a Farm Laborers Wage Board to hold hearings and consider whether to maintain or lower the 60-hour overtime threshold.

2022

New York's Labor Commissioner accepts the Farm Laborers Wage Board's recommendation that the overtime threshold for farmworkers be reduced to 40 hours by 2032. It will be lowered by four hours every two years, starting in 2024.

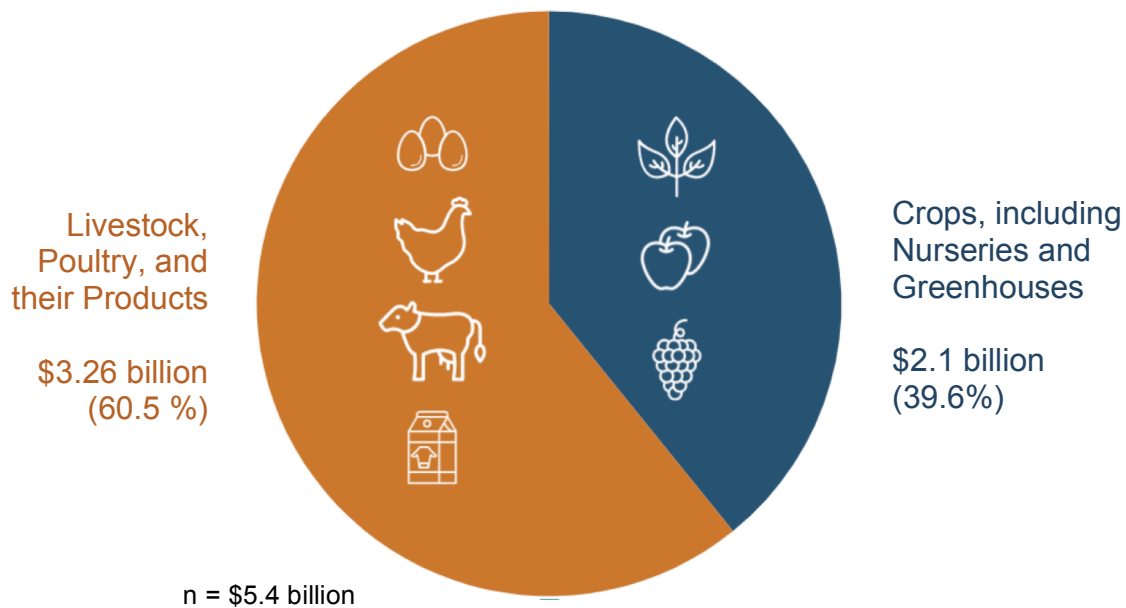
2022

New York amends the tax code to create a farm employer refundable tax credit of 118% of the overtime premium between the current overtime threshold and 60 hours.²⁰ Employers can request advance payment. In other words, as the overtime threshold decreases and workers' pay increases, employers' labor costs should be the same as if the overtime threshold were 60 hours.

Background: New York Agriculture

New York State has 33,438 farms²¹ spread over 6.9 million acres, which accounts for 21% of New York's land area.²² In terms of size, 71% of the state's farms are between 10 and 179 acres and 8.1% are 500 acres or more. The average farm size is 205 acres. Dairy is the largest sector of New York agriculture in terms of land area, accounting for 2.17 million acres or 31% of agricultural land.

Figure 1: Value of New York Agricultural Products



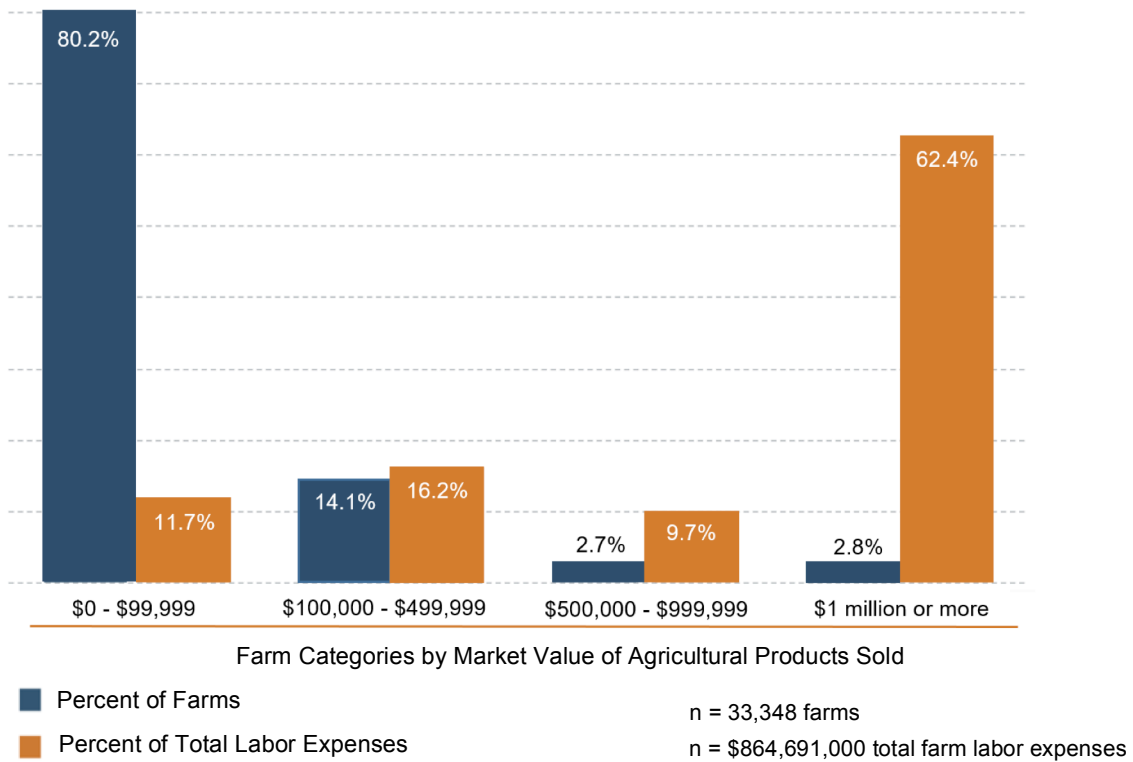
Source: "Table 1. Historical Highlights: 2017 and Earlier Census Years." *2017 U.S. Census of Agriculture New York State and County Data Volume 1, Geographic Area Series, Part 32*. United States Department of Agriculture, National Agricultural Statistics Service, 2019. <https://tinyurl.com/32udsry3>.

New York farms generate \$5.4 billion in sales; two-fifths of sales (\$2.1 billion) are from crops (including nurseries and greenhouses) and three-fifths of sales (\$3.26 billion) derive from livestock, poultry, and their products (see fig. 1).²³ Milk production, with sales at \$2.5 billion, is 47% of the state's total agricultural sales—the highest, by far, of any agricultural product.

Labor costs account for 20% of the state's total farm expenses.²⁴ A little more than one-quarter (27%) of New York's farms have labor expenses; in other words almost three-quarters of farms have no labor expenses. Figure 2 reveals that 62% of total farm labor expenses are incurred by only 2.8% of New York farms; these farms have one million dollars or more in annual sales.

Sixteen New York agricultural products rank in the top five nationally for sales (see table 1).

Figure 2: Market Value of Agricultural Products Sold and Labor Expenses



Source: "Table 4. Farm Production Expenses: 2017 and 2012" *2017 U.S. Census of Agriculture New York State and County Data Volume 1, Geographic Area Series, Part 32*. United States Department of Agriculture, National Agricultural Statistics Service, 2019. <https://tinyurl.com/32udsry3>.

Table 1: New York National Product Ranking

Product	NY National Rank
Cottage Cheese, Yogurt	1
Sour Cream, Maple Syrup, Cabbage, Apples, Snap Beans	2
Italian Cheese, Grapes, Squash, Calves, Wine	3
Corn for Silage, Milk	4
All Other Cheese, Tart Cherries	5

Source: "2020-2021 Agricultural Statistics Annual Bulletin-New York." *Annual Statistics Bulletin*, United States Department of Agriculture, National Agricultural Statistics Service, 2021, <https://tinyurl.com/bdd85p9n> and "Statistical Report By State-Wine." *Wine Statistical Report for Calendar Year 2016*, Alcohol and Tobacco Tax and Trade Bureau, United States Department of Treasury, 2016 (the wine ranking is based on production of bulk wine gallons) <https://tinyurl.com/5n6bjb6k>.

Methodology

This descriptive study of New York farmworkers employs a cross-sectional design (looking at data at a specific point in time) to examine respondents' on-the-job injuries, compensation for lost worktime, working hours, and wages, as well as the early implementation of the overtime provision of the FLPA. The Trabajadores Agrícolas Unidos (TAU) coalition generated the survey questions and its union organizers conducted the survey. The coalition includes the United Food and Commercial Workers (UFCW), the Retail, Wholesale and Department Store Union (RWDSU), UFCW Local One, UFCW Local 888, and Local 338 RWDSU/UFCW. The TAU provided the data to the authors. The TAU coalition members were not involved in the data analysis, nor the writing of this report.

Sample

To survey New York state farmworkers, a convenience sample was employed as opposed to a random sample of the entire population of New York farmworkers. Agricultural laborers were identified based on union organizers' previous contacts. Additional respondents were identified through snowball sampling, whereby those who took the survey provided names of potential respondents. The survey also could be completed online. To recruit online respondents, the TAU posted links to the survey on its Facebook page on April 27, 2022. In addition, in the spring of 2022, the Midstate Council on Occupational Safety and Health and the Worker Justice Center of New York both sent text messages with a link to the online survey to their lists of farmworkers.

The survey did not aim to determine which respondents were agricultural workers according to the definition on page 10. Some of the respondents volunteered that they were paid overtime after 40 hours; they were employed in nurseries, greenhouses, and packing houses. As such, some respondents may technically not be agricultural employees. For the purposes of this report, we include their responses for several reasons. The work tasks and working conditions of the non-agricultural-employee respondents are not distinguishable from the agricultural-employee respondents. Moreover, this data is valuable to service providers and advocates, who often do not know who is technically classified as an agricultural worker and who is not; they help workers regardless.

To be included in the sample, survey respondents had to be employed doing agricultural work tasks in New York after January 1, 2020 (when the FLPA took effect). Survey respondents were not compensated for their participation. This sample is not statistically representative of New York's farmworker population, since the survey employed a convenience and snowball selection method.

Data

Sample data for this report are based on 602 in-person, telephone, and online surveys conducted with New York farmworkers between December 1, 2021 and May 15, 2022. The surveys were conducted in Spanish and English by six TAU organizers. Potential survey respondents were contacted either in person or on the phone, received a description of the survey questions, and were asked for oral consent to participate; the survey was either conducted at that time or scheduled for a later time. Eight respondents independently completed the survey online. Surveys were conducted without the knowledge of employers. This is the largest number of the state's migrant, seasonal, and year-round farmworkers to participate in a single survey.²⁵

The authors received the raw data in a spreadsheet, and cleaned the sample to include only those who met the sample criteria and to remove incomplete and duplicate responses. The final sample had 530 respondents on at least 101 farms (22% of respondents did not report the name of their employer).

