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California's Overtime Law for Agricultural Workers: What Happened to Worker Hours and Pay?

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California's new overtime law for agricultural workers went into effect in 2019. In the two years following this, I find that the law led to decreases in weekly working hours and earnings for California crop workers. These losses are consistent with employers restricting hours to avoid paying the higher overtime rates.

Hired farmworkers are vital to the success of California's agricultural industry and the broader agri-food system. Yet workers face many economic, social, and health-related challenges. Nearly two-thirds of California crop workers have household incomes below 200% of the federal poverty level, more than half self-identify as undocumented, and their jobs are regularly ranked among the most dangerous when compared with other industries.

These and other challenges have received growing public attention and have, in part, been attributed to historical discrimination and the resulting exclusion of farmworkers from major federal labor laws, including laws with protections related to youth employment, unionization, minimum wages, and overtime standards. In 2016, California passed legislation to remove overtime exemptions for farmworkers. The law (Assembly Bill 1066) mandates a gradual phase-in of overtime standards that began in 2019. It involves annual reductions in the daily and weekly overtime thresholds, until reaching the norm in other industries of an 8-hour workday and 40-hour workweek. Since then, four other states—New York, Washington, Oregon, and Colorado—have passed similar legislation, and the issue is gaining traction nationally.

Overtime regulations are intended as worker-protection policies aimed at improving worker wellbeing by requiring higher pay for working long hours. However, there is little analytical evidence on their impacts and there are a variety of potential outcomes. For example, at one extreme, if individual worker hours and wages remain unchanged after the laws are implemented, workers would benefit from higher incomes for the same time at work. At another extreme, if employers reduce hours to remain below the new thresholds, worker incomes could fall, making workers who value the extra income more than additional leisure time worse off. In this case, employers would also need to hire additional workers, invest in labor-saving or labor-augmenting technology, or make larger business changes like switching to less labor-intensive crops.

As more states consider and implement policies to extend overtime standards to agricultural workers, understanding their impacts is vital. This article presents early evidence—in the first two years of the law's implementation—of the effects of the California overtime legislation on the hours and earnings of workers employed in crop agriculture.

California's New Overtime Law for Agricultural Workers

The Fair Labor Standards Act (FLSA) sets federal standards for overtime pay and other employment conditions. Since its enactment in 1938, the FLSA has required employers to pay 1.5 times an employee's regular pay rate for work hours above 40 per workweek, so long as the employee is not exempt. The FLSA exempts several types of workers and industries from overtime standards, including salaried workers, some commissioned sales employees, and agricultural employees, but allows states to extend them coverage.

While most states have not extended overtime coverage to agricultural workers, California has a history of doing so, albeit to a lesser extent than workers in other industries. Prior to the enactment of AB 1066, California farmworkers were entitled to overtime pay for hours beyond 10 hours per day or 60 hours per week.

California's AB 1066 mandated a gradual phase-in of new overtime hours thresholds, implemented at different times based on employer size. Table 1 shows this phase-in schedule, which consists of annual decreases in the daily and weekly overtime threshold by 0.5 and 5 hours, respectively, until reaching the standards for non-exempt industries. This phase-in began for larger employers (with more than 25 employees) in 2019 and culminated in 2022, whereas the phase-in began in 2022 for smaller employers (with 25 or fewer employees) and will reach the final standards in 2025.

Early Evidence on the Effects of California's Overtime Law

Two key questions must be answered to begin to understand how new overtime standards will impact agricultural workers: 1) how do they impact hours and 2) how do they impact earnings? Unfortunately, few sources of data capture this information at the individual worker level, but the National Agricultural Workers Survey (NAWS)—a nationally and regionally representative survey of hired U.S. crop workers—does. Because the NAWS data undergo substantial preparation and validation prior to their public release, data are currently only available through 2020. This allows me to examine the effects of the law in its first two years of implementation. As new data become available, longer-run impacts should be assessed to corroborate this early evidence.

To estimate the effects of the overtime law on hours, I use the hours each worker reports working in the week before their NAWS interview. I estimate the change in the probability that workers report working below a continuum of hourly thresholds in the years after the new law went into effect (2019 and 2020) compared with prior years (2009 through 2018), while controlling for a variety of other factors.

