California's Overtime Law for Agricultural Workers

How did it impact crop workers?

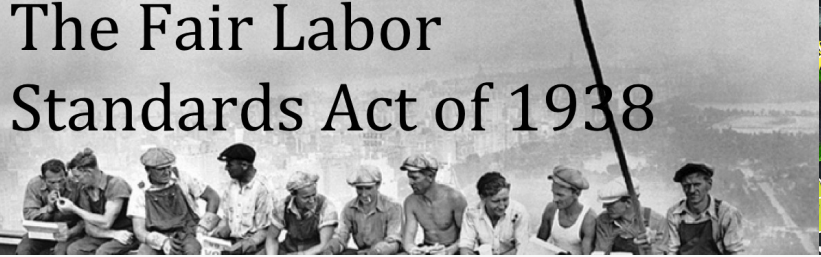
Alexandra E. Hill

Farm Labor Issues in the 2020s

April 4, 2024

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Department of Agricultural and Resource Economics
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The Fair Labor Standards Act of 1938





Since 1938, the Fair Labor Standards Act (FLSA) has been one of main U.S. laws aimed at protecting employees.

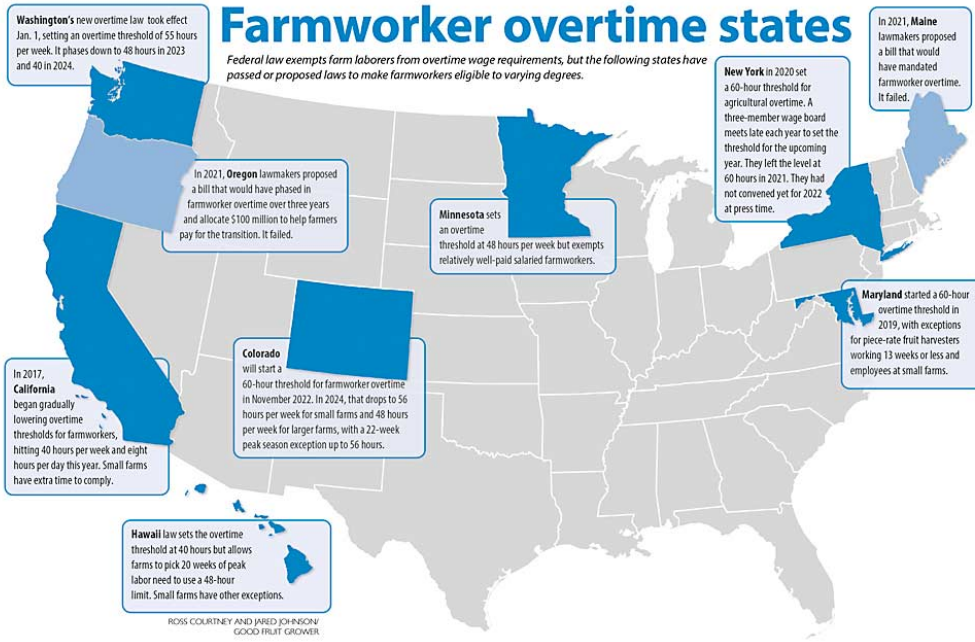
It sets federal standards for several terms of employment, including minimum wage, child labor, and overtime.

$\Rightarrow$ farm workers and ag employers are among the exempt. defining "agriculture"

$\Rightarrow$ not legally entitled to any overtime pay, some (smaller) employers are not required to pay the minimum wage, and child labor laws are less stringent.

Farmworker overtime states

Federal law exempts farm laborers from overtime wage requirements, but the following states have passed or proposed laws to make farmworkers eligible to varying degrees.



ROSS COURTNEY AND JARED JOHNSON/ GOOD FRUIT GROWER

California's Assembly Bill 1066 Overtime Phase-in

who is covered?

Effective Date for Employers with...		**Overtime Pay Required After**
$>$ 25 Employees	$\leq$ 25 Employees	(Hours per Day/Hours per Week)
Pre 2019	Pre 2022	10/60
Jan. 1 2019	Jan. 1 2022	9.5/55
Jan. 1 2020	Jan. 1 2023	9/50
Jan. 1 2021	Jan. 1 2024	8.5/45
Jan. 1 2022	Jan. 1 2025	8/40

Notes: Table adapted from the California Labor Commissioner's Office FAQs on Minimum Wage `https://www.dir.ca.gov/dlse/faq_minimumwage.htm` and Overtime for Agricultural Workers `https://www.dir.ca.gov/dlse/Overtime-for-Agricultural-Workers.html`.

This Study: Questions and Preview of Findings

prior work

Whether Workers are Impacted: **What happened to weekly working hours?**

⇒ **Average hours decrease**

⇒ **Distribution of hours shifts**: more work at or below the OT thresholds

How workers are impacted: **What happened to earnings?**

⇒ **Average weekly earnings decrease**;

⇒ **Distribution of earnings shifts**: fewer high earners

⇒ No clear change in personal annual earnings

⇒ Family annual income appears to decline

Alternatives: **What would have happened under different policies?**

⇒ **Overtime Tax Credit**: ↑↑ Hours, ↑↑ Income

⇒ **Overtime at 50 hrs/wk**: ↑ Hours, ↑ Income

Data: The National Agricultural Workers Survey (NAWS) The Good.

The NAWS is the only nationally representative survey of US agricultural workers.

The NAWS sample only includes workers who are exempt from overtime standards under FLSA. exemptions This can be challenging to identify in other surveys. OCC codes

Includes information from 1,200-3,600 interviews with workers at their place of work each fiscal year, 1/3 in California. Currently available through 2022.

The NAWS includes **detailed** information on characteristics of...

- **current farm job:** work hours last week, earnings last pay check, pay type, crop...
- **overall employment:** annual personal income, annual family income (binned...)
- **demographics:** age, gender, marital status, documentation status...

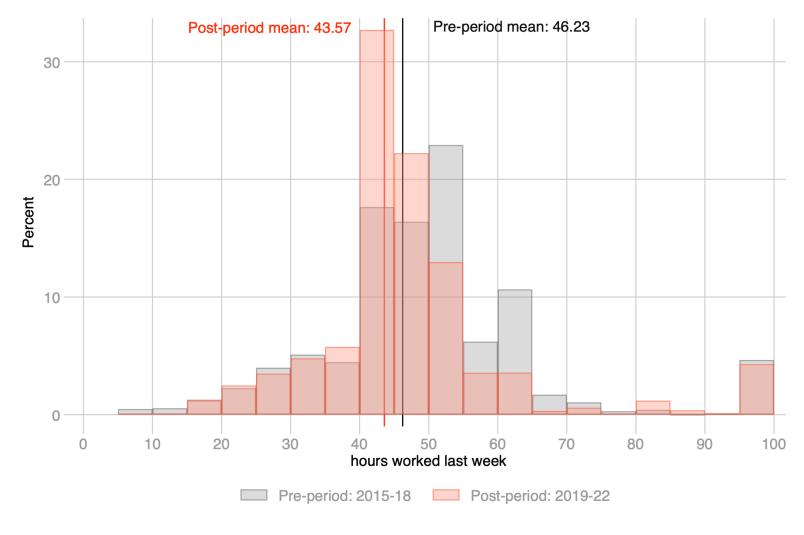
Data: The National Agricultural Workers Survey (NAWS) The Limitations.

The NAWS has a small sample size compared with other national surveys

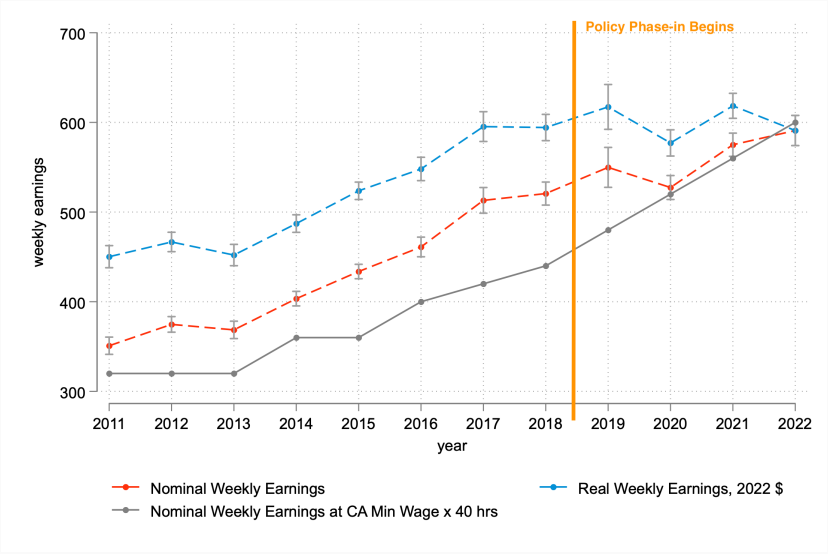
- I use data from 2011 - 2022 why? minimum wages and trends and I remove all salaried workers
- I remove Washington (OT law effective 2022) and New York (law effective 2020)
- California: This leaves 7,892 California workers in the sample: 5,891 in the pre-policy period and 2,001 in the post
- Control States: This leaves 16,657 workers in all non-ot control states
- Note that in all analyses I apply the NAWS sampling weights. These adjust the relative value of each interview to generate unbiased estimates details here