Available in Spanish and English, the survey instrument consisted of 13 questions (see Appendix A). These included 12 closed-ended questions and one open-ended question. The questions relate to respondents' work-related injuries that resulted in lost worktime, their pay, and the number of hours they worked. On average, it took respondents 20 minutes to complete the survey.



The open-ended question yielded comments. We included these comments, except for those that were not legible or did not have enough context to stand on their own (e.g. "I got hit"). For the comments, the following categories were created using content analysis: day of rest, number of hours per week, overtime pay, unions, working conditions, wages, Covid-19, and injuries. For consistency, some comments were edited to appear in the first person. Comments in Spanish were translated into English. Occasionally the authors sought translation assistance with comments, though two of the authors speak and read Spanish proficiently.

Respondents who offered comments about their injuries were contacted a second time by the TAU organizers for clarification and elaboration on their comments. Some details were removed from these injury stories to protect the confidentiality of the respondents.

Analysis

Since the minimum wage increased from 2021 to 2022, respondents were contacted a second time to update wage data if they completed a survey in December 2021. When that was not possible, wage data were removed, but the remaining survey responses were preserved. All responses were analyzed except for questions nine and ten, which yielded unreliable responses; these are not reported.

Respondent Demographics

Long Island respondents account for 63% of the sample and 37% of respondents are from Upstate (see fig. 3).

We use the term “Upstate” to describe areas of New York that are not Long Island, Westchester, and New York City. Recognizing that this is considered a controversial definition of Upstate,²⁶ table 2 offers more nuance by depicting the number of respondents from each Upstate region represented in this report. These regions are from New York’s Empire State Development.²⁷

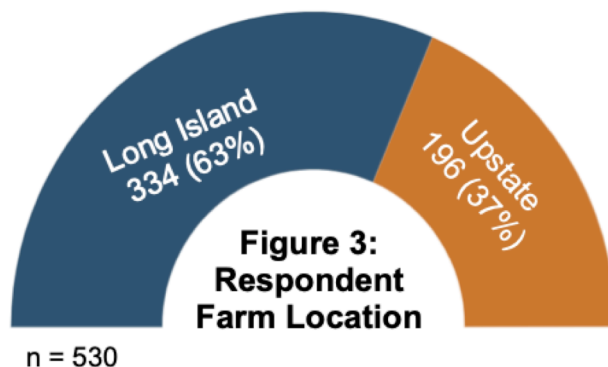


Table 2: Upstate Respondents

Region	Number of Respondents	Percent of Upstate Respondents
Finger Lakes	148	75.5%
Central New York	25	12.8%
Mid Hudson	7	3.6%
Western New York	5	2.6%
Southern Tier	3	1.5%
North Country	1	0.5%
Unknown Upstate	7	3.6%

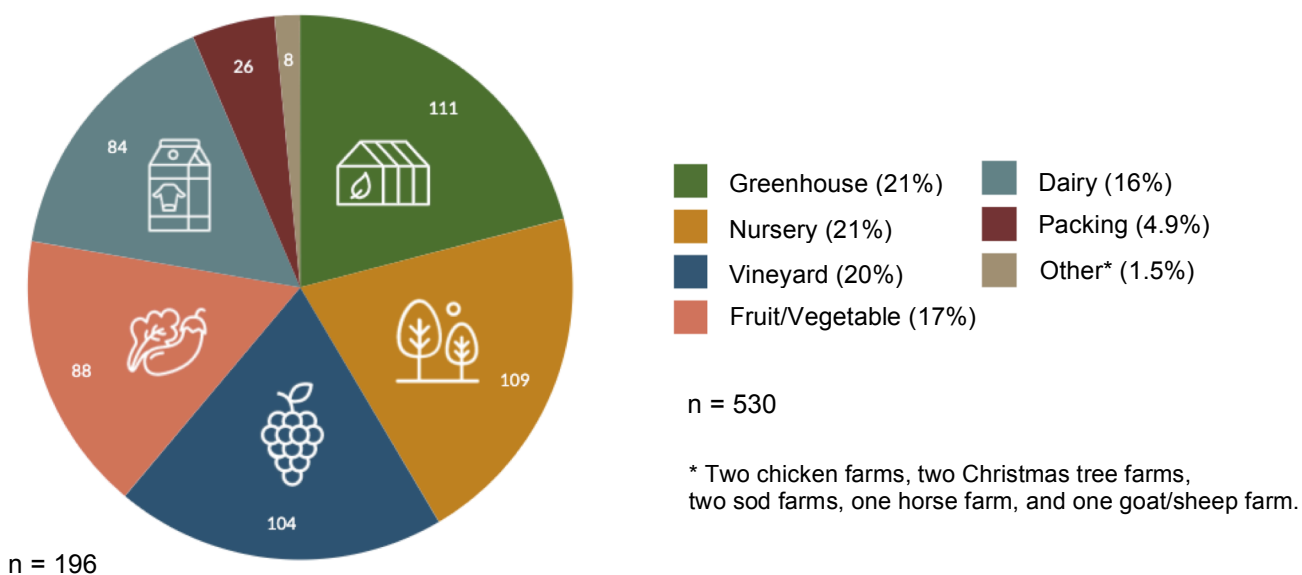
n = 196

Long Island respondents, all from Suffolk County, make up 63% of the sample. Finger Lake respondents are 28% of the sample (and 76% of Upstate respondents). This requires explanation. Suffolk has the highest number of hired workers in New York and the highest labor costs of any New York county—11% of the state’s hired and contract labor expenses—spending almost twice as much as the next highest county (Wayne in the Finger Lakes).²⁸

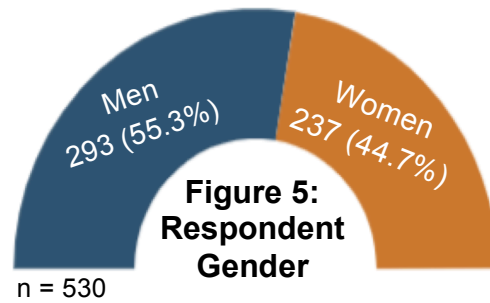
In addition, among New York’s top ten agricultural counties by number of hired workers, farmworkers in Suffolk are more accessible because of the population density (1,674.7 people per square mile). This is 173% higher than the county ranked second for the number of hired workers, Onondaga in Central New York (612.2 people per square mile), and 859.1% higher than the county ranked third for the number of hired workers, Ontario in the Finger Lakes (174.6 people per square mile).²⁹

It is also worth noting that Suffolk ranks 16th nationally of the 2,601 U.S. counties that engage in nursery, greenhouse, floriculture, and sod³⁰ and second in the state for wine manufacturing.³¹ As a result, a high percent of respondents are from the nursery, greenhouse, and vineyard sectors (see fig. 4).

Figure 4: Respondent Farm Sector



Percentages of ten or more are rounded to the nearest whole number; as such, for some responses, the sum of percentages may not equal 100.



The sample data have a high percent of women respondents (45%), compared to the national average (26%). This is due to the high percent of greenhouse and nursery worker respondents—42% of those surveyed (see fig. 4). Women tend to be a greater concentration of the agricultural labor force in New York’s nurseries, greenhouses, and packing houses, compared to other farming sectors. Notably, the share of women farmworkers in the United States has increased in recent years, from 21% in 2012 to 26% in 2019.³² The percent of women respondents per sector are: 77% greenhouse, 77% packing house (produce), 64% nursery, 36% fruit/vegetable farm, 17% dairy, and 13% vineyard (see table 3).

Table 3: Women Respondents

Farm Sector	Number of Women Respondents	Percent of Women Respondents
Greenhouse	86	77%
Packing House	20	77%
Nursery	70	64%
Fruit/Vegetable	32	36%
Dairy	14	17%
Vineyard	14	13%
Other	1	13%

n = 530

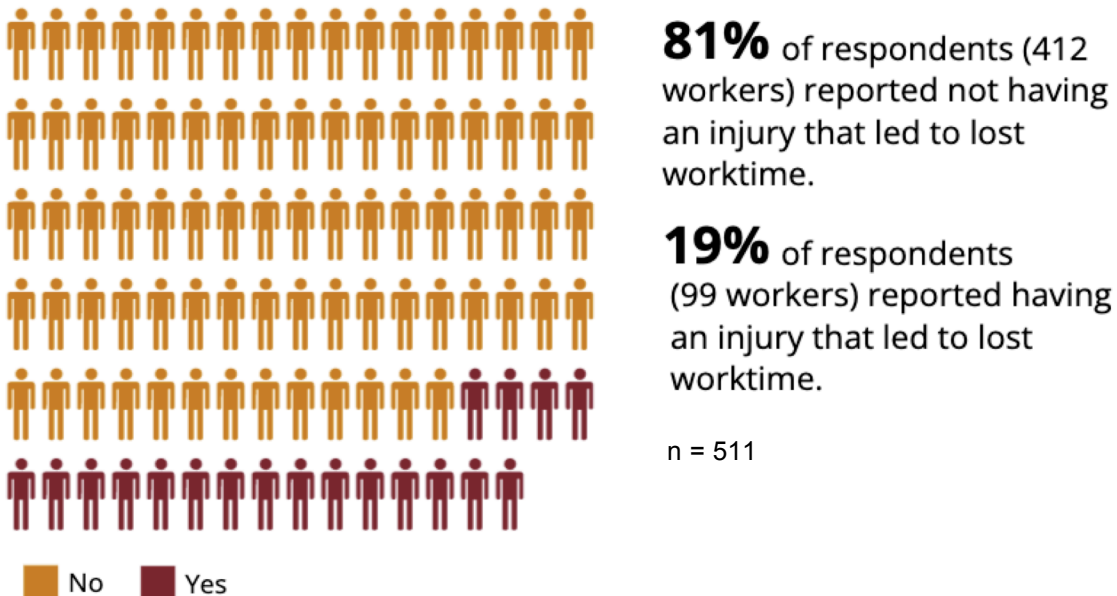


PART I: INJURIES

Lost-Worktime Injuries

Farming is one of the most dangerous industries in the United States for laborers and farm owners alike. Farmworkers and their families “experience noteworthy physical and mental health hazards,” poor access to health services, and farmworkers have fewer health and safety protections than other workers. Furthermore, the fear of retaliation and lost income can lead workers to avoid reporting unsafe working conditions.³³

Figure 6: Lost-Worktime Injuries



Almost one in five respondents (19%) reported losing worktime due to an on-the-job injury (see fig. 6). These data do not cover all workplace injuries, only those that resulted in lost worktime. Note that research reveals that many farmworkers continue to work even when they are experiencing pain due to a workplace injury.³⁴