I account for California's concurrent minimum wage increases over this period by controlling the California minimum wage rate at the time each worker is interviewed. I account for potential impacts from COVID-19 by comparing changes in worker hours in California with changes in other states with similar agricultural production, but that did not implement new overtime standards over this period (Washington, Oregon, Idaho, Arizona, Texas, and Florida). Finally, I account for changes in worker and job characteristics by controlling for worker demographics—including age, education, years of farm experience, gender, and legal documentation status—and employment attributes—including the crop, task, and payment type.

To present my findings, I construct a counterfactual distribution of worker hours by predicting the hours for each worker interviewed in 2019 and 2020, based on the state, worker, and employer attributes outlined above, but removing the estimated effects from the overtime legislation. I then compare this counterfactual distribution with the observed distribution, that is, the hours workers actually worked, to demonstrate the effects of the law.

Figure 1 summarizes my findings. Figure 1a shows the observed (what actually happened, in blue) and counterfactual (what would have happened without the law, in yellow) estimates of the proportion of workers with different weekly working hour ranges. Figure 1b shows the difference between these proportions (observed minus counterfactual) for each weekly hour range and the associated 95% confidence bounds. Positive values indicate that the overtime law led to increases in the number of workers with weekly hours within the indicated range, whereas negative values indicate decreases. Confidence bounds that do not contain zero indicate estimates that are statistically significant.

Overall, the results are consistent with employers cutting hours to avoid paying the higher overtime rate. Figure 1 shows that the law caused a large and statistically significant decrease in the number of workers working 56–60 hours a week, hours just below the old overtime threshold. The proportion of the workforce that worked these hours is roughly half of what we would expect without the law in place (Figure 1a). Concurrently,

Table 1. California Agricultural Overtime Change Schedule

Effective Date		Overtime Pay Required After
Employers With 26 or More Employees	Employers With 25 or Fewer Employees	(Hours Per Day/ Hours Per Week)
Jan. 1, 2019	Jan. 1, 2022	9.5/55
Jan. 1, 2020	Jan. 1, 2023	9.0/50
Jan. 1, 2021	Jan. 1, 2024	8.5/45
Jan. 1, 2022	Jan. 1, 2025	8.0/40

Source: Table adapted from the California Labor Commissioner's Office FAQs on Minimum Wage (https://bit.ly/3Fd6x4x) and Overtime for Agricultural Workers (https://bit.ly/49gFFye).

the law caused a large and statistically significant increase in the number of workers working 46–50 hours per week, hours just below the newly mandated overtime threshold in the last year of these data. The proportion of the workforce that worked these hours is more than one-third higher than what we would expect without the law in place (Figure 1a).

Figure 1b offers additional insight into these shifts in hours. Compared with what would have happened without the law in place, there was an 8% decrease in the portion of the workforce with weekly hours in the 56–60 hours a week range, with most workers (6%) experiencing a reduction in their hours to the 46–50 hours a week range. There was also an uptick in the proportion of workers working in the 41–45 hours a week range (4%) and a decrease in the proportion working 31–35 hours (3%). Though these changes were not estimated with enough precision to be statistically significant, they potentially reflect employers' preparation for the next year's overtime thresholds and a way to make up for for some workers' decreased hours by increasing the hours of those who historically worked fewer hours.

This opens the question of whether the law is welfare-improving for the workers it aims to protect. One important consideration is how the law impacted reported weekly pay, although there are many other factors that are important determinants of worker well-being. Following a similar approach as outlined above for hours, I also estimate the implications for workers reporting before-tax, weekly pay on their most recent paycheck. Figure 2 (on page 4) shows the findings from this analysis.

