California's Overtime Law for Agricultural Workers

Implications for Working Hours and Earnings from Two Datasets

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California's Assembly Bill 1066: Overtime Phase-in

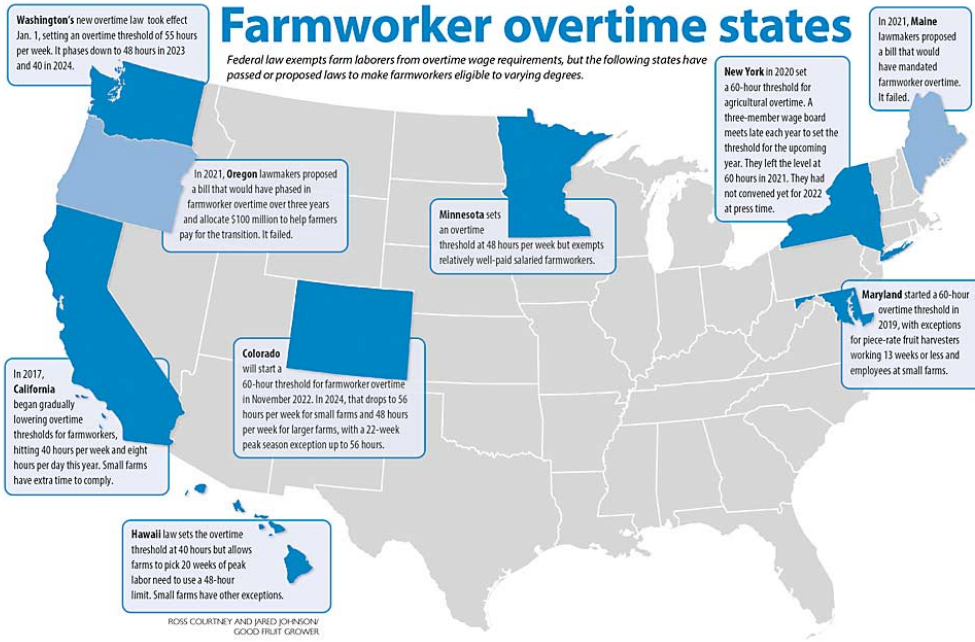
Effective Date for Employers with...		Overtime Pay Required After
$>$ 25 Employees	$\leq$ 25 Employees	(Hours per Day/Hours per Week)
Pre 2019	Pre 2022	10/60
Jan. 1 2019	Jan. 1 2022	9.5/55
Jan. 1 2020	Jan. 1 2023	9/50
Jan. 1 2021	Jan. 1 2024	8.5/45
Jan. 1 2022	Jan. 1 2025	8/40

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`.

who is covered?

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

Research Questions and Preview of Findings

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

$\Rightarrow$ **Average hours decrease**: 3 to 5 fewer hours per week.

$\Rightarrow$ **Distribution of hours shifts**: 13-20% fewer worked >40 hrs/week

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

$\Rightarrow$ **Average weekly earnings decrease**: \$100 less per week

$\Rightarrow$ **Average annual earnings decrease**: \$2,000 less per year

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

$\Rightarrow$ **Overtime Tax Credit**: $\uparrow\uparrow$ Hours, $\uparrow\uparrow$ Income

$\Rightarrow$ **Overtime at 50 hrs/wk**: $\uparrow$ Hours, $\uparrow$ Income

Comparing Two Sources of Data

The NAWS

National Agricultural Workers Survey

Only nationally representative survey of US agricultural workers

Only farmworkers who are federally exempt from overtime standards are surveyed

Crop workers only, no H-2A

In-person interviews at work

in CA: 7,892; in control states: 8,765

The ACS

The American Community Survey

Nationally representative survey of all U.S. households

Farmworkers identified from occupation and industry: OCC 6050 "Miscellaneous agricultural workers" and IND 170 "Crop Production"

Online or mail-in survey filled at home

in CA: 30,491; in control: 72,188

Comparing Two Sources of Data

The NAWS

Hours Worked: "How many hours did you work last week at your current farm job?"

Earnings: "Can you tell me how you were paid and the amount your employer paid you on your last pay day? For what time period was that payment?"

$\Rightarrow$ I use pre-tax earnings for weekly and biweekly paid workers

The ACS

Hours Worked: "During the PAST 12 MONTHS (52 weeks), in the WEEKS WORKED, how many hours did this person usually work each WEEK?"

Earnings: "Wages, salary, commissions, bonuses, or tips from all jobs. Report amount before deductions for taxes, bonds, dues, or other items"

Methods

Data Preparation:

I analyze both datasets from 2011-2022.

Adjust earnings to 2022 real $ using the annual CPI.

Important when comparing earnings across time.

Apply sampling weights to adjust the relative value of each interview

Necessary for estimates to reflect the entire population, not just those sampled.

In the NAWS I additionally removed salaried workers.

Approach 1: Before-After Analysis (Event Study)

Idea: Compare worker outcomes before and after the law.

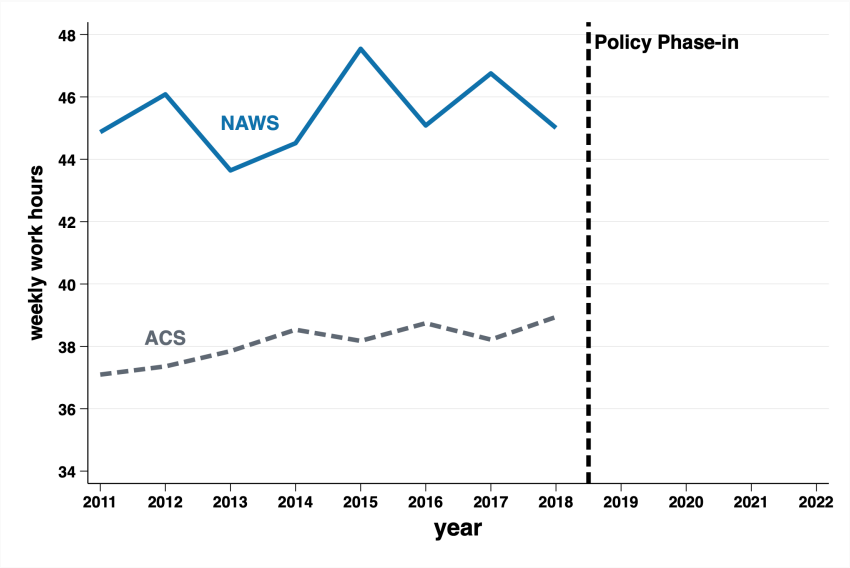
Approach 2: Before-After Comparison w/ Non-OT States (Diff-in-Diff)