Work-Related Nonfatal Injuries

The U.S. Bureau of Labor Statistics (BLS) tracks work-related nonfatal injuries by private industry category. While the BLS is an important source for nonfatal injury data, a 2014 study estimated that the BLS failed to identify 77.6% of work-related nonfatal injuries and illnesses in U.S. agriculture. The study identified behavioral obstacles to reporting injuries, including

employer negligence and “willful underreporting” by employers or employees. The study also pointed to institutional obstacles for tracking injuries, such as an undercount of workers employed in agriculture, the exclusion of self-employed farmers from reporting requirements, and the fact that the BLS does not report work-related injuries that occur on small farms.³⁵

The lack of reporting from small farms is a major reason for the undercount of work-related nonfatal injury data in agriculture, since the BLS data exclude farms with fewer than eleven non-family employees. The BLS draws on data from the Occupational Safety and Health Administration, which has been prohibited from regulating smaller farms since 1976.³⁶

According to the BLS, the highest rate of nonfatal work injuries is in the category Agriculture, Forestry, Fishing and Hunting,³⁷ with a rate of 4.1 per 100 full-time equivalent (FTE) workers.³⁸ In the subcategory Crop Production the rate is 4.2 and in the subcategory Animal Production and Aquaculture the rate is 4.8. All private industry categories combined have a work-related nonfatal injury rate of 2.2 per 100 FTE workers.³⁹

New York’s work-related nonfatal injury rate for the category Agriculture, Forestry, Fishing and Hunting is 3.2 injuries per 100 FTE workers; the rate in the subcategory of Crop Production is 2.4. There is no 2020 BLS category for New York for the subcategory Animal Production and Aquaculture. The work-related nonfatal injury rate for all industries combined is 2.7 injuries per 100 FTE workers.⁴⁰ In contrast to the BLS data, other research on migrant and seasonal farmworkers found the injury rate for New York State was 11.7 injuries per 100 FTE workers.⁴¹

To summarize, the work-related nonfatal injury rate per 100 FTE workers:

- 4.1 in Agriculture, Forestry, Fishing & Hunting in the United States (BLS).
- 4.2 in the subcategory Crop Production in the United States (BLS).
- 4.8 in the subcategory Animal Production and Aquaculture in the United States (BLS).
- 3.2 in Agriculture, Forestry, Fishing & Hunting in New York (BLS).
- 2.4 in the subcategory Crop Production in New York (BLS).
- 11.7 for New York’s migrant and seasonal farmworkers (Brower et al.).
- Estimated 77.6% undercount of injuries and illnesses by the BLS (Leigh et al.).

Work-Related Fatalities

There is a noteworthy problem tracking work-related fatalities on small farms due to OSHA’s lack of enforcement authority on farms with fewer than eleven non-family employees. Without a thorough OSHA investigation, fatalities on small farms can be mistakenly categorized as not work-related.

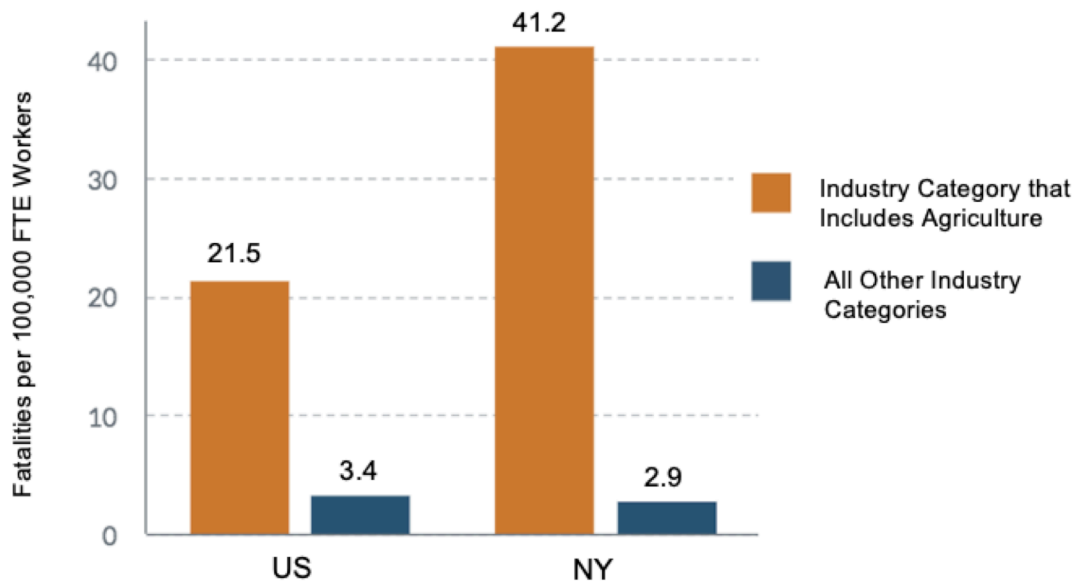
The BLS reports work-related fatality rates by both occupation and industry.⁴² By occupation, farmworkers fall under the category Miscellaneous Agricultural Workers,⁴³ and have a work-related fatality rate of 16.6 per 100,000 FTE workers. Additionally, the category Farmers,

Ranchers, and Other Agricultural Managers has a work-related fatality rate of 20.9. These rates are much higher than the fatality rate of 3.4 for all occupations.⁴⁴

By industry, the federal fatality rate for the category Agriculture, Forestry, Fishing and Hunting is 21.5 per 100,000 FTE workers; the subcategory Crop Production has a fatality rate of 20.8; and the subcategory Animal Production and Aquaculture has a rate of 12.8. These rates are much higher than the fatality rate of 3.4 per 100,000 FTE workers for all industries.⁴⁵

At the state level, New York’s fatality rate for the category Agriculture, Forestry, Fishing and Hunting is 41.2 per 100,000 FTE workers. This is 14 times the rate of 2.9 for all other industry categories in the state. Construction, with a rate of 11.1, is the next highest industry category.⁴⁶ As is evident in figure 7, the fatality rate for the category Agriculture, Forestry, Fishing and Hunting in New York is almost twice as high as the rate in the nation as a whole.

Figure 7: Fatality Rates in Agriculture v. All Other Industries



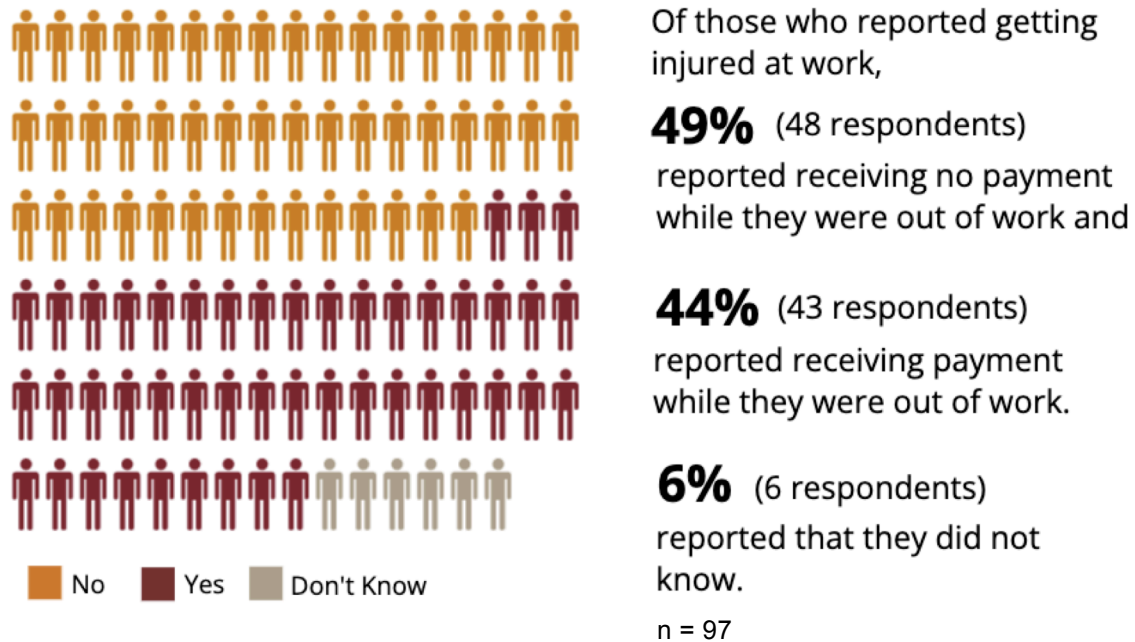
Source: “Total hours worked and rates of fatal occupational injuries by selected worker characteristics, occupations 2020.” *Survey of Occupational Injuries and Illnesses Data*, United States Department of Labor, Bureau of Labor Statistics, 2020, <https://tinyurl.com/2p82ct8y>.

“When I was injured, I didn’t rest, because they don’t pay for time off—even when injured at work.”

“I was out for five weeks with COVID and was paid part of my wages.”

Payment for Lost-Worktime Injuries

Figure 8: Payment for Lost-Worktime Injuries



Roughly half of the respondents (49%) who reported having an on-the-job injury that resulted in lost worktime said they did not receive any payment for the lost worktime (see fig. 8). Keep in mind that workers who should have taken time off for an injury may not have done so.

Of all the findings in this report, the lack of payment for lost-worktime injuries is the most significant, and could potentially have a long-term effect on workers' health. The FLPA requires that all agricultural employers provide workers' compensation and disability insurance for their employees. Farmworkers are also eligible for paid sick leave under the New York State Sick Leave Law.




It is clear that workers are not pursuing workers' compensation claims, nor paid sick leave under the New York State Sick Leave law. This is consistent with a 2000-2001 study of more than 2,000 injuries or illnesses of Northeast migrant and seasonal farmworkers, which demonstrated that only 2.8% applied for workers' compensation.⁴⁷ This is likely due to lack of knowledge, language barriers, fear, or because some employers take workers to the doctor themselves and pay out of pocket. Workers may not realize that without a workers' compensation claim, they will likely have to pay for long-term injuries themselves or just suffer without further treatment.

New York (one of 14 states in which farmworkers are eligible for workers' compensation)⁴⁸ requires a "waiting week". In other words, eligibility for workers' compensation begins on the 8th calendar day of lost worktime. If the lost worktime exceeds 14 days, an employee is eligible to be paid from the initial date of lost worktime; 14 days or fewer, an employee will not be paid workers' compensation for the first week.⁴⁹

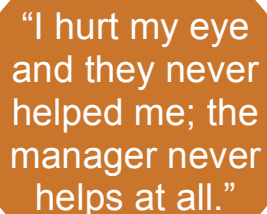
Farmworkers may be eligible for remuneration for that first week under the New York State Sick Leave Law.⁵⁰ Yet they have obstacles to accessing workers' compensation and paid sick leave, including lack of awareness about the program, limited English language skills, and fear of deportation and employer retaliation.⁵¹

Paid sick leave for New York farmworkers is dependent on a farm's number of employees and net income.⁵²


- Farms with fewer than five employees and a net income of less than \$1 million are only required to provide 40 hours of unpaid sick leave per year.
- Farms with fewer than five employees and income exceeding \$1 million are required to provide 40 hours of paid sick leave per year.
- Farms with 5-99 employees, regardless of income, are required to provide 40 hours of paid sick leave per year.
- Farms with 100 or more employees are required to provide 56 hours of paid sick leave per year.
- Farmworkers accrue one hour of sick leave for every 30 hours worked.