In addition... The NAWS only includes crop workers (no animal), does not estimate total employment, does not have employer size, does not interview H-2A Workers

Evidence from the Raw Data: Distribution of Hours Shifts

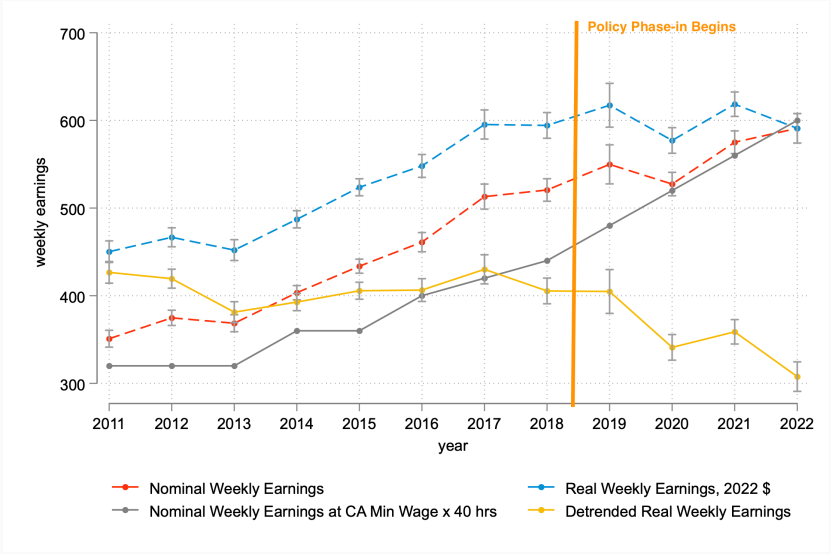


Trends from the Raw Data: Weekly Earnings Stagnate, Decline

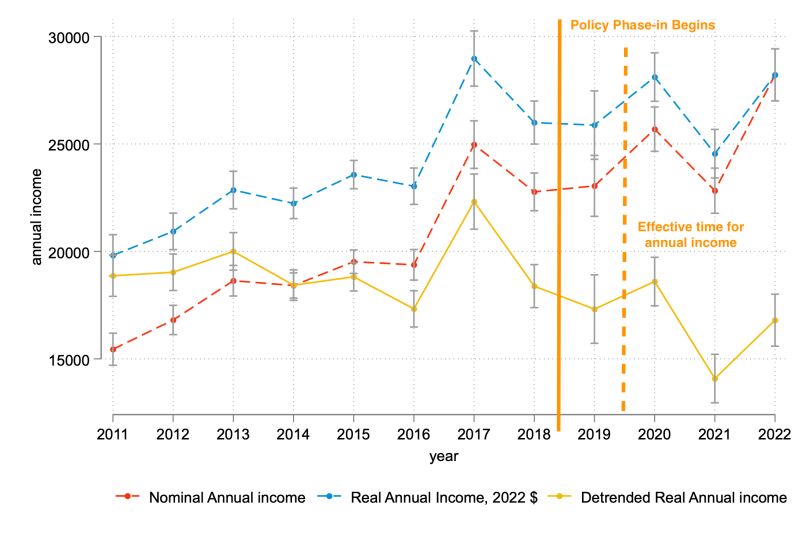


Evidence from the Raw Data: Weekly Earnings Stagnate, Decline

Wages Annual

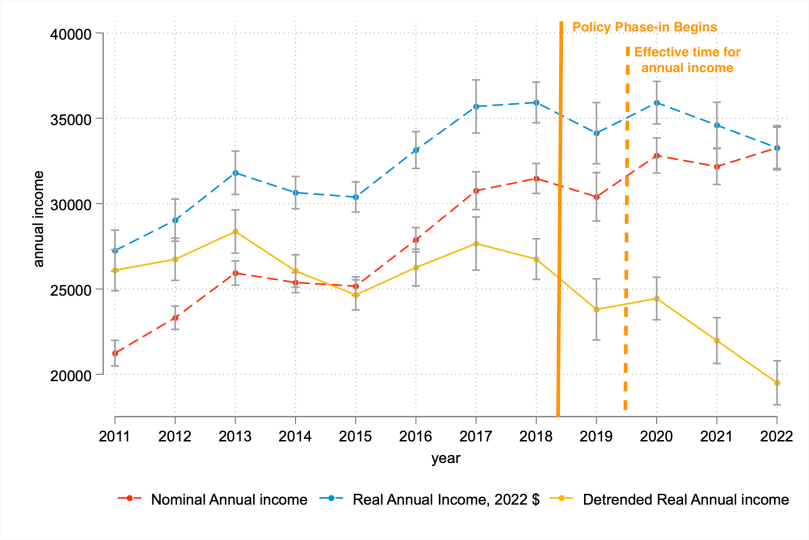


Evidence from the Raw Data: No Clear Change in Annual Personal Income



Evidence from the Raw Data: Annual Family Income Declines

number in family



Multiple factors might be contributing to these decreases in hours and earnings.

But I want to *isolate* the effects of the overtime law.

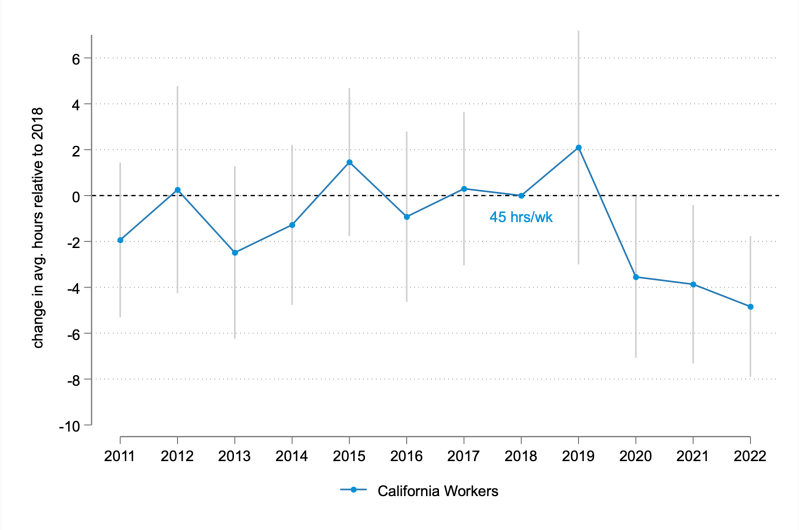
Approach 1: Before-After Analysis (Event Study)

Idea: Remove effects from changing worker demographics (age, education, gender, children, experience, legal status) and job characteristics (task, crop, payment type) and compare worker outcomes before and after the law.

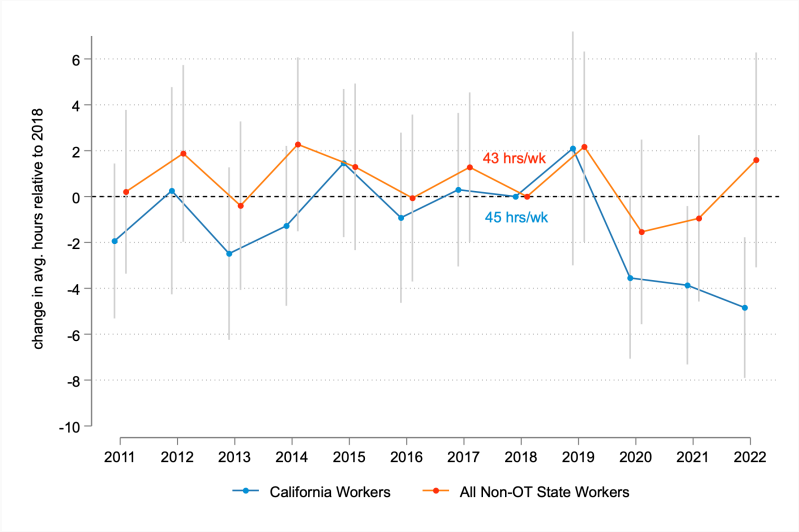
Approach 2: Before-After Comparison w/ Non-OT States (Diff-in-Diff)

Idea: Compare before-after changes in outcomes in California with those in other states.