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

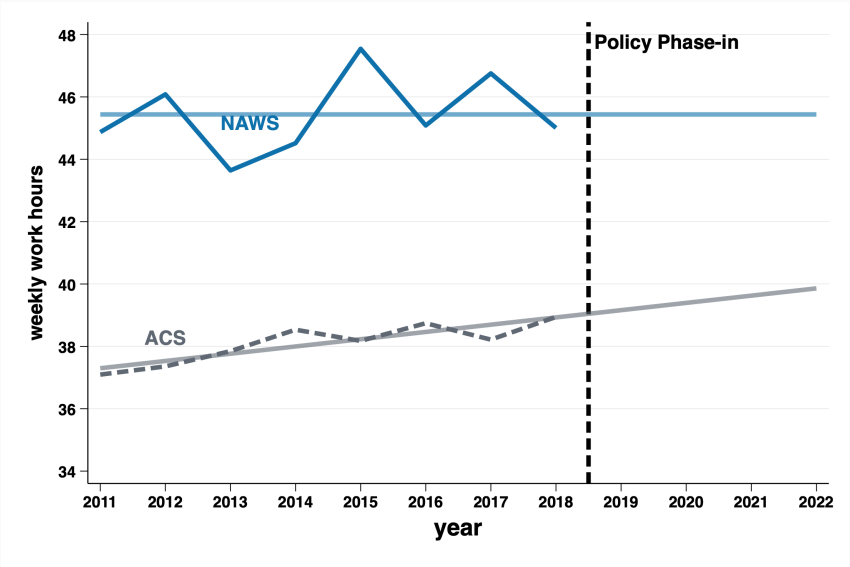
What can we learn from the NAWS and ACS:

Hours

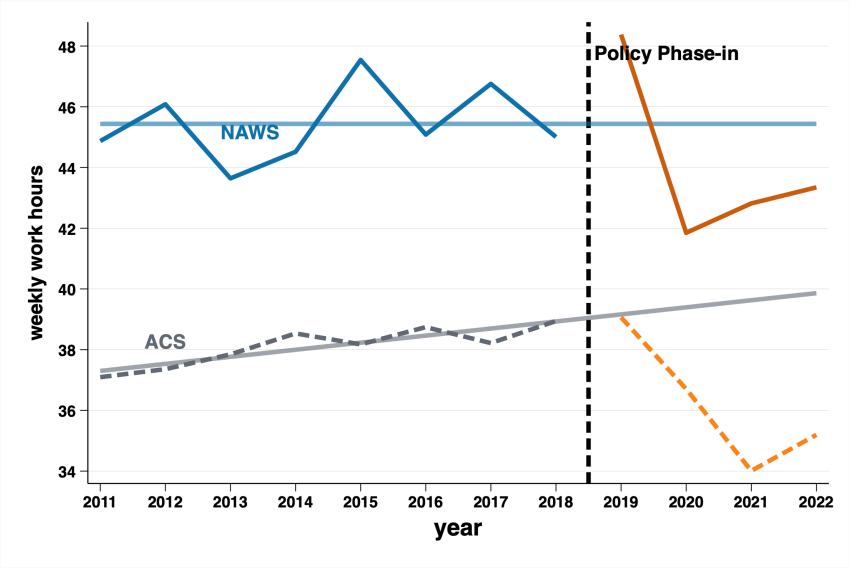
Average California Farmworker Hours Before the Law



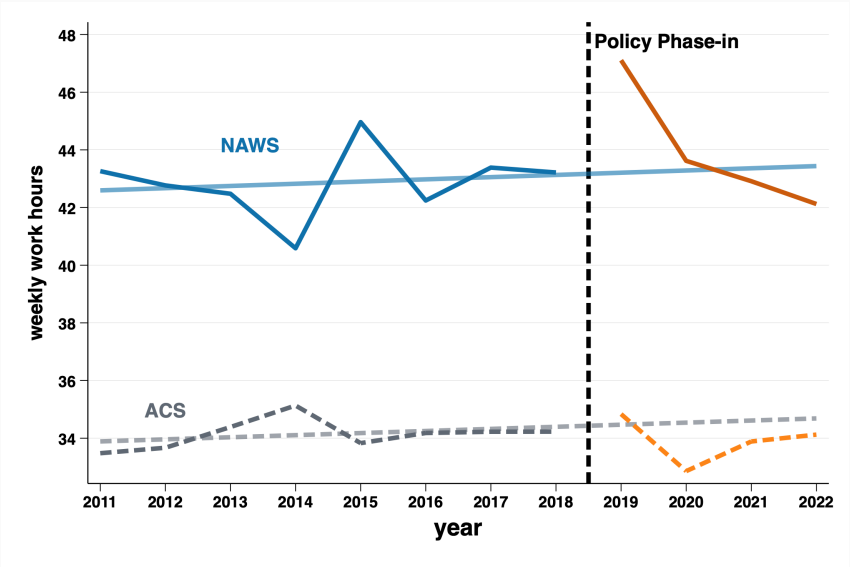
California Farmworker Hours Before the Law: Trends