"I was out for a week and was paid for 40 hours."



"I hurt my eye and they never helped me; the manager never helps at all."



"They paid for my medical costs, but not lost days."

When analyzing these data by the other variables, several data points stood out:

- The highest lost-worktime injuries by sector were in dairy with 33% of dairy-worker respondents reporting a lost-worktime injury (see table 4).
- 29% of Upstate respondents, more than double the percent of Long Island respondents (13%), were injured on-the-job and lost worktime.
- 15% of women and 22% of men reported a lost-worktime injury.
- 42% of the respondents who are paid below minimum wage reported being injured and losing worktime (8 respondents). This is 121% higher than the 19% of all respondents who reported being injured on the job and losing worktime.

Table 4: Lost-Worktime Injuries by Sector

Sector	Number of Respondents	Percent (Number) Injured
Dairy	84	33% (28)
Fruit/Vegetable	88	24% (21)
Greenhouse	111	19% (21)
Vineyard	104	13% (13)
Packing House	26	12% (3)
Nursery	109	10% (11)

n = 522

“When I was injured on the job, my employer didn’t cover anything—not the hospital bill, not the medicine, and not my time away from work.”

“The first time I had Covid they only paid me \$250. The second and third time I had Covid, they did not pay me and I kept working. A lot of people have to work when they have Covid.”

Injury Stories

The injury stories in this report detail workers' pain, frustration over lost wages, how medical bills were paid (by workers themselves or employers, generally not by workers' compensation), and feelings that their employers do not care about them.

“It was just a normal day and we were beginning work when I fell from a height. Maybe if someone had been assisting me this wouldn't have happened. Nothing was broken, but years later I still have pain—it's around my lower back and it hurts sometimes when I'm working.

My boss took me to a private doctor. Since I don't speak English and they didn't translate, I didn't say anything! The boss spoke for me and I am not even sure what I signed.

For three weeks, I was not able to work. I was paid for two weeks, but not my full salary, so it wasn't enough.

As for the medical bills, I don't know who paid them. I had to pay for physical therapy myself. I'm not sure if I still owe money; they may have sent the bills to an old address.”

“I was injured and never claimed workers' comp. My employer paid tens of thousands of dollars for my hospital bills, but didn't pay me anything for my lost worktime. I still have issues with my injury, but I am expected to take care of it on my own.”

“I lost the tip of my finger, this could have been prevented if I had received training. They make us work really fast so we’re often tired. The boss paid my medical and physical therapy bills, and my weekly salary while I was out. I still have some pain, and movement is more difficult.”

“A cow kicked me when I was helping coworkers transport cows from one place to another. They are animals of the mountains; they’re big and temperamental. Of course we were rushing, we are always rushing—that is how we work.

I had to visit the doctor that same day. My boss paid almost all the medical bills. I don’t remember how much it was. I did not apply for workers’ compensation and didn’t have any of the medical records or evidence.

After I was out of work for a bit, I felt pressured to return. They didn’t threaten anything, but I felt pressure anyway. Also, I really needed to get back to work for myself since I received no pay while I was out of work. I have a family and we rely on my paycheck. Everything requires money.

The injury took months to fully heal and I worked all that time. I needed to pay attention to it frequently. Right now I would say I’m 95% better.

Most people don’t know what farm jobs are like. Thank you for interviewing me to gather this information and for caring about what happens to us in this job.”

“I have hurt both my finger and my back doing farm work. When I hurt my finger, I was in Florida and the boss paid for everything. The back was different. It started to hurt about two years ago as a result of lifting heavy items; this was in New York. I went to the doctor and he said that I had a slipped disk. The doctor didn’t ask if it was related to work.

I haven’t taken any time off work due to my back pain, except for the doctor’s appointment—I paid for that. I can’t afford to take days off work. Some days I am in constant pain.”

“I only had a scare. The person driving the tractor drove into me. The manager told me to go and rest and they paid me for my full day. Luckily, I didn’t have any injuries.”

“My coworker died and I feel awful about this situation, we all do. When he first got sick, the boss paid him for several weeks, but then seemed annoyed that he was out of work and stopped paying him. It really felt like the boss didn’t care to help him. My coworker went to the doctor—we have to pay for that ourselves. I think this might have been related to Covid. This situation makes me think that perhaps it’s better to return to my home country.”

“Toward the end of a night shift, I was trying to finish my duties and I slipped, ending up with two fractures. I may have been rushing. This was my first time getting injured. I speak a little English, so I could sort of communicate with the orthopedist, who knew this was a work injury.

I was really frustrated because months went by without any pay while I was out of work with this injury. I’m a father, I have a car loan, and of course I have to pay for food.

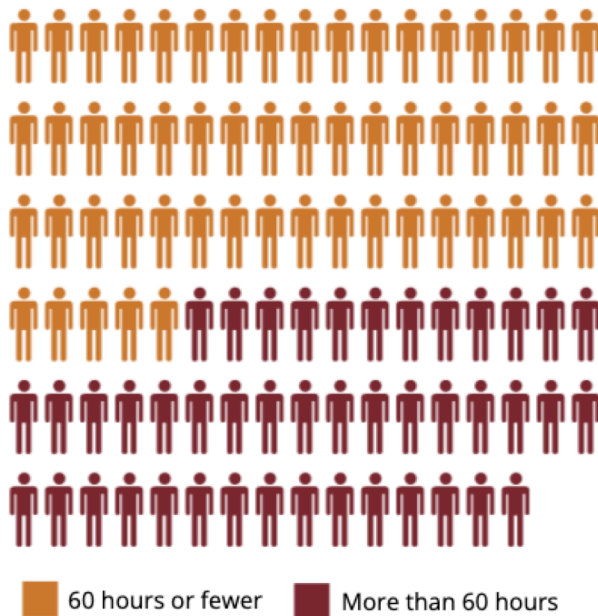
Finally, I spoke to someone about getting help and was referred to a farmworker advocate. That advocate taught me my rights as an injured farmworker and I was able to get a lawyer in my native language. The lawyer helped get my paperwork straightened out. In the end, workers’ compensation covered my lost days of work. This only happened because I found an advocate. I really felt that my employer did not care about me all those months.”

“The company is now offering medical insurance and it turns out we pay weekly for this. But it covers absolutely nothing! The clinic that accepts the insurance still charges the workers. Now some of those bills are in collections and the workers don’t know what to do.”

PART II: HOURS AND WAGES

Work Hours and Overtime Pay

Figure 9: Work Hours



56% of respondents (296 workers) reported working 60 or fewer hours per week.

44% of respondents (232 workers) reported working more than 60 hours per week.

n = 528

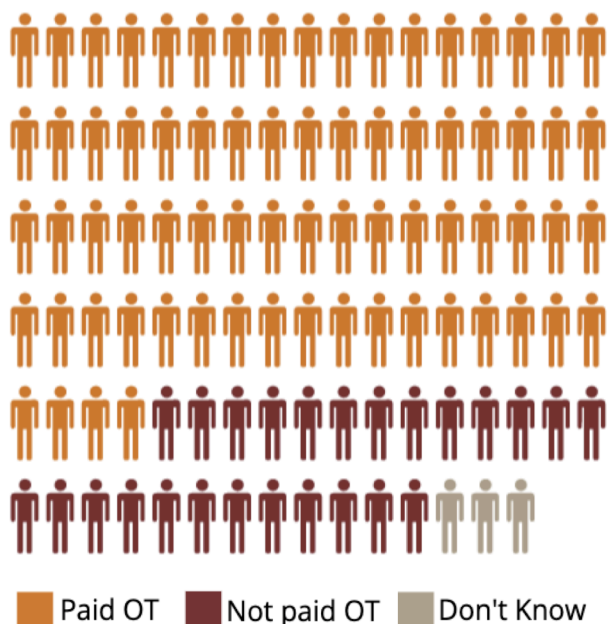
Almost half of the respondents reported working more than 60 hours a week (see fig. 9). Of those, 93 added a comment that this only occurred in the summer and three added a comment that they only worked more than 60 hours a week during the apple harvest.

“I work more than 80 hours in the summer at this nursery.”

“Sometimes I work all seven days, and I only rest if my kid is sick.”

“I regularly work a 70-hour workweek at this dairy farm.”

Figure 10: Overtime Pay after 60 Hours



Of those who reported working more than 60 hours per week,

72% (166 respondents) reported being paid time-and-a-half after 60 hours.

25% (57 respondents) reported not being paid time-and-a-half after 60 hours.

2.6% (6 respondents) reported that they did not know if they were paid time-and-a-half after 60 hours.

n = 229

The data exposes wage theft. Of the 44% of workers surveyed who reported working more than 60 hours a week, one quarter were not paid the required time-and-a-half overtime pay (see fig. 10). This requirement began in January 2020 with the implementation of the FLPA.

Seven respondents mentioned they were paid overtime after 40 hours. These were greenhouse workers. Some greenhouse workers are not categorized as agricultural employees by federal or New York law, for example, if they package already grown plants (see the definition of farmworker on p.11). Seven respondents reported that they were told they would be paid time-and-a-half after 60 hours a week, but they do not work more than 60 hours a week.

“In the summer the boss threatens us, so we don’t have a choice about working the seventh day.”

“I feel like the bosses pit us, the workers, against each other. They also blame us if we have to put in more hours and sometimes they takeaway our hours.”

Method of Wage Payment

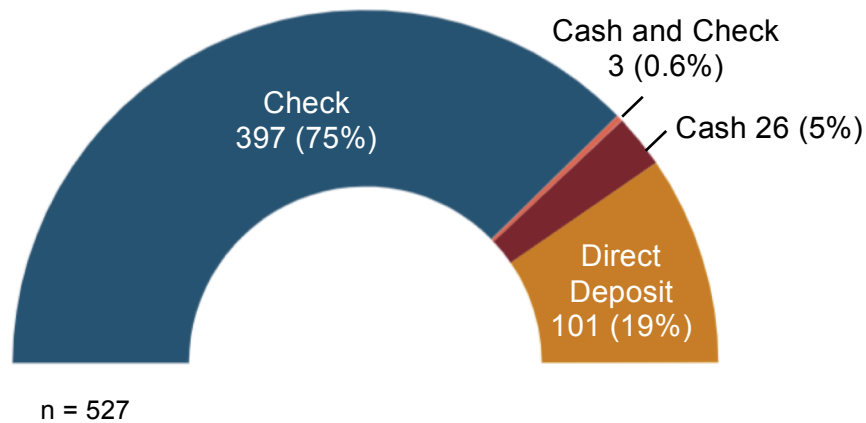


Figure 11: Payment Method

Almost 95% of respondents are paid either by check or direct deposit; 5% of respondents are paid only in cash; and almost 1% of respondents are paid partially in cash (see fig. 11). The 29 respondents paid fully or partially in cash represented varied sectors.