Approach 1: Avg. Hours Decrease for California Workers



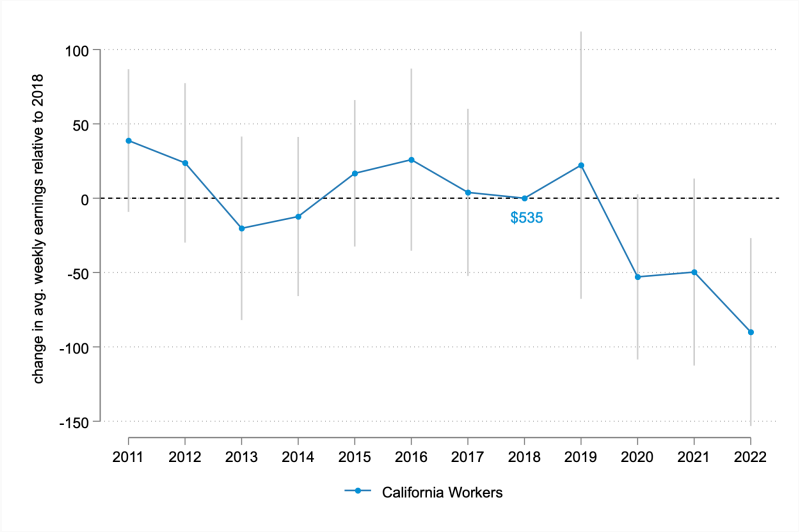
Approach 2: No Change in Avg. Hours for Workers in Other States



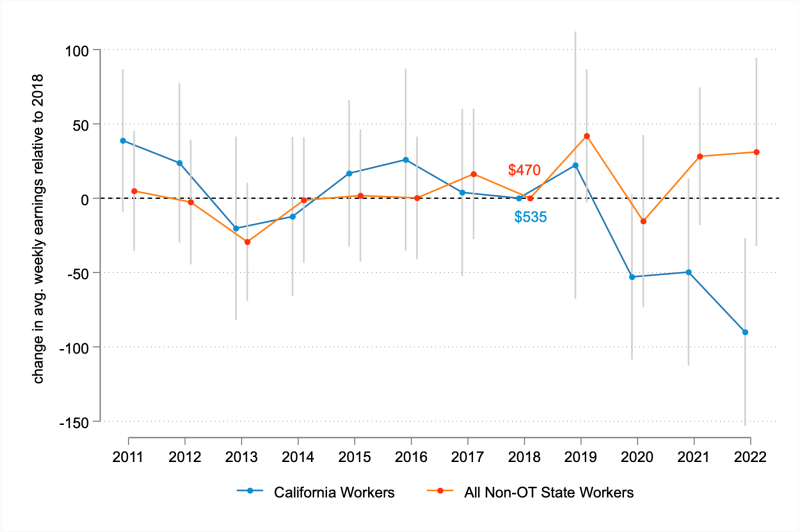
Average Changes in Hours in 2022:

The average California crop employee worked 5 fewer hours per week

Approach 1: Avg. Weekly Earnings Decrease for California Workers



Approach 2: No Change in Avg. Earnings for Workers in Other States



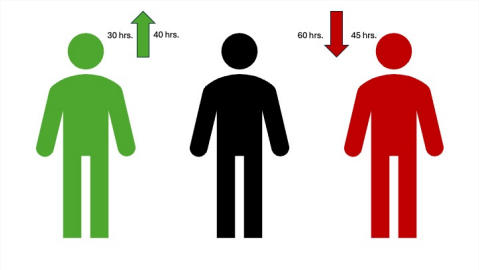
Average Changes in Weekly Earnings in 2022:
The average California crop employee earned $100 less per week

Methods

Looking just at the average effects can hide important details.

For example, if we have three workers, a 5 hour reduction in hours could happen if...





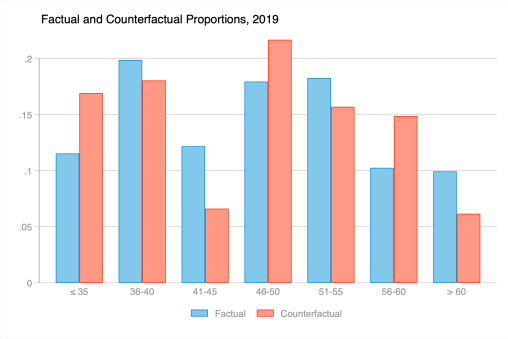
Because of this, I am more interested in understanding **how** hours changed.

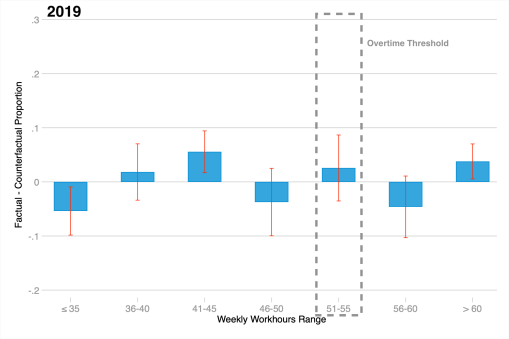
To do this, I use the same two approaches, but instead of looking at *average hours*, I look at the *probability* that an individual worked above or below a given hours threshold.

I repeat this analysis in 5-hours increments from 30 to 65 hours a week... Effects

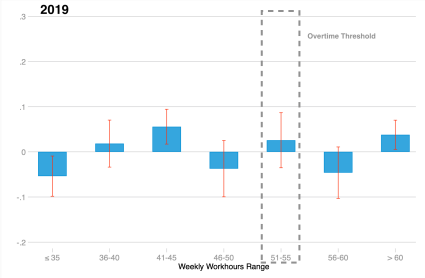
$\Rightarrow$ Subtracting the effects in each year after the law gives the "no law scenario", or the counterfactual: predicted probability that each worker would work hours within a particular range if the law never went into effect.

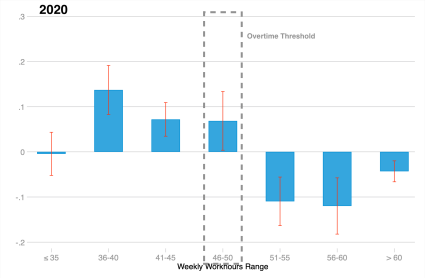
California 2019: Hours Actual Vs. "No Law Scenario" Predicted (No Changes)

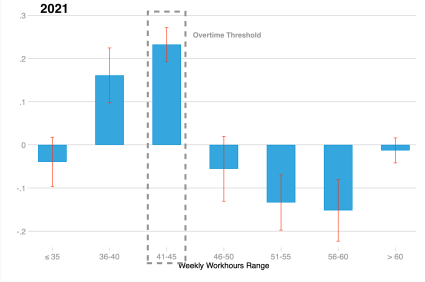


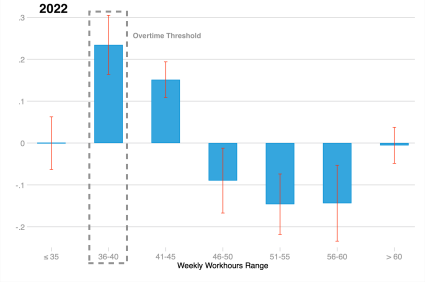


California 2020-22: Hours More Likely to Fall Below Overtime Thresholds





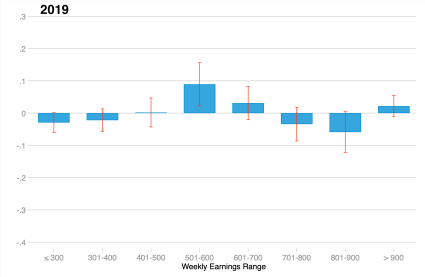


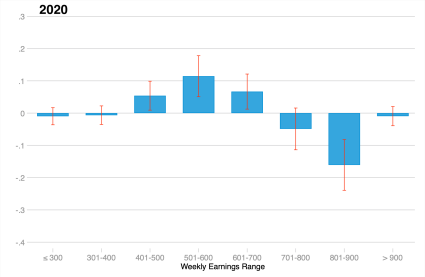


What About Implications for Weekly Earnings?

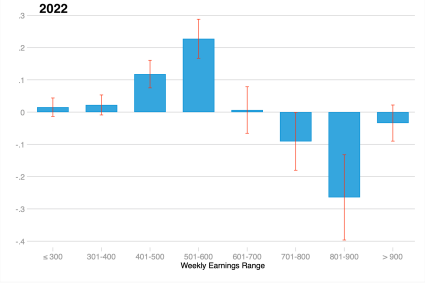
Fewer High Earners, More Mid-Earners

Control States | Consistency









Summary of Hours and Earnings Distributional Effects

Compared with the "no law scenario"...