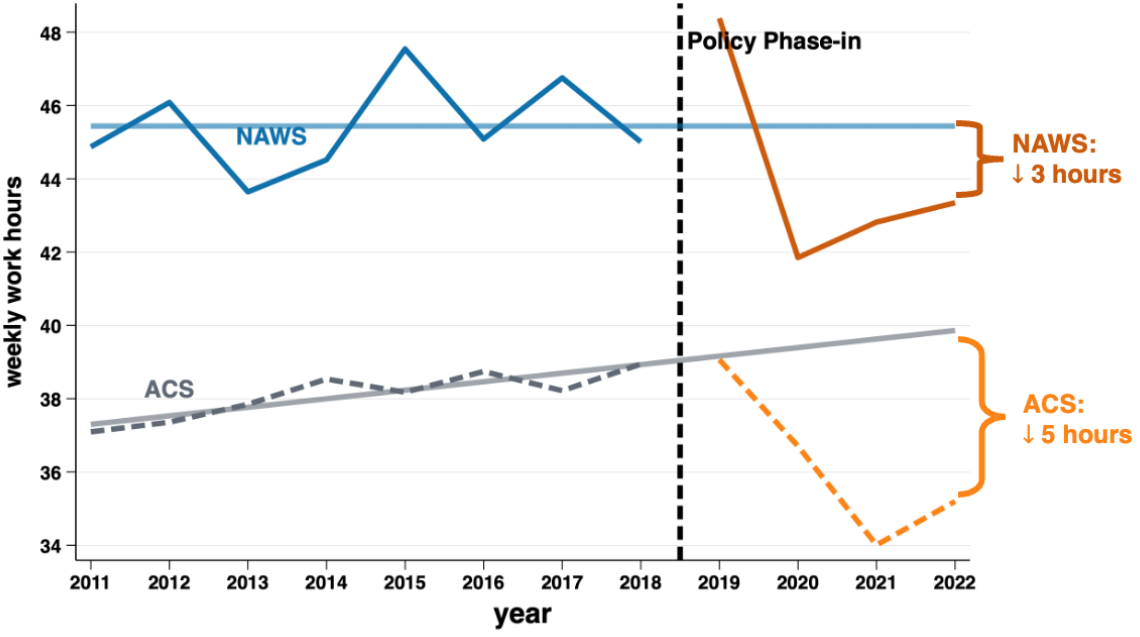


California Farmworker Hours Decreased After the Law

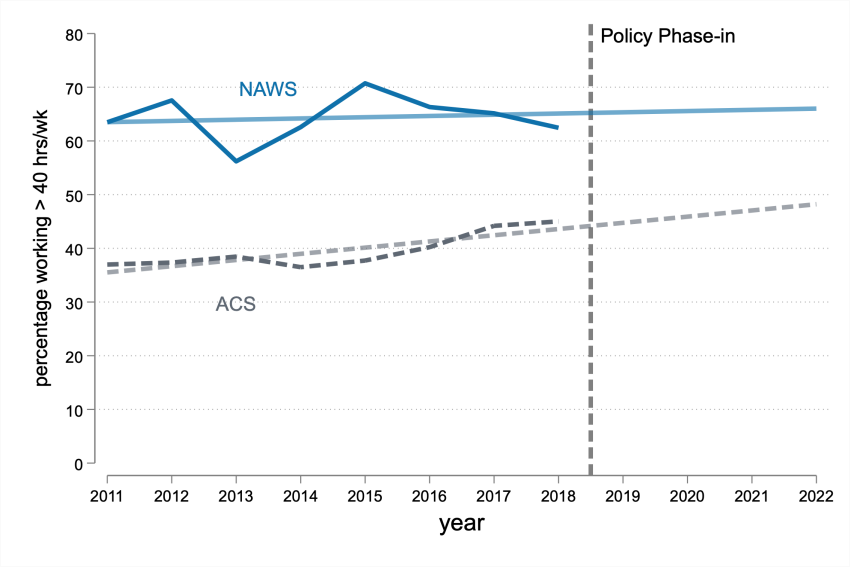


What Happened to Hours in Control States? Nothing.

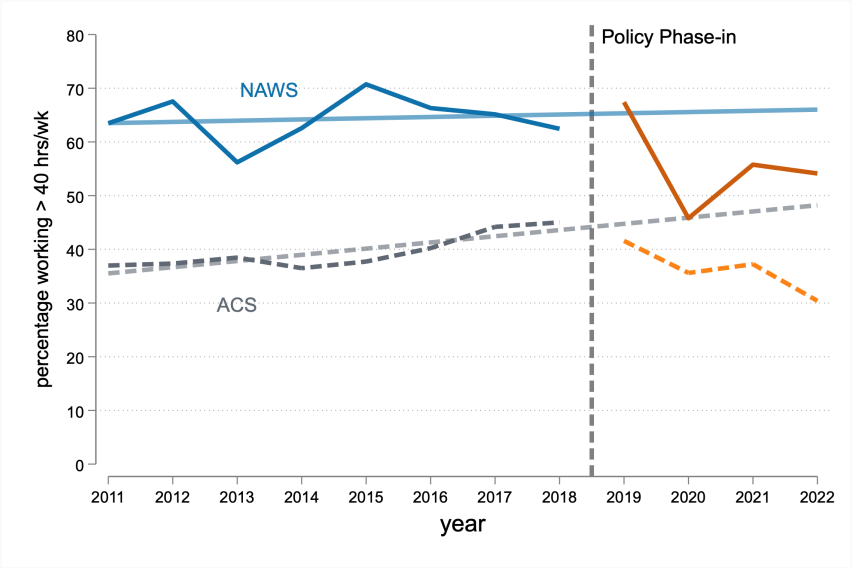



Policy Phase-in
NAWS
ACS
NAWS:
↓ 3 hours
ACS:
↓ 5 hours
weekly work hours
48
46
44
42
40
38
36
34
2011
2012
2013
2014
2015
2016
2017
2018
2019
2020
2021
2022
year

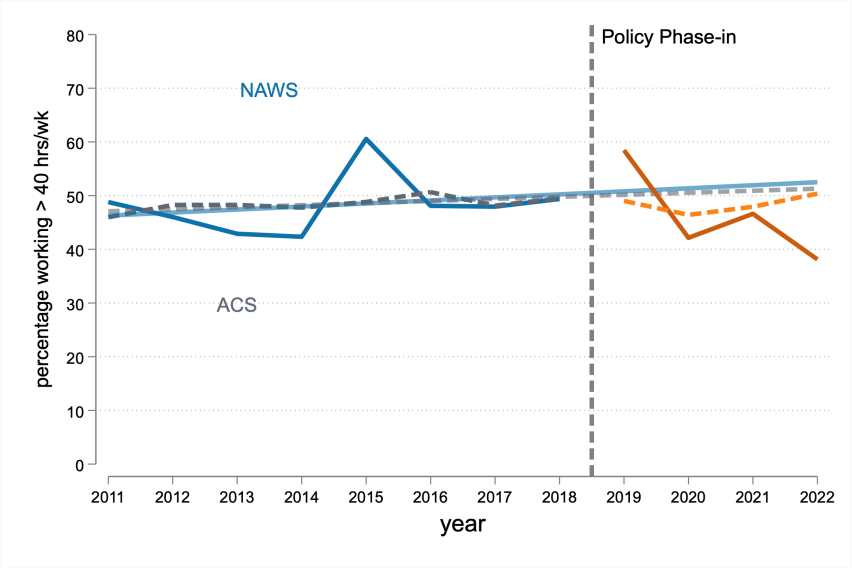
California % Working > 40 hrs/wk Before the Law