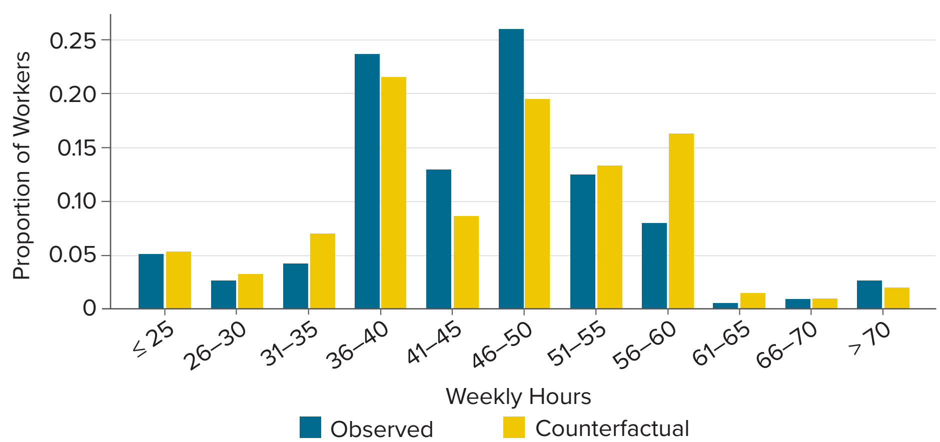
Consistent with expectations based on the hours effects, results indicate that the overtime law decreased worker pay: the share of the workforce with higher weekly earnings (between $600 and $800) decreased by roughly one-third, and the share with mid-level earnings (between $400 and $500) increased by roughly one-third (Figure 2a). Overall, the law caused 10% fewer workers to earn between $600 and $700 per week and 5% fewer to earn between $700 and $800 a week, with most of these workers (9%) shifting to lower earnings from $400 to $500 a week and some (3%) shifting to higher earnings, above $800. To put these earnings changes in context, the 2020 California minimum wage for larger employers was $14 per base hour or $21 per overtime hour. This implies that a $100 decrease in weekly earnings would occur with a reduction of seven base, or five overtime, hours in a week.

Policy Implications

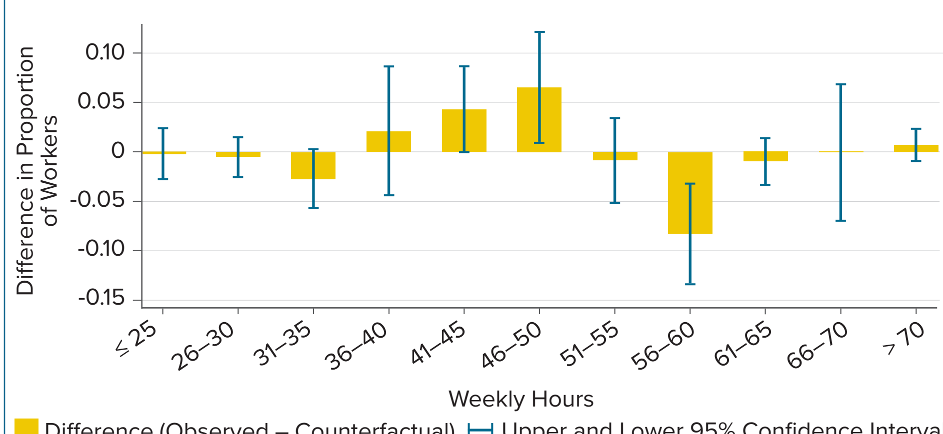
In 2019 and 2020, the two years following the phase-in of California's new overtime standards for agricultural workers, the average California crop worker experienced reduced hours and earnings. Fewer workers worked at or just below the prior overtime threshold of 60 hours per week, and more worked at or just below the 2020 threshold of 50 hours per week. These changes in hours are consistent with employers cutting individual worker hours to remain under new overtime thresholds and thus avoiding paying higher rates. This reduction in hours was accompanied with decreases in workers' weekly take-home pay—fewer workers earned weekly pay

Figure 1. Estimated Effects of California's Overtime Law on Worker Hours

1a: Observed and Counterfactual Proportions of Workers Working Within Weekly Hour Ranges



1b: Estimated Effects of California's Overtime Law on Workers' Weekly Hours



Source: Author's calculations based on data from the National Agricultural Workers Survey 2009–2020. Available at: https://bit.ly/3LRZge9.

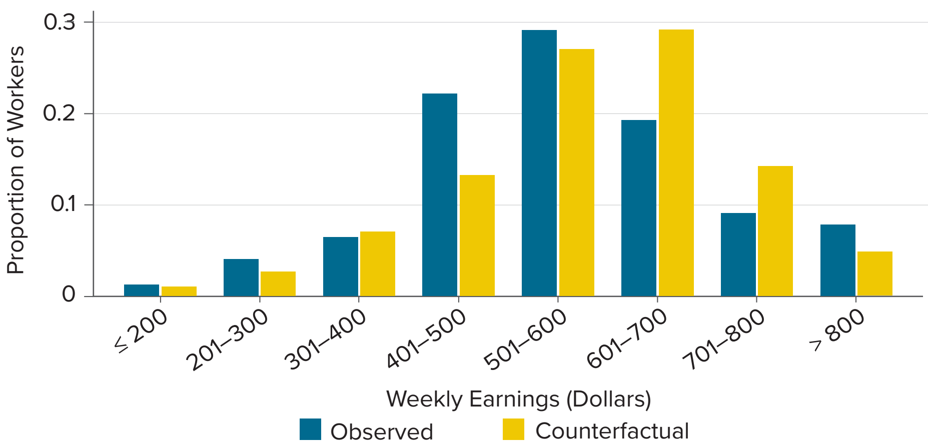
from $600 to $800, and more earned $400 to $500.