- More workers:
  - have hours $\leq$ threshold
  - have weekly earnings $\leq$ \$700
- Fewer workers:
  - have hours $>$ threshold
  - have weekly earnings from \$700 - \$900

$\Rightarrow$ **In general, results suggest that employers cut hours to avoid overtime pay**

I have explored many other methods, placebo tests, and alternative explanations, and results remain consistent

event study | time placebo | control placebo hours | control placebo earnings | bunching | consistency

Recap and Discussion

As implemented, California's new overtime legislation reduced weekly working hours and earnings for crop workers.

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In 2022...

The average California crop employee worked 5 fewer hours and earned $100 less each week than they would have without the overtime law in place.

$\Rightarrow$ How hours and earnings changed are consistent with employers cutting hours to avoid paying the higher overtime rates.

Recap and Discussion

As implemented, California's new overtime legislation reduced weekly working hours and earnings for crop workers.

In 2022...

The average California crop employee worked 5 fewer hours and earned \$100 less each week than they would have without the overtime law in place.

$\Rightarrow$ How hours and earnings changed are consistent with employers cutting hours to avoid paying the higher overtime rates.

Only 28% of crop workers worked $>$ 45 hrs/week

$\Rightarrow$ 67% would have worked this without the law in place

Only 43% of workers earned $>$ \$600 a week

$\Rightarrow$ 80% would have earned this without the law in place

Looking Forward: Policy Implications, Solutions, and Caveats

A subsidy or tax credit Simulation

↑↑ Hours: 67% of workers would have worked $>$ 45hrs vs. 28% in reality

↑↑ Income: at least 70% of workers would have earned $>$ \$700 per week vs. 25% in reality

$\Rightarrow$ Likely not feasible in California given our current deficit...

A partial reversal Simulation

↑ Hours: 50% of workers would have worked $>$ 45hrs

↑ Income: at least 38% of workers would have earned $>$ \$700 per week

Important missing pieces in my work:

- Employment Effects
- Workers: multiple jobs, injuries, well-being, preferences (hours vs. income)
- Employers and consumers: total production, technology adoption, prices

Thank you!

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Trejo, S. J. (2003). Does the statutory overtime premium discourage long workweeks? *Industrial and Labor Relations Review*, 56(3):530–551.

Setting Expectations: What Does Economic Theory Predict?

Back

The "Motivating" Prediction: reduced hours + more workers = ↑ welfare

- Supported mostly by hours-demand models assuming that firms will reduce hours to the "kink" in the cost curve (Brechling, 1965; Ehrenberg, 1971; Hart, 2004; Rosen, 1968)

Several Alternatives:

- Increases in hours, decreases in employment for firms that prefer employing workers for longer hours (Brechling, 1965; Ehrenberg, 1971; Hart, 2004; Rosen, 1968)
- No hours effects, with reductions in base wages (wage-hours compensating models, Filer et al. 1996; Hart 2004; Trejo 1991)
- Small hours effects, with firms using overtime hours to adjust to unexpected shocks (ao Madeira, 2014; Ehrenberg, 1970)
- Ambiguous effects dependent on substitutionability or complementarity between inputs (Calmfors and Hoel, 1989; Ehrenberg and Schumann, 1982)

Linking Theory with Data: What Does Empirical Evidence Suggest?

Back

Effects are mixed... (Brown and Hamermesh, 2019; Hart, 2004)

Hours *decrease* (Buchmueller and Senesky, 2003; Chemin and Wasmer, 2009; Costa, 2000; Hamermesh and Trejo, 2000), *remain the same* (Johnson, 2003; Trejo, 2003), or *increase* (for high wage workers) (Cahuc and Carcillo, 2014)

Earnings *increase* (?), *decrease* (Chen and Wang, 2011; Raposo and van Ours, 2010) or *remain the same* (Kawaguchi et al., 2017; Kuroda and Yamamoto, 2012)

Employment *increases* (?), *decreases* (?), or *remains the same* (Brown and Hamermesh, 2019; Chemin and Wasmer, 2009; Sánchez, 2017)

Other outcomes:

Base wages (increase, decrease, stay the same); Productivity (increases); Moonlighting (increases); Noncompliance (increases); Injuries (decrease)

California's AB 1066: Who is Impacted? Back

The law phased-in overtime coverage for individuals with occupations:

- The preparation, care, and treatment of farm land, pipeline, or ditches...
- The sowing and planting of any agricultural or horticultural commodity
- The care of any agricultural or horticultural commodity...
- The harvesting of any agricultural or horticultural commodity...
- The assembly and storage of any agricultural or horticultural commodity...
- The raising, feeding and management of livestock...
- The harvesting of fish...
- The conservation, improvement or maintenance of such farm and its tools and equipment

Who is exempt? "Employees who are employed in agriculture"

Back to intro

"Agriculture" includes **farming in all its branches** *and among other things includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities... the raising of livestock... and* **any practices performed by a farmer or on a farm as an incident to or in conjunction with such farming operations**, *including preparation for market, delivery to storage or to market or to carriers for transportation to market.*

Who EXACTLY is exempt? The WHD's interpretation (29 CRF part 780) Back

.. **The question is whether the activity in the particular case is carried on as part of the agricultural function or is separately organized as an independent productive activity.** *The farmhand who cares for the farmer's mules or prepares his fertilizer is engaged in agriculture. But the maintenance man in a powerplant and the packer in a fertilizer factory are not employed in agriculture, even if their activity is necessary to farmers and replaces work previously done by farmers. The production of power and the manufacture of fertilizer are independent productive functions, not agriculture (see Farmers Reservoir Co. v. McComb, 337 U.S. 755 cf. Maneja v. Waialua, 349 U.S. 254).*

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Occupation codes do not match definitions of "agricultural employment"

Back

Industries with the highest levels of employment in Graders and Sorters, Agricultural Products:

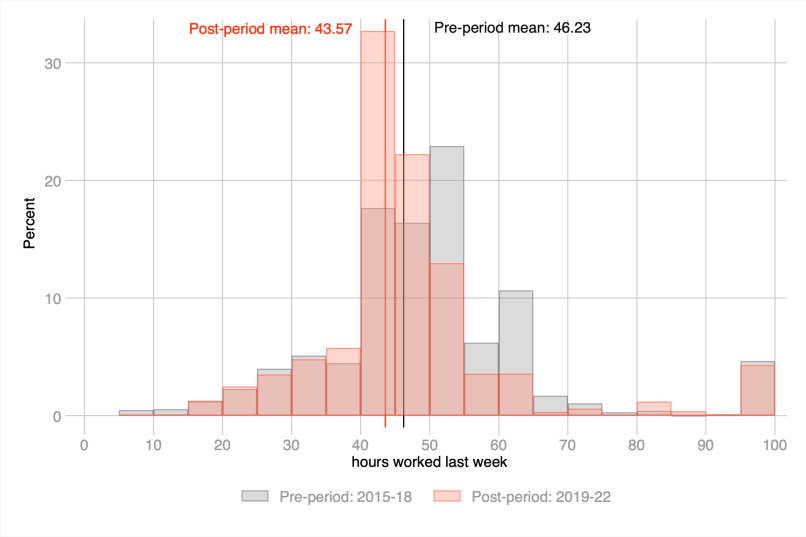
Industry	Employment (1)	Percent of industry employment	Hourly mean wage	Annual mean wage (2)
Support Activities for Crop Production	8,580	2.54	$ 15.52	$ 32,290
Animal Slaughtering and Processing	6,860	1.26	$ 17.32	$ 36,030
Fruit and Vegetable Preserving and Specialty Food Manufacturing	1,680	0.99	$ 17.21	$ 35,800
Merchant Wholesalers, Nondurable Goods (4244 and 4248 only)	1,510	0.15	$ 17.39	$ 36,170
Federal, State, and Local Government, excluding State and Local Government Schools and Hospitals and the U.S. Postal Service (OEWS Designation)	940	0.04	$ 17.06	$ 35,480

Industries with the highest levels of employment in Farmworkers and Laborers, Crop, Nursery, and Greenhouse:

Industry	Employment (1)	Percent of industry employment	Hourly mean wage	Annual mean wage (2)
Support Activities for Crop Production	189,240	56.10	$ 17.25	$ 35,880
Merchant Wholesalers, Nondurable Goods (4241, 4247, and 4249 only)	14,890	2.73	$ 17.23	$ 35,830
Lawn and Garden Equipment and Supplies Retailers	13,310	6.88	$ 16.75	$ 34,840
Employment Services	6,330	0.17	$ 16.69	$ 34,710
Beverage Manufacturing	5,650	1.78	$ 19.30	$ 40,130