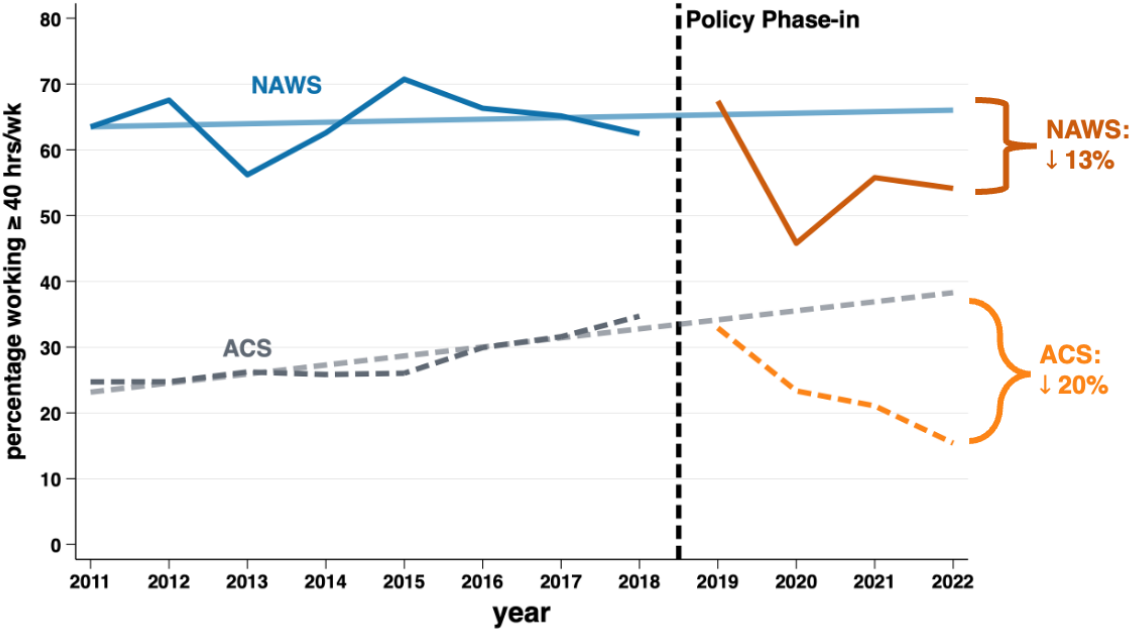


Less Likely to Work > 40 hrs/wk After the Law



What Happened in Control States? ↓ NAWS, No Change ACS

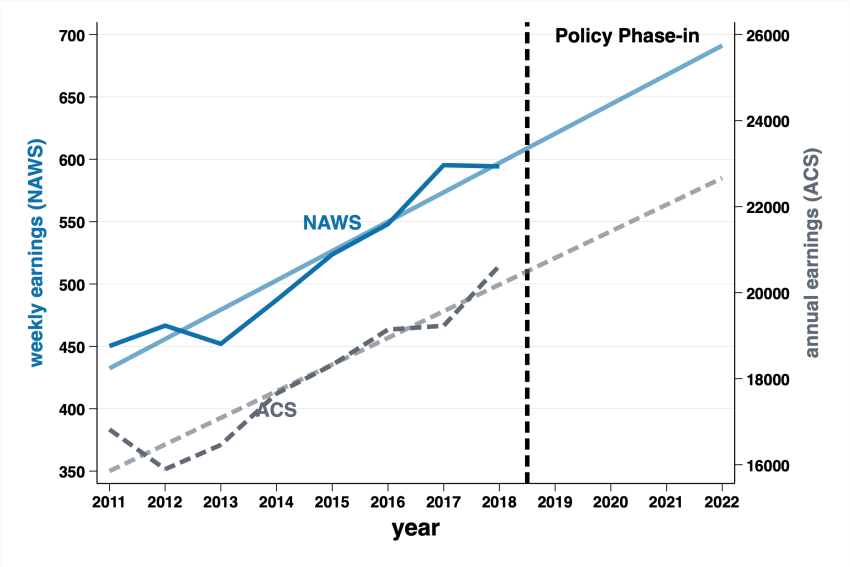



Policy Phase-in
NAWS
ACS
NAWS:
↓ 13%
ACS:
↓ 20%
percentage working ≥ 40 hrs/wk
0
10
20
30
40
50
60
70
80
2011
2012
2013
2014
2015
2016
2017
2018
2019
2020
2021
2022
year

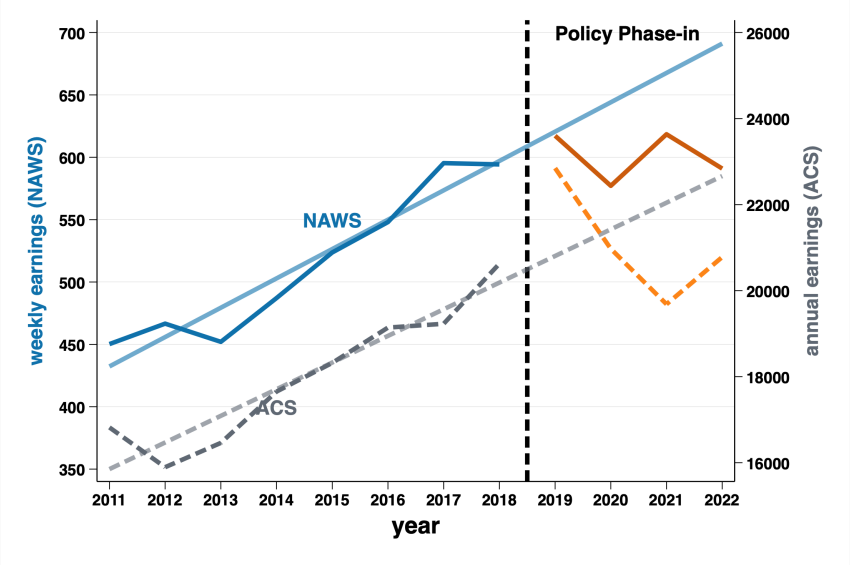
What can we learn from the NAWS and ACS:

Earnings

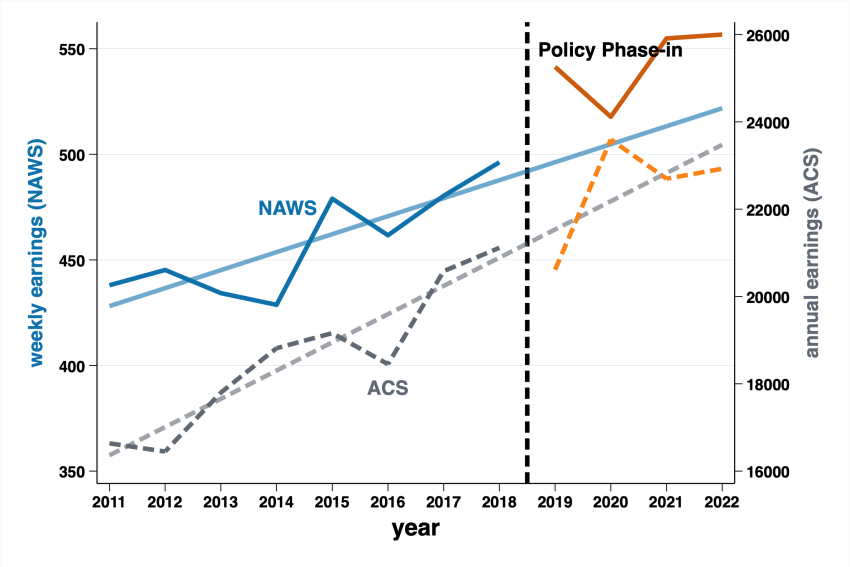
California Farmworker Earnings Before the Law, Trending Up