“I’m interested in getting a tax ID, but I don’t know if I can because I’m paid in cash.”

“We get time-and-a-half for our rest day, but they pay this separate from the rest of our wages.”

“After 60 hours, we get overtime pay, but they pay it in cash.”

“I feel underappreciated because I’ve worked here 16 years and only make \$15 after all that time. It has been really hard and I feel like I have to tell the boss my every move.”

Hourly Wage

The average hourly wage of the sample data is \$15.55 and the most common hourly wage is \$15.00.⁵³ The vast majority of the survey respondents are paid the minimum wage or higher (96%). Almost two-fifths (39%) of respondents are paid exactly the minimum wage and 57% of respondents are paid more than the minimum wage. In 2020 there were different minimum wage rates for Long Island (\$15.00) and Upstate New York (\$13.20), which account for the higher wages on Long Island.

Figure 12: Wage Distribution of Upstate Respondents

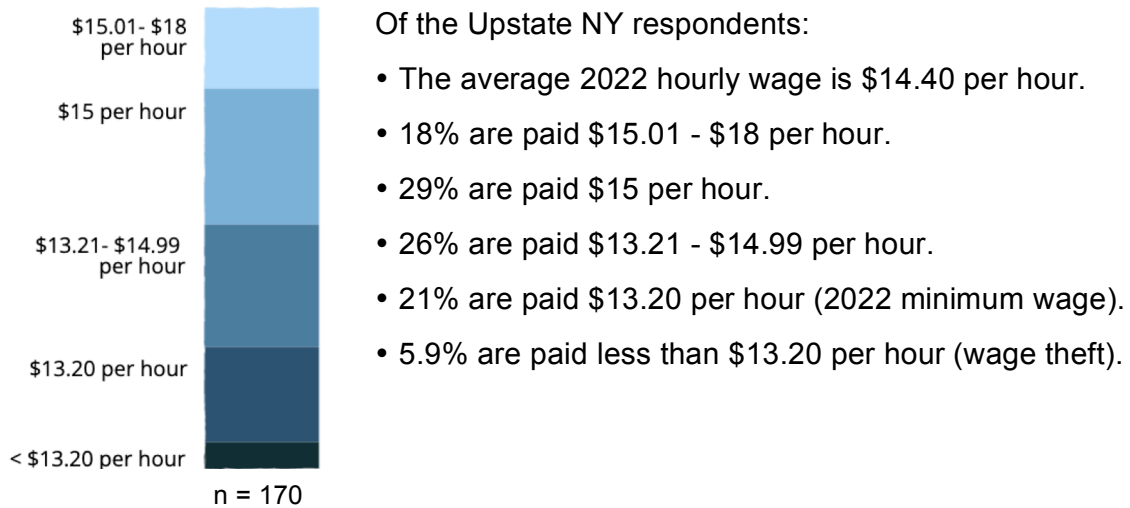
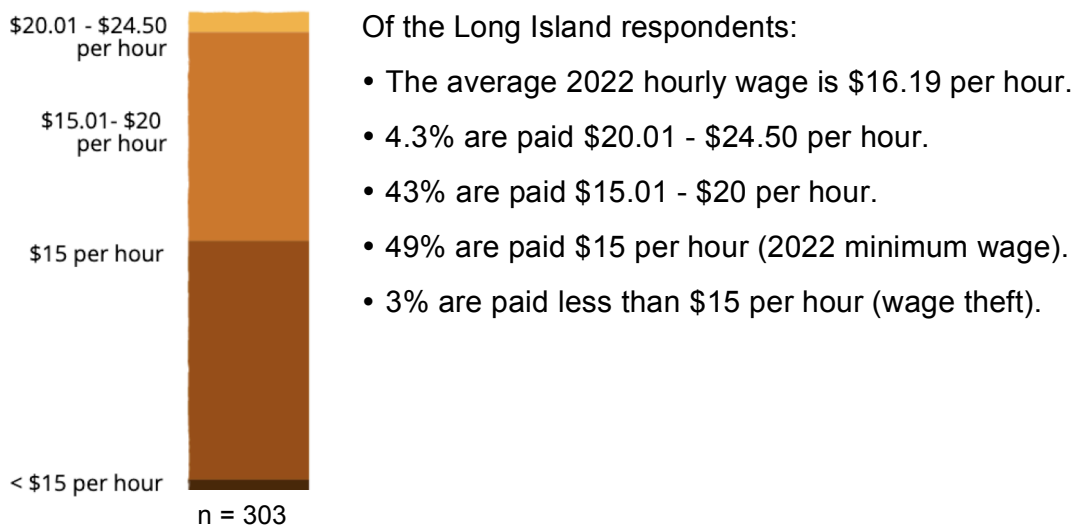


Figure 13: Wage Distribution of Long Island Respondents



The data from figures 12 and 13 indicate the 2022 regional wage distribution:

- 5.8% of Upstate respondents and 3% of Long Island respondents reported wage theft—they are paid below the minimum wage.
- 49% of Long Island respondents reported being paid exactly the minimum wage; this is 142% higher than the 20% of Upstate respondents who reported being paid exactly the minimum wage.
- 74% of Upstate respondents reported being paid above the minimum wage; this is 54% higher than the 48% of Long Island respondents who reported being paid above the minimum wage.
- The Long Island median wage (\$15) is the same as the Long Island minimum wage.
- The Upstate median wage (\$14.50) is 9.8% higher than the Upstate minimum wage (\$13.20).

Table 5: Respondents Paid Below Minimum Wage—Characteristics

	Paid Below Minimum Wage	All Respondents
Works in Dairy	32%	16%
Not Paid Overtime Rate	43%	25%
Lost-Worktime Injury	42%	19%

n = 530

While the number of respondents experiencing wage theft by being paid below the minimum wage is very small, the data indicate that employers who do not pay the minimum wage also tend to violate other worker protections and have more dangerous workplaces (see table 5). Of the 4% of respondents (19) who do not get paid the minimum wage, nine are on Long Island and ten are Upstate.

Starting in 2017, New York began a series of wage increases to reach a statewide hourly wage of \$15.00. The increases vary in terms of region. New York City reached this wage by 2020. Long Island and Westchester were at the \$15.00 hourly rate by the beginning of 2022. The remainder of New York State had a minimum hourly wage of \$13.20 for 2022 and that increased to \$14.20 for 2023. Future increases have yet to be determined.⁵⁴



Policy Recommendations

BIDEN ADMINISTRATION:

Under the Biden administration, the U.S. Department of Homeland Security (DHS) amended its deferred action program (which temporarily prevents detention or deportation) to include those involved in an active labor investigation. Those granted deferred action are generally permitted to remain and work in the US for an additional two years.

The deferred action program should allow those with a work-related injury or illness to stay in the U.S. for necessary medical treatment, to **assure appropriate medical attention for those who contribute their labor to U.S. farms**. In addition, H-2A visa holders with a work-related injury should be given extensions on their visas to seek medical attention in the U.S.

CONGRESS:

Since 1976, Congress has added a small farms rider to the Annual Labor-Health and Human Services Appropriations Bill, which exempts farms with fewer than eleven non-family employees from Occupational Safety and Health Administration (OSHA) enforcement authority.



Prevent the addition of this rider to the Annual Labor-Health and Human Services Appropriations Bill, to address the lack of attention to, and absence of data on, farmworker injuries. This would **allow for more accurate data on farm-related injuries** and better inform policy decisions about farm safety and health. At a minimum, Congress should allow OSHA to investigate fatalities on all farms. This would **improve tracking of work-related fatalities** and prevent the miscategorization of fatalities as not work related. This, in turn, would facilitate families' claims for death benefits from workers' compensation.

THE NEW YORK STATE LEGISLATURE AND THE GOVERNOR:

Increase funding for the New York State Department of Labor (NYSDOL) to conduct outreach to farmworkers to **better educate workers about their rights and identify labor law violations**. This would help **prevent the wage theft revealed in this report** and is particularly critical as the agricultural overtime threshold is lowered every two years.

Provide additional funding for the New York State Department of Labor to **prioritize anti-retaliation reports**, a pressing concern as farmworker unionization efforts increase.

Pass the Securing Wages Earned Against Theft Bill (SWEAT) (Senate Bill S1977, Assembly Bill A46) that, in cases of wage theft, would allow an individual, the NYSDOL, or the state Attorney General to file a wage lien on an employer's property. This would **add an additional mechanism to assure workers are paid for the hours that they worked**.

Pass the Empowering People in Rights Enforcement Bill (EMPIRE) (Senate Bill S541A, Assembly Bill A5876A) to allow workers or their representatives to initiate public enforcement actions against employers (currently only the NYSDOL can begin such actions) to compel employers to follow the state labor law. This would **expand the enforcement of labor protections** and add an additional mechanism to compel employers to respect workers' rights.

Create designated funding for community-based organizations to conduct wage theft prevention training with farmworkers. Educating workers about wage laws and how to report wage theft is critical to **mitigate the underpayment of farmworker wages**.

Pass Senate Bill S1161, Assembly Bill A2034 to increase the workers' compensation minimum weekly benefit and set it at one-fifth of the statewide average weekly wage. This would align the New York workers' compensation minimum weekly benefit calculation with New Jersey. The current minimum weekly benefit of \$150 is inadequate, and unfair to farmworkers whose employers pay them off the books. Increasing the weekly minimum benefit would **encourage more injured farmworkers to assert their rights**.



Increase funding for the New York State Workers' Compensation Board for enforcement and community outreach. This would **allow the Workers' Compensation Board to better fulfill its mission and protect the rights of more workers**. The Workers' Compensation Board is currently funded by assessments, which is not viable, especially considering the two percent cap on the growth of assessments for farmland.

Increase funding for the New York State Workers' Compensation Board to translate decisions and notices, currently only offered in English. Translation of these important documents would **create more accessibility for farmworkers who do not read or write in English**

Create designated funding for community-based organizations to conduct workers' compensation training with farmworkers. Educating workers about workers' compensation is vital to **ensure that workers who produce our food can secure appropriate medical services** when they suffer a work-related injury or illness.

Consider legislation to **better educate medical providers about workers' compensation**, to require them to provide information directly to workers about workers' compensation, and to file the standard CMS 1500 medical report in a timely manner.

Consider legislation to **improve farmworker access to medical attention**, such as requiring employers to transport workers for urgent medical care, this is especially important in remote rural areas.

Pass the Unemployment Bridge Program Bill (Senate Bill S3192, Assembly Bill A482) so that New Yorkers who are not eligible for regular unemployment insurance can receive compensation when they lose their jobs. This would **mitigate farmworkers' fear of retaliation** for reporting unsafe and/or unlawful working conditions.

Pass the State Language Access Bill (Senate Bill S3381A, Assembly Bill A503A), which would **extend language access requirements** (the translation of documents and forms) to all state and county agencies and departments. Currently this is only required by agencies under the Governor's jurisdiction.