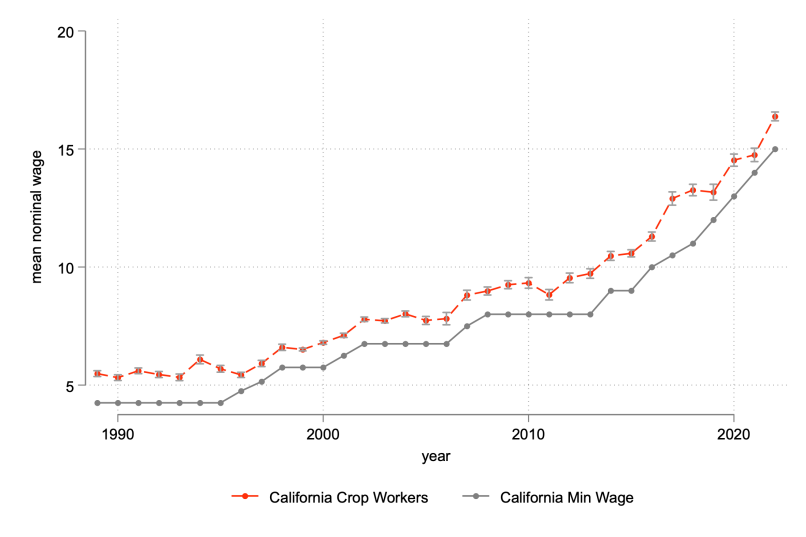
Data from BLS Occupational Employment and Wage Statistics.
`https://www.bls.gov/oes/current/oes_stru.htm`

Evidence from the Raw Data: Hours Decrease



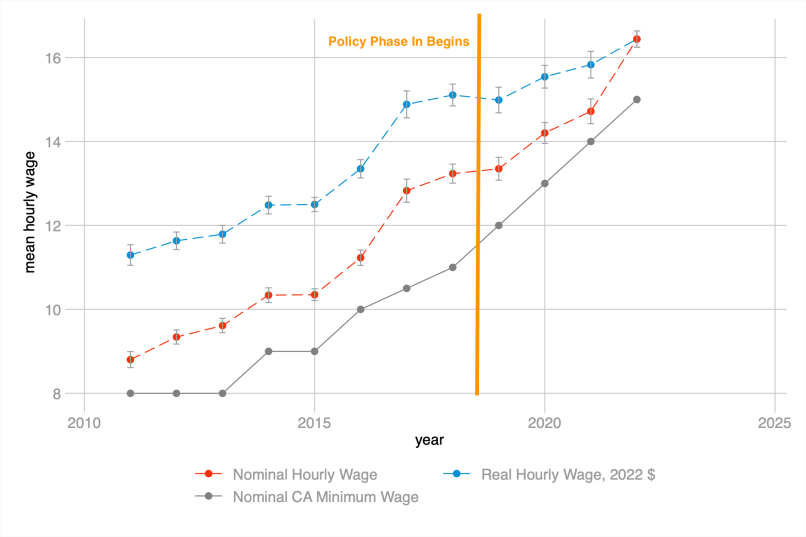
Wage Trends for Full NAWS Sample (change in trends around 2011)

Back



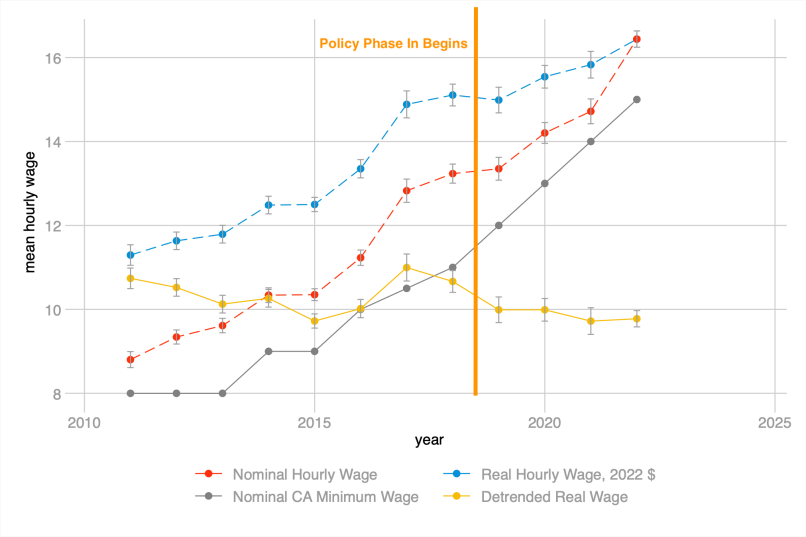
Evidence from the Raw Data: No Change in Wages (Trend Continues)

Back



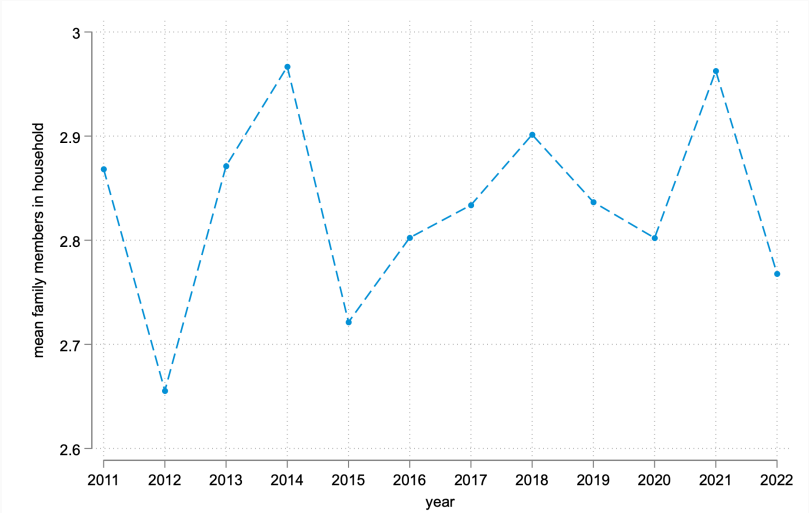
Evidence from the Raw Data: No Change in Wages (Trend Continues)

Back

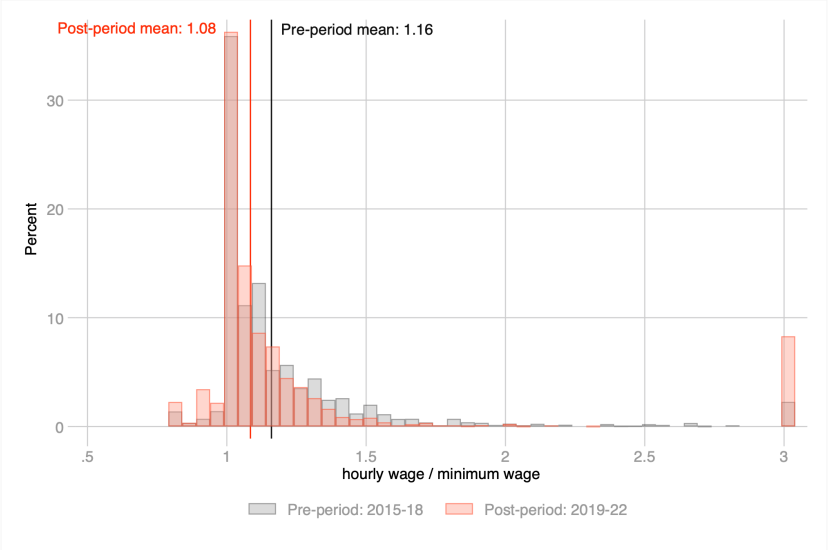


Evidence from the Raw Data: Number of Family Members Remains Stable

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An Aside: Wage Compression Toward the Minimum Wage



Full Methods

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Approach 1: Event Study / Regression Discontinuity in Time

$$Y_{it} = \boldsymbol{X_{it}}'\boldsymbol{\alpha} + \sum_{t=-8}^{3} \beta_t \mathbb{1}(time = t) + \varepsilon_{it} \tag{1}$$

Approach 2: Dynamic DiD with and without controls

$$Y_{ist} = \boldsymbol{X_{ist}}'\boldsymbol{\alpha} + \sum_{t=-8}^{3} \beta_t \mathbb{1}(\text{time} = t)\mathbb{1}(\text{state=CA}) + \gamma_s + \gamma_t + \varepsilon_{it} \tag{2}$$

Controls: age, education, gender, children, experience, legal status, task, crop, payment type

Outcomes: Hours, Real Weekly Earnings, Real Hourly Base Wage Rate (all detrended using pre-period trends)

Full Methods: Distribution Regression

Back

Approach 3: Distribution Regression (Chernozhukov et al., 2013; Dube, 2019)

$$\mathbb{1}\left[Y_{ist} \leq z\right] = \boldsymbol{X_{ist}}'\boldsymbol{\alpha} + \sum_{t=-8}^{3} \beta_t \mathbb{1}(\text{time} = t)\mathbb{1}(\text{state=CA}) + \gamma_s + \gamma_t + \varepsilon_{it} \qquad (3)$$

where z is a threshold for hours or earnings.