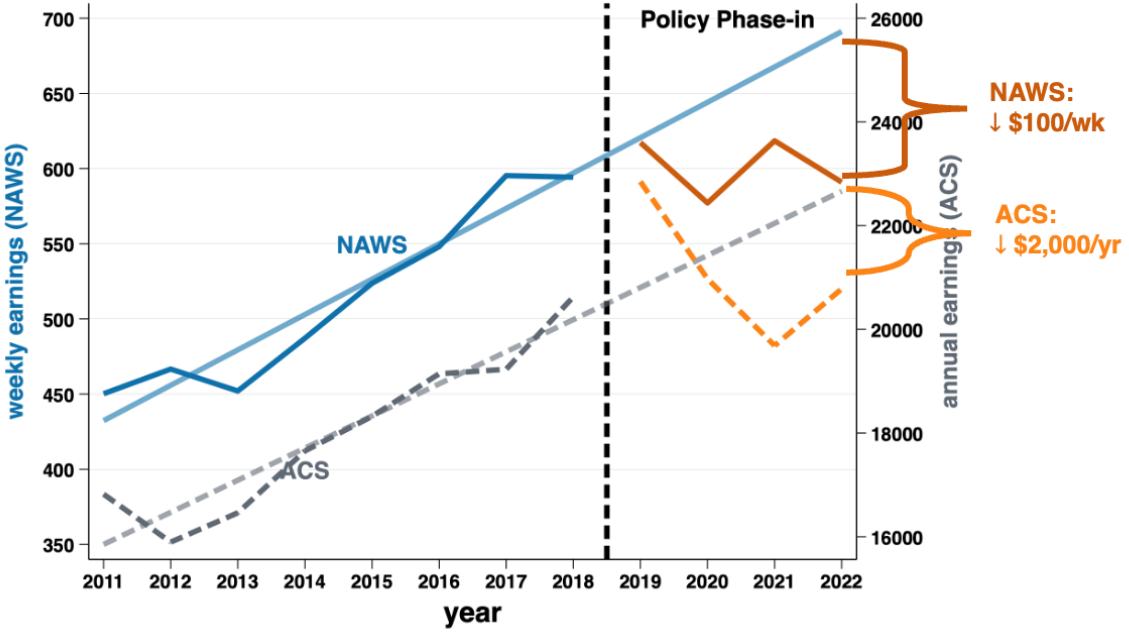


Average California Farmworker Earnings Decreased After the Law



What Happened to Earnings in Control States? Nothing/↑.




Policy Phase-in
NAWS
ACS
weekly earnings (NAWS)
annual earnings (ACS)
year
700
650
600
550
500
450
400
350
26000
24000
22000
20000
18000
16000
2011
2012
2013
2014
2015
2016
2017
2018
2019
2020
2021
2022
NAWS:
↓ $100/wk
ACS:
↓ $2,000/yr

Summary of this Analysis

Both the NAWS and ACS show that California's new overtime legislation reduced working hours and earnings for crop workers.

Hours Effects

- On average, workers worked 3-5 fewer hours per week.
- Only 13-30% of workers reported working more than 40 hours a week in 2022

Earnings Effects

- On average, workers earned $100 less per week and $2,000 less per year.

NOTE: These estimates are potentially smaller than than reality...

What Could Have Happened?
Two Policy Simulations using the NAWS

Policy Simulations: Methods

Policy 1: OT Tax Credit

Assume hours are as predicted without the law, but workers receive 1.5 $\times$ normal pay after 40 hours/week

Assume all workers are paid the minimum wage $\Rightarrow$ lower-bound on earnings effects.

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

Policy 2: OT at 50 hours

This was the overtime threshold in 2020

$\Rightarrow$ Assume hours and earnings are as predicted using data from 2011-2020.

Does not require the minimum wage assumption...

But is still a lower-bound because smaller employers were not phased-in.

Policy Simulations: Results

Policy 1: OT Tax Credit

Hours Effects: 67% of workers would have worked $>$ 45hrs

Earnings Effects: More than 85% of would have earned $>$ \$600 per week.

More than 70% earning $>$ \$700.

Policy 2: OT at 50 hours

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

Earnings Effects: 64% of workers would have earned $>$ \$600

Hours in Reality: 28% worked $>$ 45hrs.

Earnings in Reality: 43% of workers earned $>$ \$600;
25% of workers earned $>$ \$700

Looking Forward: Policies, Missing Links, and Considerations

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

A partial reversal Simulation

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

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

Considerations and Missing Links:

How would employers respond to another change in the law?

Employment Effects, non-crop workers, H-2A workers

Workers: multiple jobs, injuries, well-being, preferences (hours vs. income)

Employers and consumers: total production, technology adoption, prices

Thank you!

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difference-in-differences estimation strategy of the employment effects of the 35-hour workweek regulation in france. *Journal of Labor Economics*, 27(4):487–524.

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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:

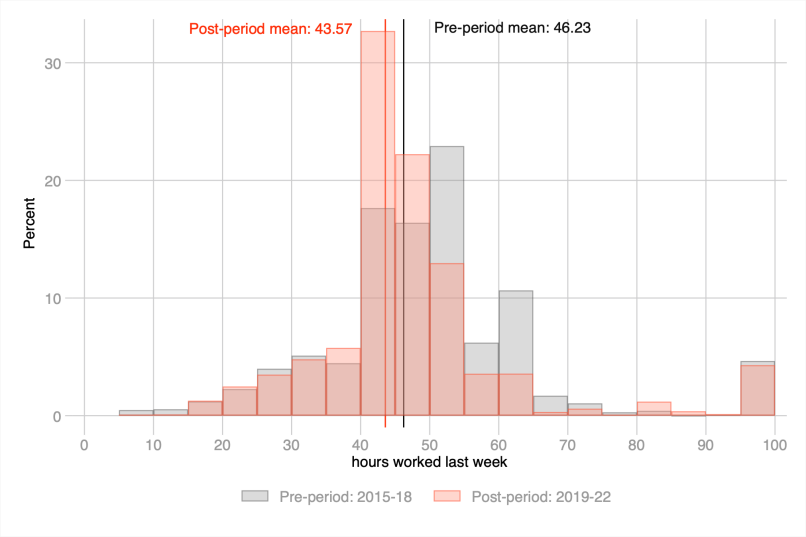
Industry	Employment (1)	Percent of industry employment	Hourly mean wage	Annual mean wage (2)
Support Activities for Crop Production	8,580	2.54	$ 15.52	$ 32,290
Animal Slaughtering and Processing	6,860	1.26	$ 17.32	$ 36,030
Fruit and Vegetable Preserving and Specialty Food Manufacturing	1,680	0.99	$ 17.21	$ 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