Evaluating the hours and earnings changes at the midpoints of the ranges (for example, assuming mean earnings of $650 for workers in the $600–$700 range), we can translate these findings to construct back-of-the-envelope estimates of the net effects for California's crop workforce. According to the 2017 U.S. Census of Agriculture, California crop producers employed 340,000 direct-hire workers annually. My estimates and the associated confidence bounds suggest that these workers worked a total of 15,000 to 45,000 fewer hours and earned a total of $6 to $9 million less on their weekly paychecks than they would have without the overtime law in place. However, it is important to note three caveats. First, estimates do not include H-2A workers, who are excluded from the NAWS but comprise a large share of California farm employment. Second, estimates assume workers only have a single farm employer, which is important because some workers may have sought a second job in response to losing hours. Third, estimates do not account for changes in total employment, which may have increased while individual hours decreased.

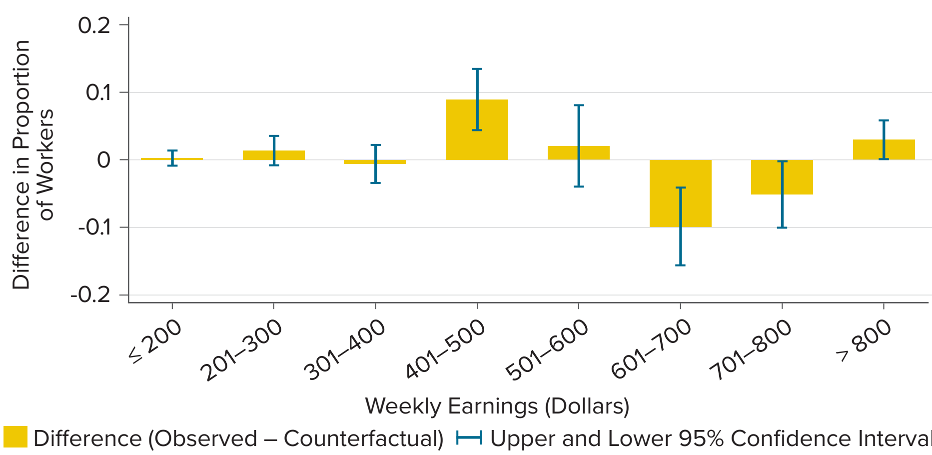
This early evidence suggests that the law may not be benefiting the workers they aim to protect, but additional research is needed. It is possible that despite these outcomes, workers are better off from the law; workers may be happy to accept the lower pay in exchange for fewer working hours and having more leisure time. Or, workers may benefit from safer working environments, since research suggests longer hours can increase workplace injuries. On the other hand, workers and their families who were depending on this lost income to cover living expenses may now need to seek out second employment opportunities, negating these other benefits and adding the inconvenience of traveling between jobs.

Figure 2. Estimated Effects of California's Overtime Law on Worker Earnings

2a: Observed and Counterfactual Proportions of Workers Earning Within Ranges



2b: Estimated Effects of California's Overtime Law on Workers' Weekly Earnings



Source: Author's calculations based on data from the National Agricultural Workers Survey 2009–2020. Available at: https://bit.ly/3LRZge9.

Additional research is also needed to contrast the effects in California with those in other states to understand whether there are more successful versions of the policy. For example, New York's law includes a refundable tax credit for overtime hours paid by farm employers. Such a model is likely to reduce the financial burden on employers of paying workers for overtime hours and may mitigate the hours and earnings reductions highlighted here.

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For additional information, the author recommends:

Hill, Alexandra E. and Trenton K. Tanabe. 2023. "Potential Impacts of Agricultural Overtime Laws." *Choices Magazine*, 32(2). Available at: https://bit.ly/3todQ6T.