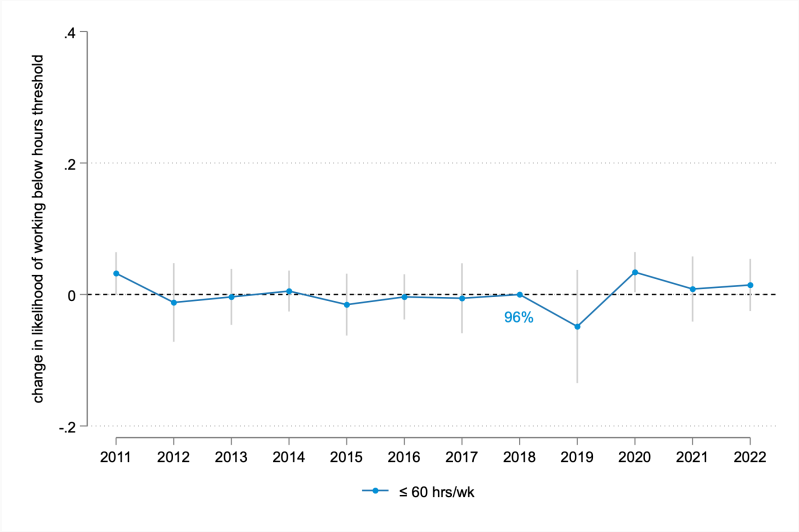
For hours, I repeat this in 5 hours increments from 35 to 60.

For earnings, I repeat this in \$100 increments from \$300 to \$900.

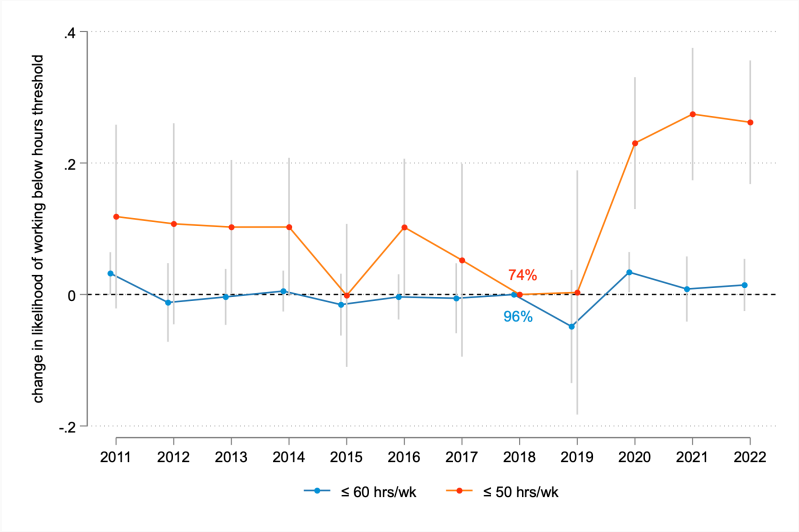
Approach 4: Construct Counterfactual Distributions (Chernozhukov et al., 2013)

$\Rightarrow$ I estimate the above equation using a logistic regression, subtracting the estimated DiD effect in each post-year and predict the probability that each worker's hours or earnings would fall below the indicated threshold (if the law never went into effect).

Approach 1: CA Workers No Change in Likelihood of Working $\leq$ 60 hrs/wk

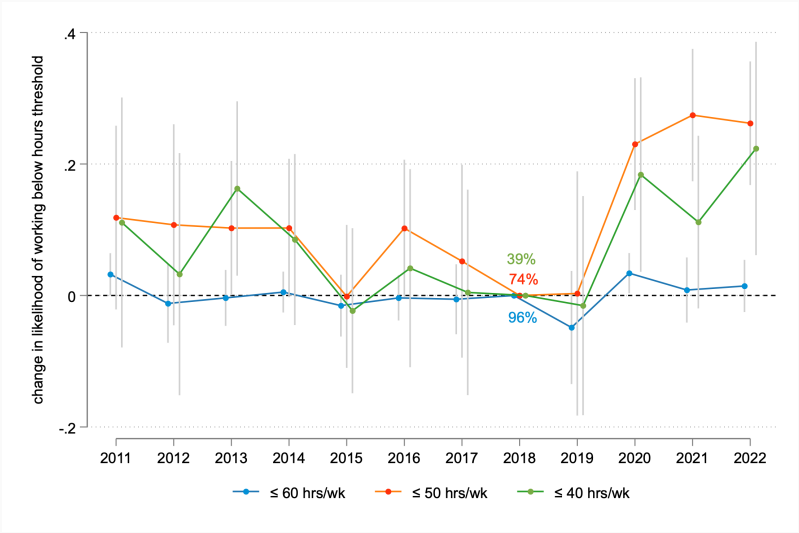


Approach 1: CA Workers More Likely to Work $\leq$ 50 hrs/wk



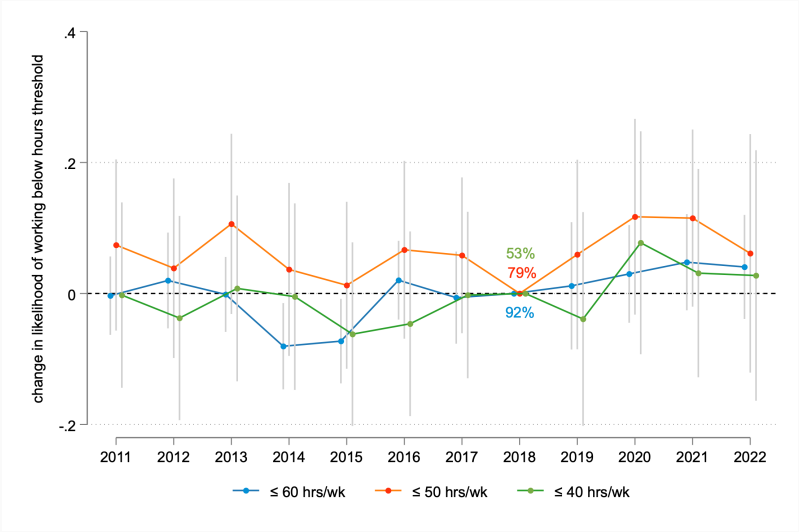
Approach 1: CA Workers More Likely to Work $\leq$ 40 hrs/wk

Back



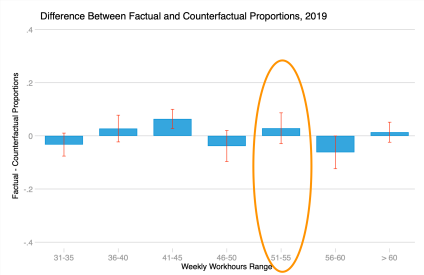
Approach 2: No Significant Changes in Hours in Non-OT States

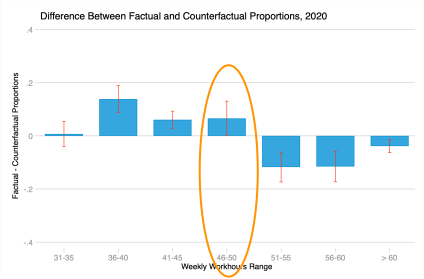
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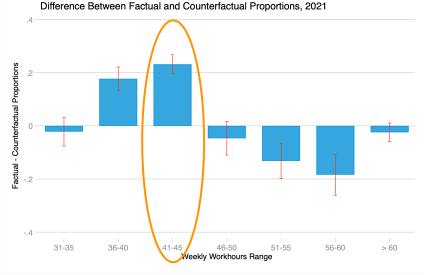


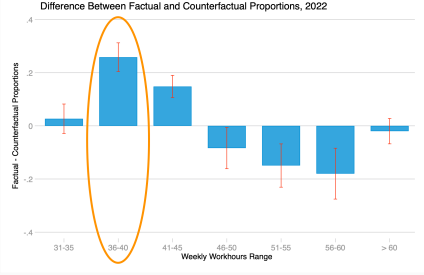
Robustness: DR-Event Study, California Only