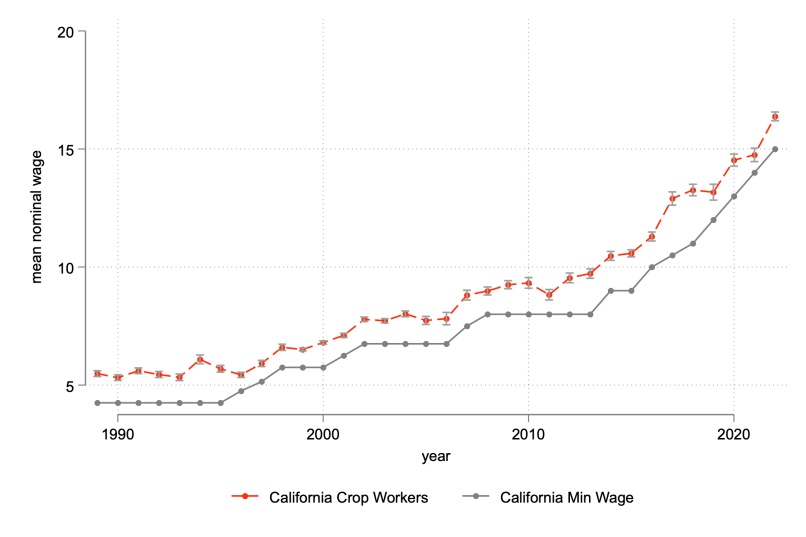
Data from BLS Occupational Employment and Wage Statistics.
`https://www.bls.gov/oes/current/oes_stru.htm`

Evidence from the Raw Data: Hours Decrease



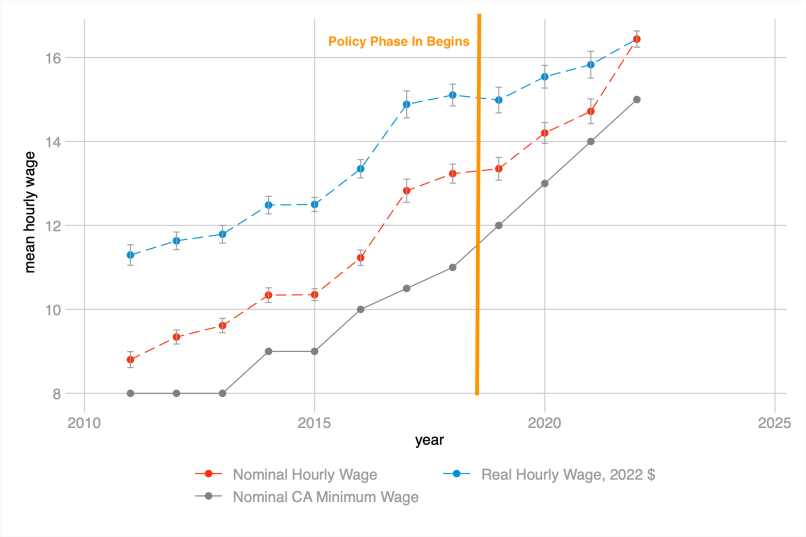
Wage Trends for Full NAWS Sample (change in trends around 2011)

Back



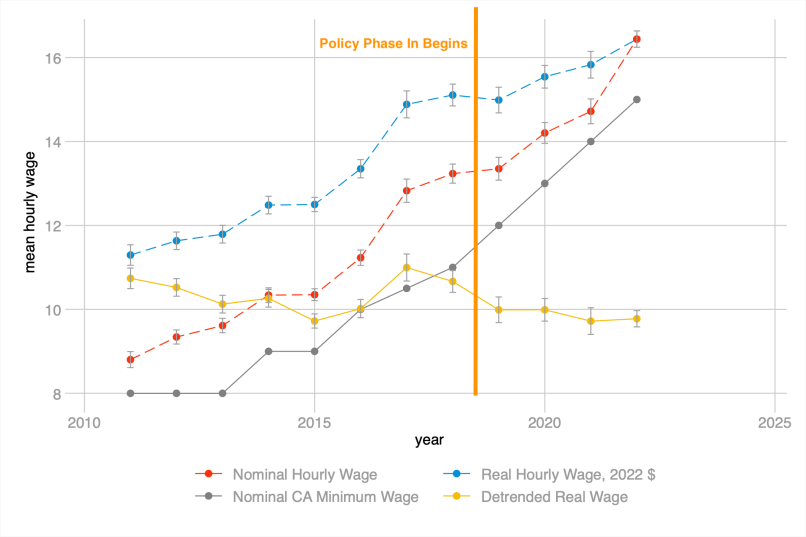
Evidence from the Raw Data: No Change in Wages (Trend Continues)

Back



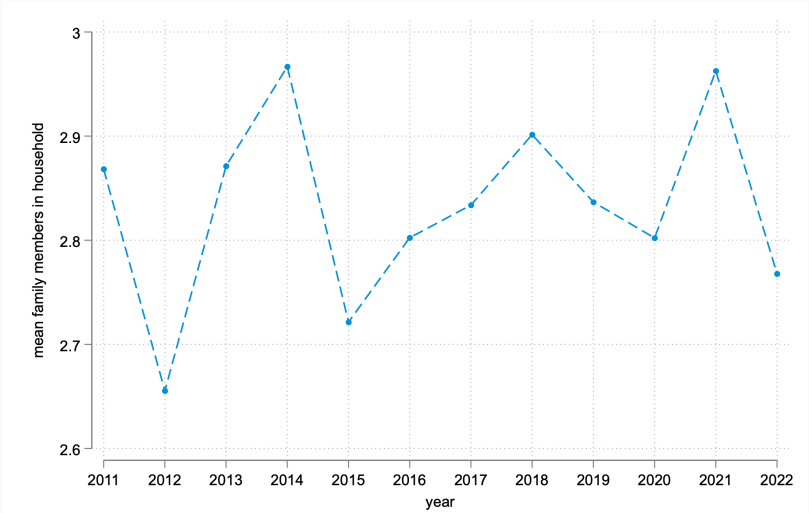
Evidence from the Raw Data: No Change in Wages (Trend Continues)