Governor Hochul's "Strategic Industry Task Force Lessening Obstacles to Agriculture (SILO)," which addresses labor issues, should **include farmworkers and farmers who represent the interests of workers and the unions representing them.**

THE NEW YORK STATE DEPARTMENT OF LABOR:

Continue to **prioritize addressing anti-retaliation reports** from farmworkers, a pressing concern as unionization efforts increase across the state.

Create handouts with large text size and graphics to **better educate farmworkers about their rights.**

THE NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE:

Create an easy form and process for farm employers to request the 118% refundable tax credit for the overtime premium.



Appendix A

Survey Questions in English:

1. Name
2. Email
3. Phone Number
4. Name of Farm where you work
5. Do you ever work more than 60 hours per week? Yes / No
6. Do you get paid time and one-half for all hours worked over 60? Yes / No
7. Form in which you are paid Direct Deposit / Check / Cash
8. How much are you paid per hour?
9. Do you receive one day of rest per week? Yes / No
10. If you work on your day of rest, are you paid time and one-half? Yes / No
11. Have you ever been injured on the job and lost worktime? Yes / No
12. If yes, did you receive any payment while you were out of work? Yes / No
13. Do you have any other question or suggestion?

Survey Questions in Spanish:

1. Nombre
2. Email
3. Teléfono
4. Finca o Granja donde trabaja
5. ¿Trabajas más de 60 horas a la semana? Si / No
6. ¿Pagan tiempo y medio después de superar las 60 horas semanales? Si / No
7. Forma de Pago Depósito a su Cuenta de Banco / Cheques / Efectivo
8. ¿Cuánto ganas por hora?
9. ¿Recibes un día de descanso en la semana? Si / No
10. ¿Si trabajas en tu día de descanso, te pagan tiempo y medio? Si / No
11. ¿Alguna vez te has lastimado o lesionado en el trabajo y has perdido salario? Si / No
12. ¿Recibiste algún tipo de pago mientras estuviste fuera del trabajo? Si / No
13. ¿Cualquier otra pregunta o sugerencia?

Appendix B

This is not intended to be a comprehensive list of policies relating to farmworkers

National Labor Relations Act (NLRA)

United States, Congress, House. United States Code. Title 29, chapter 7, section 152.3. Office of the Law Revision Counsel, 5 July 1935, <https://uscode.house.gov/view.xhtml?path=/prelim@title29/chapter7/subchapter2&edition=prelim>

Fair Labor Standards Act (FLSA)

United States, Congress, House. United States Code. Title 29, chapter 8. Office of the Law Revision Counsel. 5 June 1938, <https://uscode.house.gov/view.xhtml?path=/prelim@title29/chapter8&edition=prelim>

Farm Labor Contractor Registration Act (FLCRA)

United States, Congress, House. United States Code. Title 7, chapter 52, section 2041. U.S. Government Publishing Office, 7 Sept. 1963, <https://www.govinfo.gov/content/pkg/STATUTE-78/pdf/STATUTE-78-Pg920.pdf#page=1>

Fair Labor Standards Act Amended

United States, Congress. Public Law 89-601. U.S. Government Publishing Office, 1966, <https://www.govinfo.gov/content/pkg/STATUTE-80/pdf/STATUTE-80-Pg830.pdf#page=1>

Migrant and Seasonal Agricultural Worker Protection Act (AWPA)

United States, Congress, House. United States Code. Title 29, chapter 20. Office of the Law Revision Counsel, 14 Jan. 1983, <https://uscode.house.gov/view.xhtml?path=/prelim@title29/chapter20&edition=prelim>

New York Labor Law

A redlined version of the New York Labor Law, Article 20 with the 2019 changes is available on the PERB's website. "New York State Employment Relations Act." Public Employment Relations Board, 2020, <https://perb.ny.gov/new-york-state-employment-relations-act/>

Drinking Water

New York, Senate. New York State Consolidated Laws. Chapter 31, article 7, section 212. nysenate.gov. 1996, <https://www.nysenate.gov/legislation/laws/LAB/212>

Field Sanitation

New York, Senate. New York State Consolidated Laws. Chapter 31, article 7, section 212-D. nysenate.gov, 1998, <https://www.nysenate.gov/legislation/laws/LAB/212-D>

Minimum Wage

New York, Senate. New York State Consolidated Laws. Chapter 31, article 19-A, section 673.1. nysenate.gov, 1999, <https://www.nysenate.gov/legislation/laws/LAB/673>

Youth Minimum Wage

New York, Department of Labor. *Minimum Wage Order for Farm Workers Including Occupations in Agriculture Particularly Hazardous for the Employment of Children Below the Age of 16*. New York Department of Labor, 2013, <https://web.archive.org/web/20140816025444/http://www.labor.state.ny.us/formsdocs/wp/CR190.pdf>

Hernandez v. New York

New York, Supreme Court. *Hernandez v. State of New York*, Appellate Division, Third Department. ESCR-Net. 23 May 2019. <https://www.escri-net.org/caselaw/2022/hernandez-v-state-99-nys3d-795-app-div-2019>

Farm Laborers Fair Labor Practices Act (FLPA)

New York, Assembly. A-8419, Farm Laborers Fair Labor Practices Act, nysenate.gov, 2019, <https://www.nysenate.gov/legislation/bills/2019/A8419>

Overtime Threshold

New York, Commissioner of Labor. "Order of Commissioner of Labor Roberta Reardon on the Report and Recommendations of the 2022 Farm Laborers Wage Board. 30 Sept. 2022, https://dol.ny.gov/system/files/documents/2022/09/fwwb_signed_order_093022.pdf

Farm Employer Refundable Credit

New York, Senate. New York State Consolidated Laws. Chapter 60, article 1, section 42-A. nysenate.gov, 2022, <https://www.nysenate.gov/legislation/laws/TAX/42-A>

Endnotes

¹ The 530 surveys for this report surpass the number of surveys conducted with New York State farmworkers by the federal government through the National Agricultural Workers Survey, conducted every fiscal year. New York is in the East region, which encompasses 16 states. Since 1989, the number of surveys conducted in the region as a whole range from 117 in 2020 to 569 in 1999. “Sample Sizes by Region and Fiscal Year.” *National Agricultural Workers Survey*, Employment and Training Administration, U.S. Department of Labor, 2020, <https://www.dol.gov/agencies/eta/national-agricultural-workers-survey/data/sample-sizes-region-fiscal-year>; A 2008 study of migrant and seasonal farmworkers in New York’s Finger Lakes surveyed 550 workers at 72 labor camps about injuries and illnesses. Earle-Richardson, Giulia B., et al., “Estimating the Occupational Morbidity for Migrant and Seasonal Farmworkers in New York State: a Comparison of Two Methods”, *Annals of Epidemiology*, Volume 18, Issue 1, 2008, pp 1-7, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2276460/pdf/nihms36154.pdf>

² Gray, Margaret. *Labor and the Locavore: The Making of a Comprehensive Food Ethic*. Berkeley, University of California Press, 2014, <https://www.ucpress.edu/book/9780520276697/labor-and-the-locavore>; Gray, Margaret and Emma Kreyche. *The Hudson Valley Farmworker Report: Understanding the Needs and Aspirations of a Voiceless Population*. Bard College Migrant Labor Project, Bard College, 2007, <https://tinyurl.com/yck4jbcn>; Carly Fox, Rebecca Fuentes, Fabiola Ortiz Valdez, Gretchen Purser, and Kathleen Sexsmith. *Milked: Immigrant Dairy Farmworkers in New York State*. The Workers’ Center of Central New York and the Worker Justice Center of New York, 2017, https://milkedny.files.wordpress.com/2017/05/milked_053017.pdf.

³ Arcury, Thomas A., and Sara A. Quandt, editors. *Latinx Farmworkers in the Eastern United States: Health, Safety, and Justice*. 2nd ed., New York, Springer, 2020, pp. 2, <https://link.springer.com/book/10.1007/978-3-030-36643-8> Faucett, Julia, et al. “An Instrument to Measure Musculoskeletal Symptoms Among Immigrant Hispanic Farmworkers: Validation in the Nursery Industry” *Journal of Agricultural Safety and Health*, vol 7, no 3, pp 185-198, <https://elibrary.asabe.org/abstract.asp??JID=3&AID=5442&CID=j2001&v=7&i=3&T=1> Horton, Sarah Bronwen. *They Leave Their Kidneys in the Fields: Illness, Injury, and Illegality among U.S. Farmworkers*. University of California Press, 2016, <https://www.ucpress.edu/book/9780520283275/they-leave-their-kidneys-in-the-fields> Snipes, Shedra A., and Amy D. Thierry. “Why do farmworkers delay treatment after debilitating injuries? Thematic analysis explains if, when, and why farm workers were treated for injuries.” *American Journal of Industrial Medicine*, vol 58, no 2, Feb 2015, pp 178-192, https://onlinelibrary.wiley.com/doi/full/10.1002/ajim.22380?casa_token=vi4oFwsFheMAAAAA%3AaoDpn1GnBp8f7KrT1GEWpKupLiG4OIQ3tqDoQtZ1BjQB6aUCVxeM-yGYAv_-lbtdDHXwYvMfClgLSw

⁴ Arcury, Thomas A., and Sara A. Quandt, editors. *Latinx Farmworkers in the Eastern United States: Health, Safety, and Justice*. 2nd ed., New York, Springer, 2020, pp. 2, <https://link.springer.com/book/10.1007/978-3-030-36643-8>

⁵ Leigh, Paul J., et al.. “An estimate of the U.S. government's undercount of nonfatal occupational injuries and illnesses in agriculture”, *Annals of Epidemiology*, Volume 24, Issue 4, 2014, pp 254-259. <https://www.sciencedirect.com/science/article/pii/S104727971400012X>

⁶ New York, Senate. New York State Consolidated Laws. Chapter 60, article 1, section 42-A. [nysenate.gov](https://www.nysenate.gov/legislation/laws/TAX/42-A), 2022, <https://www.nysenate.gov/legislation/laws/TAX/42-A>. The 18% is intended to cover additional costs associated with increased worker pay, such as workers’ compensation and taxes.

⁷ Under the Migrant and Seasonal Agricultural Worker Protection Act (AWPA), undocumented immigrants who work on a seasonal or temporary basis are considered to be migrant workers, even if they live in New York year-round. United States, Department of Labor. Code of Federal Regulations, Title 29, subtitle B, chapter V, subchapter A, part 500. National Archives and Records Administration, <https://www.ecfr.gov/current/title-29/subtitle-B/chapter-V/subchapter-A/part-500>

⁸ Gray, Margaret. *Labor and the Locavore: The Making of a Comprehensive Food Ethic*. Berkeley, University of California Press, 2014, <https://www.ucpress.edu/book/9780520276697/labor-and-the-locavore>; Gray, Margaret and Emma Kreyche. *The Hudson Valley Farmworker Report: Understanding the Needs and Aspirations of a Voiceless Population*. Bard College Migrant Labor Project, Bard College, 2007, <https://tinyurl.com/yck4jbcn>; Carly Fox, Rebecca Fuentes, Fabiola Ortiz Valdez, Gretchen Purser, and Kathleen Sexsmith. *Milked: Immigrant Dairy Farmworkers in New York State*. The Workers' Center of Central New York and the Worker Justice Center of New York, 2017, https://milkedny.files.wordpress.com/2017/05/milked_053017.pdf.