Back



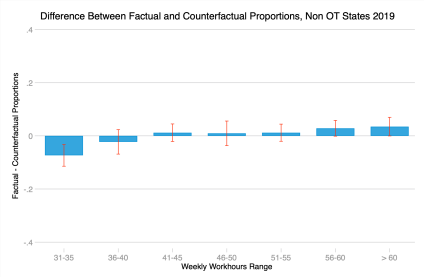


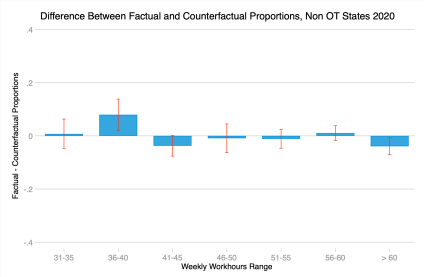


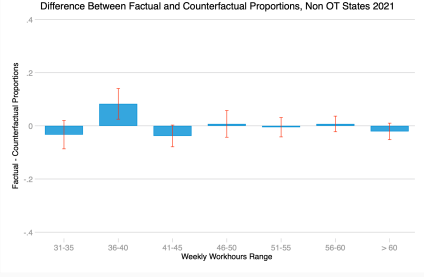


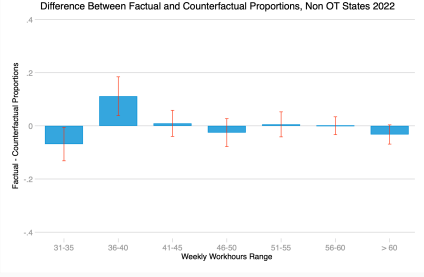
Robustness: DR-Event Study, All Non-OT States

Back



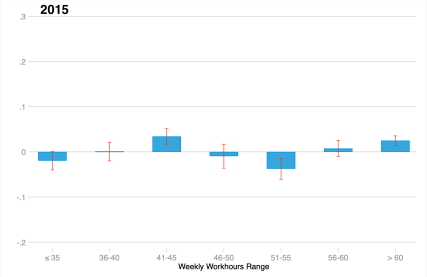


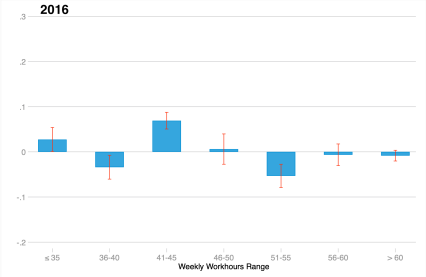


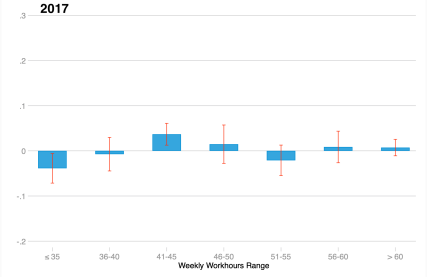


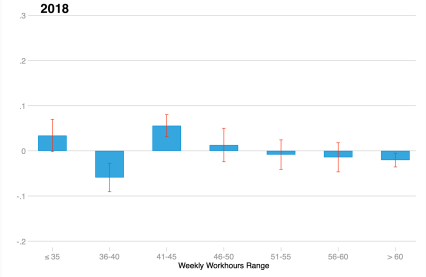
Robustness: DR-DiD 2015-2018 as "Treatment"

Back



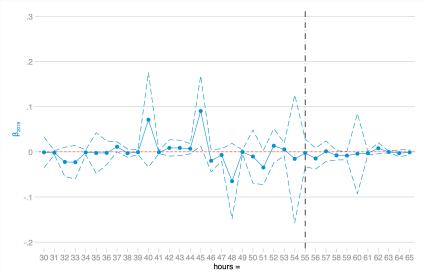


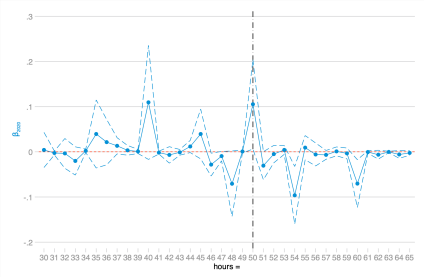


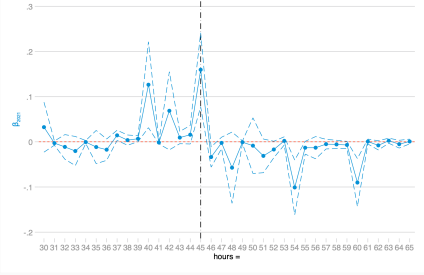


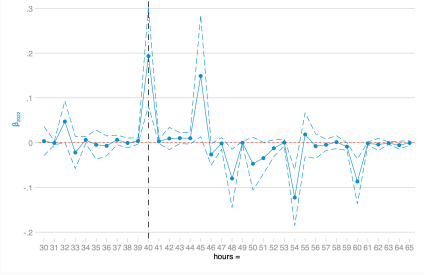
Robustness: Bunching, California Only

Back



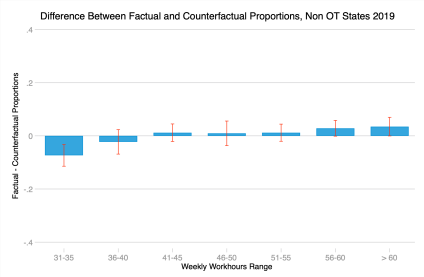


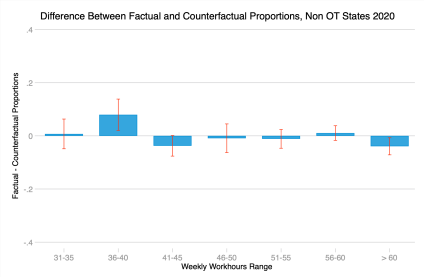


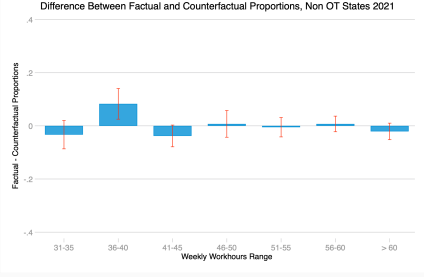


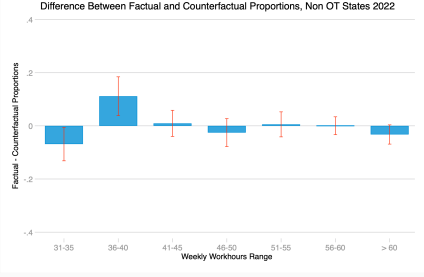
Robustness: No Earnings Changes in Control States

Back





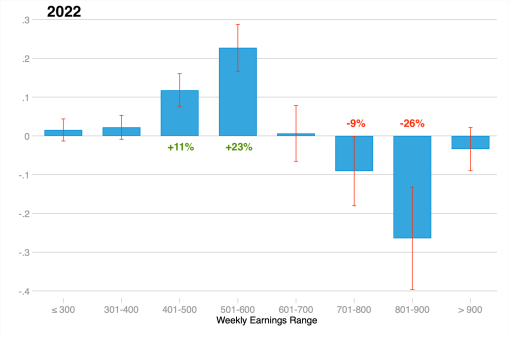




Tying Things Together: Hours & Earnings in 2022

Back





- 35% **FEWER** workers earned \$700-900 per week: $\sim$ earnings from working 45-60 hours a week at the 2022 minimum wage (\$15).
- 34% **MORE** workers earned \$400-600 per week: $\sim$ earnings from working 30-40 hours a week at the minimum wage.

Supplementary Data on Employment

Back

Because employment is an important outcome for understanding net impacts on workers, I use two additional data sources to capture crop employment:

The Quarterly Census of Earnings and Wages:

- Number of jobs (reported by all employers in the UI system) at the state-year level
- Two "types" of employment: Direct hire crop employment (NAICS 111) and farm labor contractor (FLC) employment (NAICS 115115)

H-2A Program Data from the U.S. Department of Foreign Labor Certification:

- Information from all H-2A Visa worker certification requests
- I use the number of H-2A visa workers certified by state and year (state of worksite, and year of visa start date)

Methods

Approach 1: Synthetic Control

$\Rightarrow$ Issue: California is the largest farm employer of any state...

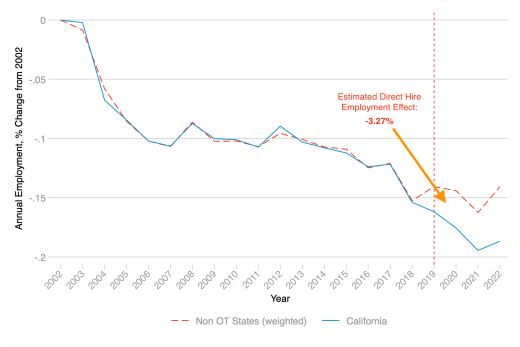
Approach 2: Synthetic DiD

Employment Outcomes: Levels, **% change from first year of data**, Logs, % change year over year.