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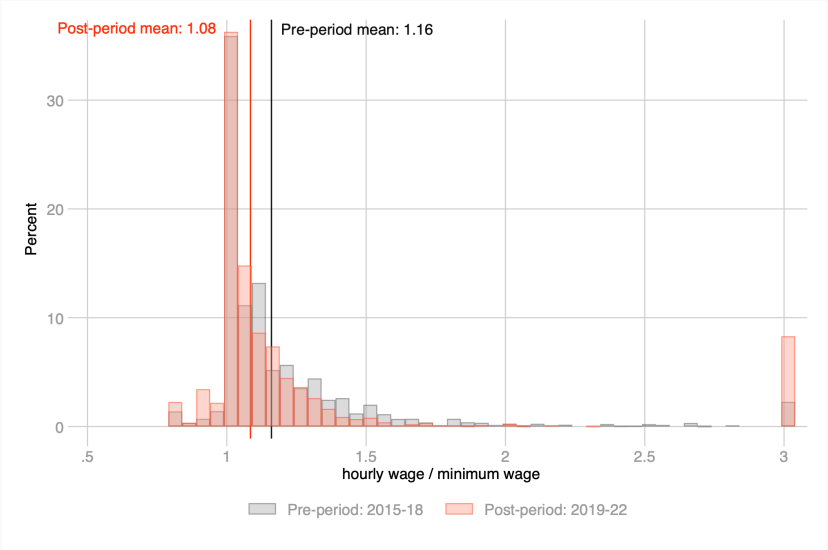


Evidence from the Raw Data: Number of Family Members Remains Stable

Back



An Aside: Wage Compression Toward the Minimum Wage



Full Methods

Back

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.

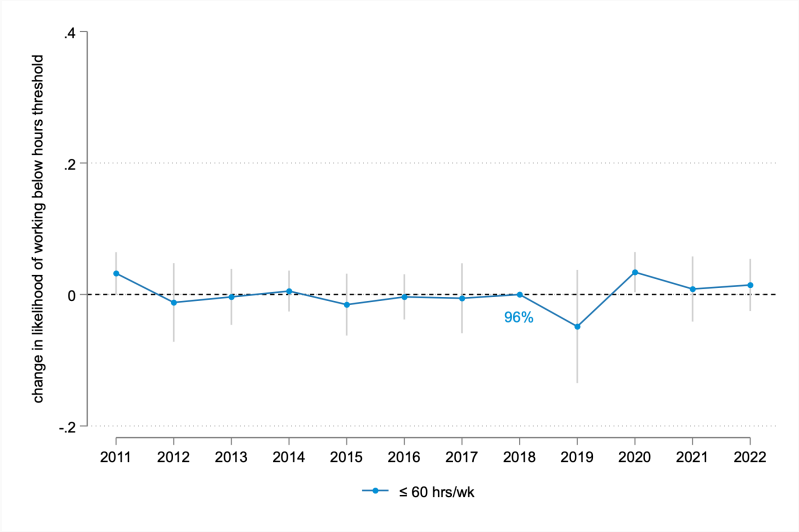
For hours, I repeat this in 5 hours increments from 35 to 60.

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

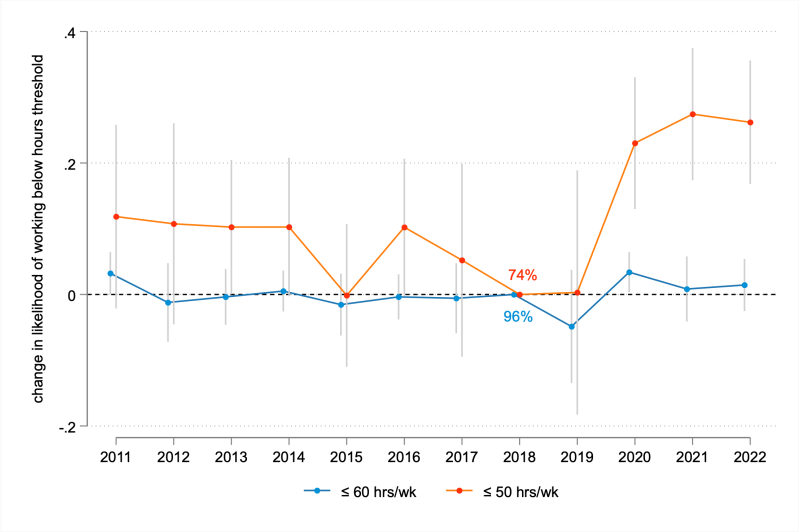
Approach 4: Construct Counterfactual Distributions (Chernozhukov et al., 2013)

$\Rightarrow$ 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

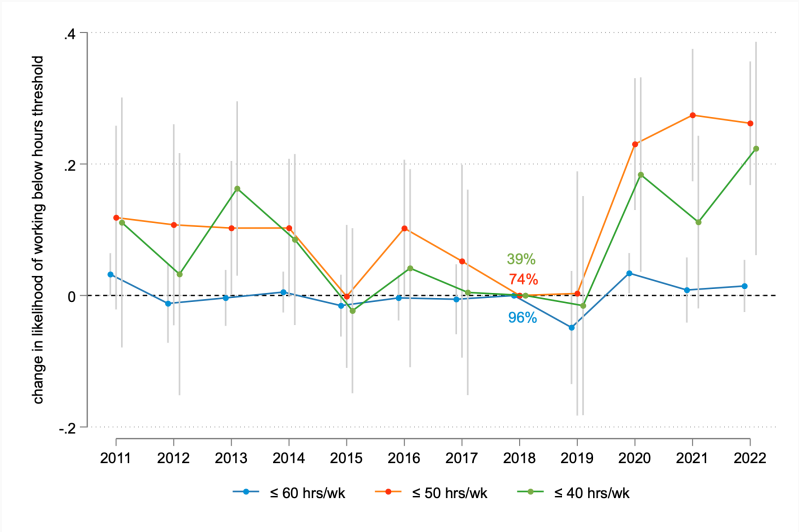


Approach 1: CA Workers More Likely to Work $\leq$ 50 hrs/wk



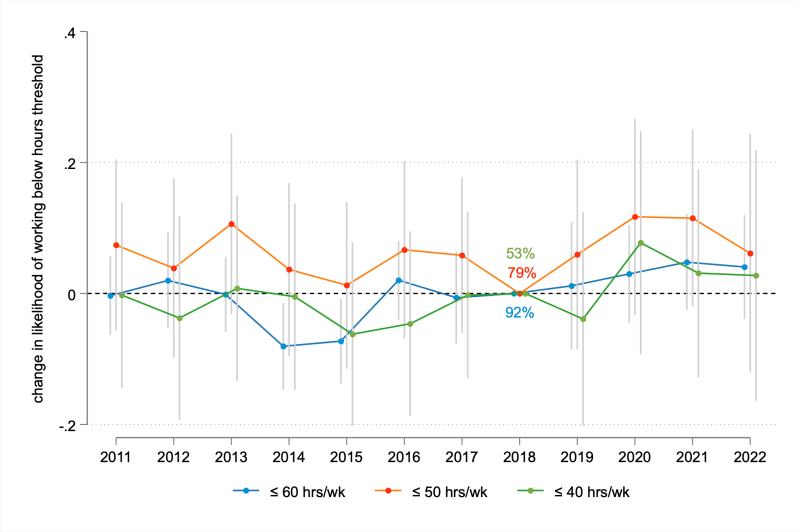
Approach 1: CA Workers More Likely to Work $\leq$ 40 hrs/wk