⁹ “Table 1. Historical Highlights: 2017 and Earlier Census Years”. 2017 U.S. Census of Agriculture New York State and County Data Volume 1, Geographic Area Series, Part 32. United States Department of Agriculture, National Agricultural Statistics Service. 2019. https://www.nass.usda.gov/Publications/AgCensus/2017/Full_Report/Volume_1,_Chapter_1_State_Level/New_York/nyv1.pdf

¹⁰ “Table 4. Farm Production Expenses: 2017 and 2012” 2017 U.S. Census of Agriculture New York State and County Data Volume 1, Geographic Area Series, Part 32. United States Department of Agriculture, National Agricultural Statistics Service. https://www.nass.usda.gov/Publications/AgCensus/2017/Full_Report/Volume_1,_Chapter_1_State_Level/New_York/nyv1.pdf It is worth noting that there are a variety of relationships between farm employers, contractors, and workers. Sometimes the workers are paid directly by the farm employer, even when there is a contractor. Sometimes contractors are paid by the farm employer for all labor and the contractor pays the workers. Moreover, some farms hire H-2A workers directly, while others go through contractors who remunerate the workers.

¹¹ “Final Estimates of the 2021 LSC Agricultural Worker Poverty Population-Summary Table.” Agricultural Worker Population Estimate, Legal Services Corporation, 2020, <https://lsc-live.app.box.com/s/9zb1ak1knkzabrohs1mstu0eckcd9i06> More information at <https://www.lsc.gov/grants/basic-field-grant/lsc-service-areas/agricultural-worker-population-estimate-2021-update>

¹² For the number of certified H-2A positions in 2017 see: “Office of Foreign Labor Certification, H-2A Temporary Agricultural Labor Certification Program - selected statistics, FY 2017.” *Employment and Training Administration*, United States Department of Labor, 30 Sep. 2017, https://www.dol.gov/sites/dolgov/files/ETA/oflc/pdfs/H-2A_Selected_Statistics_FY2017.pdf For the number of H-2A visa entries to the U.S. in 2017 see: “Nonimmigrant admissions 2017 supplementary data tables” (Table 3). Office of Immigration Statistics, United States Department of Homeland Security, undated, <https://www.dhs.gov/immigration-statistics/nonimmigrant> For the number of H-2A visa entries to the U.S. in 2020 see: “Nonimmigrant admissions 2020 supplementary data tables” (Table 3). Office of Immigration Statistics, United States Department of Homeland Security, 6 Jan 2022, <https://www.dhs.gov/immigration-statistics/nonimmigrant>. Note that the Office of Immigration Statistics tracks the number of H-2A visa entries, which means that if an individual H-2A visa holder entered the United States twice in the same year that would count as two entries, even though it is the same individual.

¹³ See Pfeffer, Max J., and Parra, Pilar A. *Immigrants and the Community*. Cornell University, 2004, <https://ecommons.cornell.edu/handle/1813/220>; Gray, Margaret. *Labor and the Locavore: The Making of a Comprehensive Food Ethic*. Berkeley, University of California Press, 2014, <https://www.ucpress.edu/book/9780520276697/labor-and-the-locavore>; Grusenmeyer, David and Maloney, Thomas. *Survey of*

Hispanic Dairy Workers in New York State. Department of Applied Economics and Management College of Agriculture and Life Sciences, Cornell University, 2005, <https://ecommons.cornell.edu/handle/1813/65061>

¹⁴ This definition is not meant to be comprehensive, for example family members might be treated differently under some laws, and farms that employ workers for fewer than 500 “man days” a year, are exempt from FLSA wage protections. “Fact sheet #12: Agricultural Employers under the Fair Labor Standards Act (FLSA).” Wage and Hour Division, United States Department of Labor, <https://www.dol.gov/agencies/whd/fact-sheets/12-flsa-agriculture>

¹⁵ United States, Department of Labor, Wage and Hour Division. Title 29, Subtitle B, Chapter V, Subchapter b, Part 780. Code of Federal Regulations, <https://www.govinfo.gov/content/pkg/CFR-2017-title29-vol3/xml/CFR-2017-title29-vol3-part780.xml#seqnum780.205> See § 780.209 Packing, storage, warehousing, and sale of nursery products.

¹⁶ *A Farmer’s Guide to the New York State Department of Labor*. New York State Department of Labor, 2022, https://dol.ny.gov/system/files/documents/2023/03/p130-a-famers-guide-to-the-nys-dol_fwtofl-02-23-letter-sized.pdf

¹⁷ All wineries are considered manufacturing. The federal government uses the North American Industry Classification System (NAICS) to determine how businesses are classified. The NAICS code for wineries is 31213, the first two numbers indicate the sector—“31” covers manufacturing. In contrast, vineyards have a NAICS code of 11132—the first two numbers “11” represent agriculture. United States Census Bureau. “Economic Census: NAICS Codes & Understanding Industry Classification Systems.” 2022, <https://www.census.gov/programs-surveys/economic-census/year/2022/guidance/understanding-naics.html> Under the FLSA, workers engaged in manufacturing must be paid overtime pay. “Fact Sheet #9: Manufacturing Establishments Under the Fair Labor Standards Act (FLSA)” Wage and Hour Division, United States Department of Labor, 2008, <https://www.dol.gov/agencies/whd/fact-sheets/9-flsa-manufacturers>

¹⁸ United States, Department of Labor, Wage and Hour Division. Title 29, Subtitle B, Chapter V, Subchapter b, Part 780. *Code of Federal Regulations*, <https://www.ecfr.gov/current/title-29/subtitle-B/chapter-V/subchapter-B/part-780> See § 780.10 Workweek standard in applying exemptions and § 780.11 Exempt and nonexempt work during the same workweek.

¹⁹ United States, Congress, House. United States Code. Title 26, chapter 1, subchapter C, part 31, subpart B, section 31.3121(g) 1(c)(2). ecgr.gov, National Archives, 1960, [https://www.ecfr.gov/current/title-26/chapter-I/subchapter-C/part-31/subpart-B/subject-group-ECFR996050e2e4c4937/section-31.3121\(g\)-1](https://www.ecfr.gov/current/title-26/chapter-I/subchapter-C/part-31/subpart-B/subject-group-ECFR996050e2e4c4937/section-31.3121(g)-1)

²⁰ For example, when the overtime threshold is reduced to 56 hours in 2024, farm employers can earn a refundable tax credit of 118% of the overtime premium (i.e. the “half” for the “time-and-a-half”) paid between 56 hours and 60 hours. The 18% is intended to cover additional costs associated with worker pay, such as workers’ compensation and taxes.

²¹ Unless otherwise noted, all data in this section are from the 2017 Census of Agriculture. This census is conducted every five years. *2017 U.S. Census of Agriculture New York State and County Data Volume 1, Geographic Area Series, Part 32*. United States Department of Agriculture, National Agricultural Statistics Service, 2019, https://www.nass.usda.gov/Publications/AgCensus/2017/Full_Report/Volume_1,_Chapter_1_State_Level/New_York/nyv1.pdf

²² According to the Census of Agriculture, New York has 6,866,171 acres in farms and according to U.S.

Government Accountability Census, the total land area of the state is 32,056,320. See “Table 1. Historical Highlights: 2017 and Earlier Census Years.” *2017 U.S. Census of Agriculture New York State and County Data Volume 1, Geographic Area Series, Part 32*. United States Department of Agriculture, National Agricultural Statistics Service, 2019, https://www.nass.usda.gov/Publications/AgCensus/2017/Full_Report/Volume_1,_Chapter_2_County_Level/New_York/nyv1.pdf and United States, Government Accountability Office. *Land Ownership-Information on the Acreage, Management, and Use of Federal and Other Lands*. United States Government Publishing Office, 1996, <https://www.gao.gov/assets/rced-96-40.pdf>

²³ “Table 1. Historical Highlights: 2017 and Earlier Census Years.” *2017 U.S. Census of Agriculture New York State and County Data Volume 1, Geographic Area Series, Part 32*. United States Department of Agriculture, National Agricultural Statistics Service. 2019. https://www.nass.usda.gov/Publications/AgCensus/2017/Full_Report/Volume_1,_Chapter_2_County_Level/New_York/nyv1.pdf

²⁴ “Table 4. Farm Production Expenses: 2017 and 2012” *2017 U.S. Census of Agriculture New York State and County Data Volume 1, Geographic Area Series, Part 32*. United States Department of Agriculture, National Agricultural Statistics Service, https://www.nass.usda.gov/Publications/AgCensus/2017/Full_Report/Volume_1,_Chapter_1_State_Level/New_York/nyv1.pdf

²⁵ The 530 surveys for this report surpass the number of surveys conducted with New York State farmworkers by the federal government through the National Agricultural Workers Survey, conducted every fiscal year. New York is in the East region, which encompasses 16 states. Since 1989, the number of surveys conducted in the region as a whole range from 117 in 2020 to 569 in 1999. “Sample Sizes by Region and Fiscal Year.” *National Agricultural Workers Survey*, Employment and Training Administration, U.S. Department of Labor, 2020, <https://www.dol.gov/agencies/eta/national-agricultural-workers-survey/data/sample-sizes-region-fiscal-year>; A 2008 study of migrant and seasonal farmworkers in New York’s Finger Lakes surveyed 550 workers at 72 labor camps about injuries and illnesses Earle-Richardson, Giulia B., et al., “Estimating the Occupational Morbidity for Migrant and Seasonal Farmworkers in New York State: a Comparison of Two Methods”, *Annals of Epidemiology*, Volume 18, Issue 1, 2008, pp 1-7, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2276460/pdf/nihms36154.pdf>

²⁶ Bump, Phillip. “So, what is ‘upstate’ New York, exactly?.” *The Washington Post*, 19 Apr. 2016, <https://www.washingtonpost.com/news/the-fix/wp/2016/04/19/so-what-is-upstate-new-york-exactly/> Mahoney, Bill. “New York’s laws, like its residents, can’t pin down ‘upstate’.” *Politico*, 25 Mar. 2016, <https://www.politico.com/states/new-york/albany/story/2016/03/new-yorks-laws-like-its-residents-cant-pin-down-upstate-032783> Wolfe, Jonathan. “New York Today: A Quest to Define ‘Upstate’.” *The New York Times*, 29 Nov. 2017, <https://www.nytimes.com/2017/11/29/nyregion/new-york-today-a-quest-to-define-upstate.html>

²⁷ New York’s Empire State Development lists ten New York regions (<https://esd.ny.gov/regions>); survey respondents are from the following:

Central New York: Cayuga, Cortland, Madison, Onondaga, and Oswego Counties.