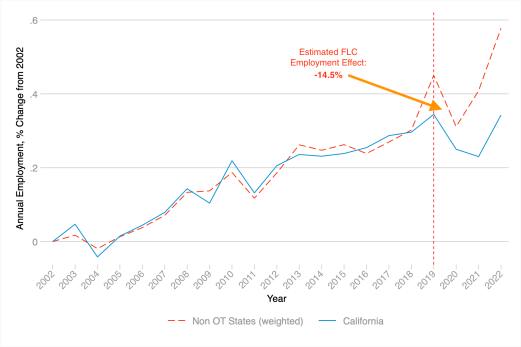
No Significant Employment Effects for Overall Employment (QCEW data)

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Direct Hire Crop Employment

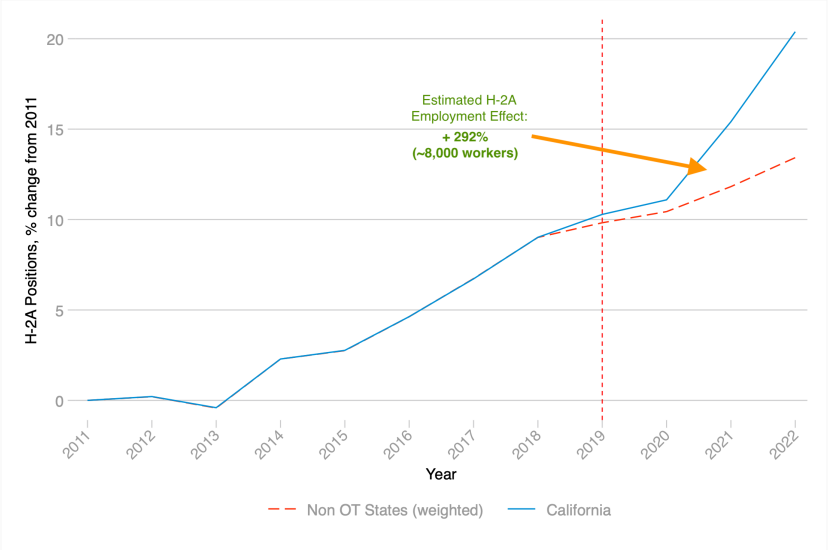


Contract Hire Crop Employment



▸ Full Results Back

BUT Significant Increase in H-2A Workers (H-2A Visa Data)



Results: QCEW Employment, Alternative Specifications

Back

Direct Hire

	SDID, adj. emp.	SDID, emp.	SC, adj. emp.
ATT	-0.027	-5124.750***	-0.033
	(0.138)	(832.514)	(0.209)
Observations	1,071	1,071	1,071

Contract Hire

	SDID, adj. emp.	SDID, emp.	SC, adj. emp.
ATT	-0.102	-1476.198***	-0.145
	(1.191)	(542.958)	(1.755)
Observations	693	693	693

* p<0.10, ** p<0.05, *** p<0.01

Results: H-2A Certifications, Alternative Specifications

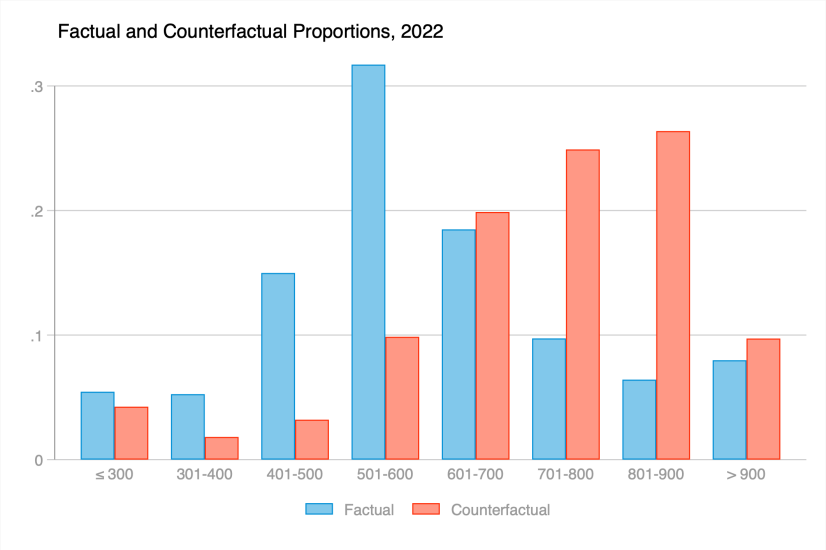
Back

All H-2A Workers, Since 2011

	SDID, adj. emp.	SC, adj. emp.	SDID, emp.	SC, emp.
ATT	2.504**	2.916**	8312.399***	8458.448**
	(1.154)	(1.405)	(2753.127)	(3846.949)

2022 Factual Versus Predicted Earnings for California Workers

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Two Policy Simulations

Option 1: An Overtime Tax Credit

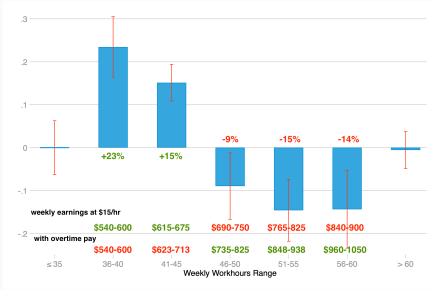
OREGON DEPARTMENT OF REVENUE

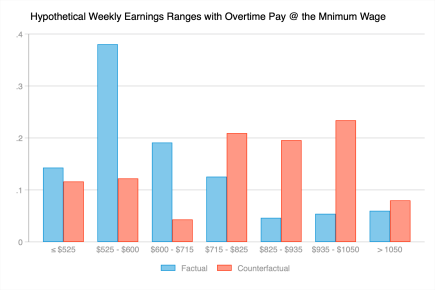
Employer Tax Credit for Agriculture Worker Overtime Pay

Tax Credit for Agricultural Worker Overtime Pay

The Oregon Legislature approved House Bill (HB) 4002 in February 2022. The measure requires agricultural employers to pay certain workers for overtime hours worked and creates a refundable personal income or corporate tax credit for employers for a percentage of wages paid as overtime pay to agricultural workers for calendar years 2023 through 2028.

What if Hours Were Not Impacted? Hours & Earnings in 2022





Hours Effects: 67% of workers would have worked $>$ 45hrs $\Rightarrow$ 28% worked this in reality

Earnings Effects: More than 70% of would have earned \$715 - \$1050 per week.*

$\Rightarrow$ this is more than they would have earned without overtime payments (\$700-\$900)

$\Rightarrow$ and MUCH more than actually earned (only 25% of workers earned $\geq$\$715)

*Hypothetical earnings are estimated as: base hours $\times$ \$15 + overtime hours $\times$ 22.5.

Option 2: A Partial Reversal

THE SACRAMENTO BEE
Part of the McClatchy Media Network

EQUITY LAB

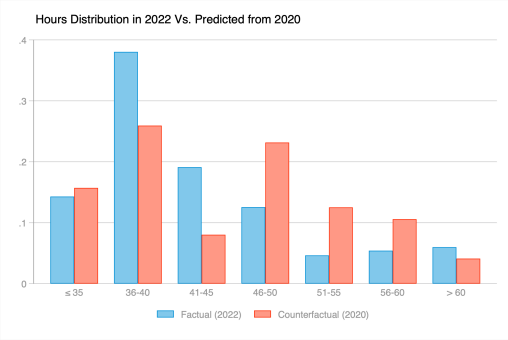
Is this overtime law actually helping California's farmworkers? Lawmaker proposes a reversal

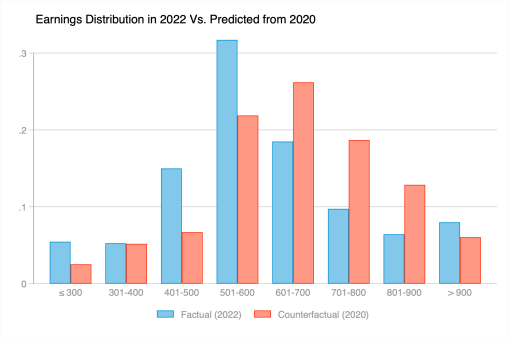
BY MATHEW MIRANDA
UPDATED MARCH 11, 2024 9:29 AM

But Gallagher's bill, Assembly Bill 3056, proposes pulling back the rules and would mandate overtime for farmworkers working more than nine hours in a day or 50 hours in a week. He argues that the 2016 law did not account for the "realities" of the agriculture industry and is hurting both farmers and their employees.

"Let's put a pause on this law and relook at what would be a better way to ensure that we are benefiting farmworkers and also the family farms that provide food for the world and provide jobs in agriculture," Gallagher said.

What if Overtime was Paid after 50 Hours a Week? Hours & Earnings in 2022





50% of workers would have worked $>$ 45hrs

$\Rightarrow$ only 28% worked this in reality

$\Rightarrow$ versus 67% without the law in place

64% of workers would have earned $>$ \$600

$\Rightarrow$ 43% of workers earned this in reality

$\Rightarrow$ versus 80% without the law in place