Finger Lakes: Genesee, Livingston, Monroe, Orleans, Ontario, Seneca, Wayne, Wyoming, and Yates Counties.

Long Island: Nassau and Suffolk Counties.

Mid-Hudson: Dutchess, Orange, Putnam, Rockland, Sullivan, Ulster, and Westchester Counties.

North Country: Clinton, Essex, Franklin, Hamilton, Jefferson, Lewis, and St. Lawrence Counties.

Southern Tier: Broome, Chemung, Chenango, Delaware, Schuylar, Steuben, Tompkins, and Tioga Counties.

Western New York: Allegany, Cattaraugus, Chautauqua, Erie, and Niagara Counties.

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- ²⁸ “Table 7. Income from Farm-Related Sources: 2017 and 2012” *2017 U.S. Census of Agriculture New York State and County Data Volume 1, Geographic Area Series, Part 32*. United States Department of Agriculture, National Agricultural Statistics Service, https://www.nass.usda.gov/Publications/AgCensus/2017/Full_Report/Volume_1,_Chapter_1_State_Level/New_York/nyv1.pdf
- ²⁹ United States Census Bureau. 2020 Census Demographic Data Map Viewer. 2020. <https://mtgis-portal.geo.census.gov/arcgis/apps/MapSeries/index.html?appid=2566121a73de463995ed2b2fd7ff6eb7>
- ³⁰ “2017 State and County Profiles - New York Suffolk County.” *2017 Census of Agriculture County Profile*, United States Department of Agriculture, National Agricultural Statistics Service, 2019, https://www.nass.usda.gov/Publications/AgCensus/2017/Online_Resources/County_Profiles/New_York/cp36103.pdf
- ³¹ John Dunham & Associates. “The Economic Impact of the Wine Industry (2019) Suffolk County, New York.” Prepared for Boldly NY, New York Wine and Grape Foundation, 2019, <https://newyorkwines.org/industry/statistics/> (Click on the link to for New York Data Tables by County).
- ³² “Share of U.S. farm laborers/graders/sorters who are women, 2006-19.” *Farm Labor*, Economic Research Service, United States Department of Agriculture, 2022, <https://www.ers.usda.gov/topics/farm-economy/farm-labor/>
- ³³ Arcury, Thomas A., and Sara A. Quandt, editors. *Latinx Farmworkers in the Eastern United States: Health, Safety, and Justice*. 2nd ed., New York, Springer, 2020, pp. 2, <https://link.springer.com/book/10.1007/978-3-030-36643-8>
- ³⁴ Arcury, Thomas A., and Sara A. Quandt, editors. *Latinx Farmworkers in the Eastern United States: Health, Safety, and Justice*. 2nd ed., New York, Springer, 2020, pp. 2, <https://link.springer.com/book/10.1007/978-3-030-36643-8> Faucett, Julia, et al. “An Instrument to Measure Musculoskeletal Symptoms Among Immigrant Hispanic Farmworkers: Validation in the Nursery Industry” *Journal of Agricultural Safety and Health*, vol 7, no 3, pp 185-198, <https://elibrary.asabe.org/abstract.asp??JID=3&AID=5442&CID=j2001&v=7&i=3&T=1> Horton, Sarah Bronwen. *They Leave Their Kidneys in the Fields: Illness, Injury, and Illegality among U.S. Farmworkers*. University of California Press, 2016, <https://www.ucpress.edu/book/9780520283275/they-leave-their-kidneys-in-the-fields> Snipes, Shedra A., and Amy D. Thierry. “Why do farmworkers delay treatment after debilitating injuries? Thematic analysis explains if, when, and why farm workers were treated for injuries.” *American Journal of Industrial Medicine*, vol 58, no 2, Feb 2015, pp 178-192, https://onlinelibrary.wiley.com/doi/full/10.1002/ajim.22380?casa_token=vi4oFwsFheMAAAA%3AaoDpn1GnBp8f7KrT1GEWpKupLiG4OIQ3tqDoQtZ1BjQB6aUCVxeM-yGYAv_-lbtDdHXwYvMfClgLSw
- ³⁵ Leigh, Paul J., et al. “An estimate of the U.S. government's undercount of nonfatal occupational injuries and illnesses in agriculture”, *Annals of Epidemiology*, Volume 24, Issue 4, 2014, pp 254-259. <https://www.sciencedirect.com/science/article/pii/S104727971400012X>
- ³⁶ United States, Director of Directorate of Enforcement Programs. “Policy Clarification on OSHA’s Enforcement Authority at Small Farms.” *Occupational Safety and Health Administration*, Department of Labor, 29 Jul 2014, <https://www.osha.gov/memos/2014-07-29/policy-clarification-oshas-enforcement-authority-small-farms>
- ³⁷ The injury rate for “agriculture, forestry, fishing and hunting” is 4.1 per 100 full-time workers, the next highest injury rate with 3.7 per 100 full-time workers is “transportation and warehousing.” This injury rate is calculated based on full-time workers and, as such, we cannot compare that with the 19% injury rate that we found. “Number and rate of nonfatal work injuries in detailed private industries, 2020.” *Injuries*,

Illnesses, and Fatalities, United States Department of Labor, Bureau of Labor Statistics, 2020, <https://web.archive.org/web/20220701053734/https://www.bls.gov/charts/injuries-and-illnesses/number-and-rate-of-nonfatal-work-injuries-by-industry-subsector.htm>

³⁸ Full Time Equivalent (FTE) is a unit of measurement that represents a workload of 40 hours a week for 50 weeks of the year. For example, two employees who each work 40 hours a week for 25 weeks would equal one FTE. In addition, one employee who works 60 hours a week for 50 weeks, would equal 1.5 FTE. This allows for fatality and injury rate comparisons across industries by workload. See the Bureau of Labor Statistics definition of incident rate, <https://www.bls.gov/opub/hom/soii/calculation.htm>

³⁹ *Injuries, Illnesses, and Fatalities*, United States Department of Labor, Bureau of Labor Statistics, 2020, <https://web.archive.org/web/20220701053734/https://www.bls.gov/charts/injuries-and-illnesses/number-and-rate-of-nonfatal-work-injuries-by-industry-subsector.htm>

⁴⁰ "Incidence rates of nonfatal occupational injuries and illnesses by industry and case types, New York, 2020." *Injuries, Illnesses, and Fatalities*, United States Department of Labor, U.S. Bureau of Labor Statistics, 2020, https://web.archive.org/web/20220401035721/https://www.bls.gov/iif/oshwc/osh/os/20summ1_36.xlsx

⁴¹ Brower et al. "Occupational Injury and Treatment Patterns of Migrant and Seasonal Farmworkers." *Journal of Agromedicine*, vol. 14, no. 2, 2009, pp. 172-128, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2898271/>

⁴² The occupational categories are from the "Standard Occupational Classification." United States Department of Labor, Bureau of Labor Statistics, <https://www.bls.gov/soc/> and the industry categories are from the United States Census Bureau "Introduction to NAICS." <https://www.census.gov/naics/>

⁴³ The category 45-2090 "Miscellaneous Agricultural Workers" includes 45-2091 "Agricultural Equipment Operators"; 45-2092 "Farmworkers and Laborers, Crop, Nursery, and Greenhouse"; 45-2093 "Farmworkers, Farm, Ranch, and Aquacultural Animals"; and 45-2099 "Agricultural Workers, All Other". See "Occupational Employment and Wage Statistics-May 2020," *Occupational Employment and Wage Statistics*, United States Department of Labor, Bureau of Labor Statistics, 2020, https://www.bls.gov/oes/2020/may/oes_stru.htm

⁴⁴ "Total hours worked and rates of fatal occupational injuries by selected worker characteristics, occupations, 2020." *Injuries, Illnesses, and Fatalities*, United States Department of Labor, Bureau of Labor Statistics, 2020, <https://web.archive.org/web/20220723215349/https://www.bls.gov/iif/oshcfoi1.htm> (Click on the link for "Hours-based fatal injury rates by industry, occupation, and selected demographic characteristics, 2020." The direct link to the spreadsheet is https://web.archive.org/web/20220620222134/https://www.bls.gov/iif/oshwc/cfoi/cfoi_rates_2020hb.xlsx)

⁴⁵ Ibid.

⁴⁶ "Fatal injury rates by state of incident and industry, all ownerships, 2020." *Injuries, Illnesses, and Fatalities*, United States Department of Labor, Bureau of Labor Statistics, 2020, <https://web.archive.org/web/20220813043121/https://www.bls.gov/iif/oshwc/cfoi/staterate2020.htm>

⁴⁷ Earle-Richardson, Giulia, et al. "Migrant and Seasonal Crop Worker Injury and Illness Across the Northeast." *American Journal of Industrial Medicine*, vol 56, no 8, Aug. 2013, pp. 845-855, <https://onlinelibrary.wiley.com/doi/10.1002/ajim.22150>

⁴⁸ The 13 other states that require workers' compensation for all agricultural workers: Arizona, California, Colorado, Connecticut, Hawaii, Idaho, New Mexico, Massachusetts, New Hampshire, New Jersey, Ohio, Oregon, and Washington. Farmworker Justice. *Workers' Compensation*. Farmworker Justice, 2022. <https://tinyurl.com/cmbvrdrh>

⁴⁹ "Lost Wage Benefits." New York State Workers' Compensation Board, 2022, <http://www.wcb.ny.gov/content/main/Workers/LostWageBenefits.jsp>

⁵⁰ "New York State Paid Sick Leave for Farm Workers." New York State Department of Labor, 2020, https://www.ny.gov/sites/default/files/atoms/files/PSL_Factsheet_Farmworkers.pdf

⁵¹ Bernhardt, Annette, et al. "Broken Laws, Unprotected Workers: Violations of Employment and Labor Laws in America's Cities." National Employment Law Project, 18 Mar. 2016, <https://www.nelp.org/publication/broken-laws-unprotected-workers-violations-of-employment-and-labor-laws-in-americas-cities/>; Rebecca Smith, J.D. "Immigrant Workers and Worker's Compensation: The Need for Reform." *American Journal of Industrial Medicine*, vol. 55, no. 6, 2012, pp. 537-544. <https://doi.org/10.1002/ajim.22033>

⁵² "New York State Paid Sick Leave for Farm Workers." New York State Department of Labor, 2020, https://www.ny.gov/sites/default/files/atoms/files/PSL_Factsheet_Farmworkers.pdf

⁵³ Long Island had one hourly wage rate outlier at \$29, which was \$4.50 more than the next highest wage. Upstate had one hourly wage rate outlier at \$28, which was \$10 higher than the next highest wage. These outliers were not included.

⁵⁴ "History of the Minimum Wage in New York State." New York State Department of Labor, 2022, <https://dol.ny.gov/history-minimum-wage-new-york-state>