Back



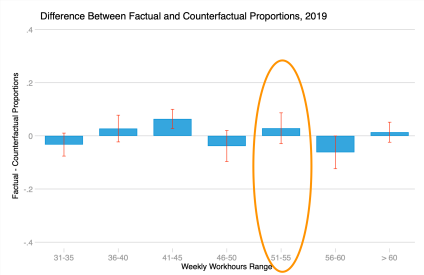
Approach 2: No Significant Changes in Hours in Non-OT States

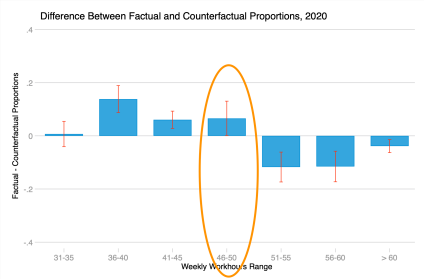
Back

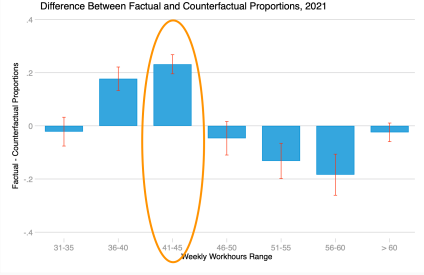


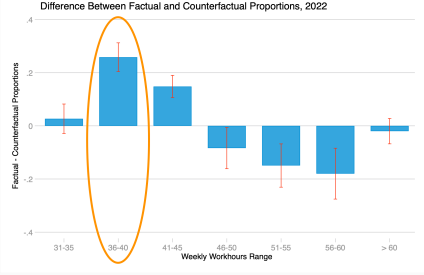
Robustness: DR-Event Study, California Only

Back



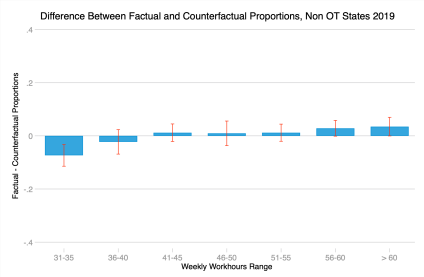


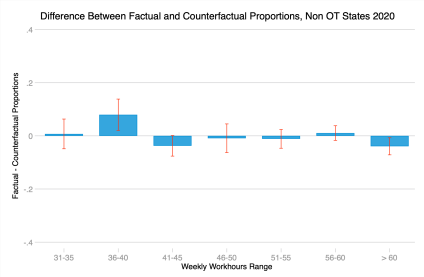


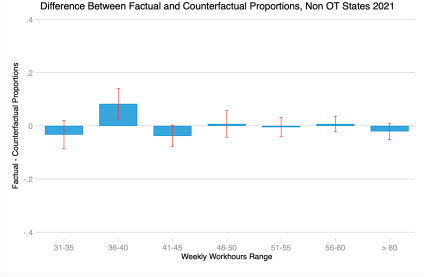


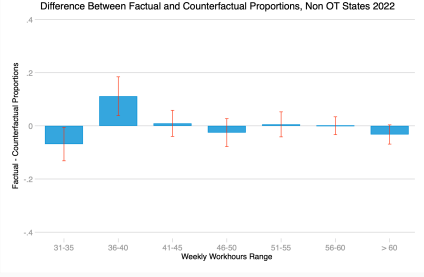
Robustness: DR-Event Study, All Non-OT States

Back



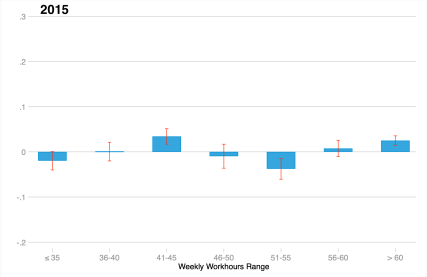


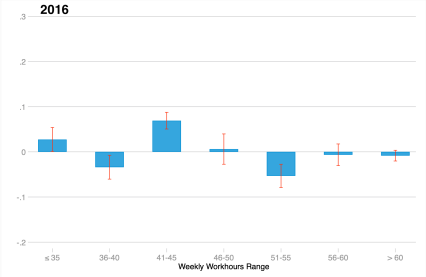


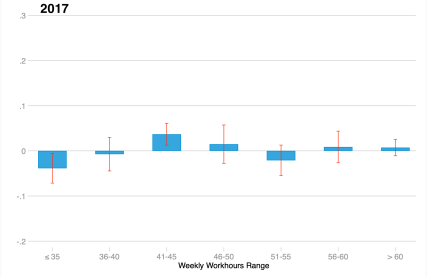


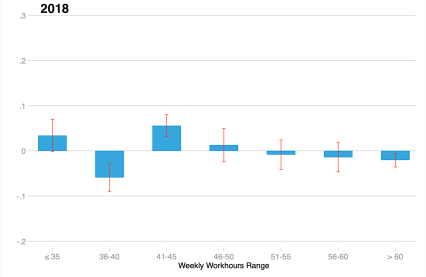
Robustness: DR-DiD 2015-2018 as "Treatment"

Back



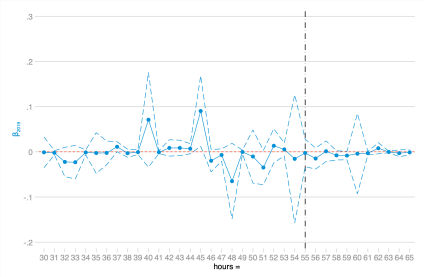


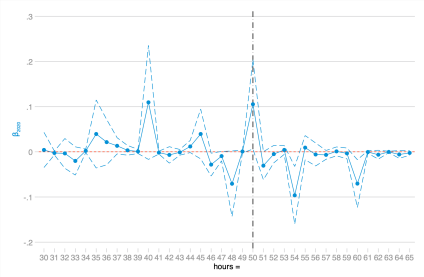


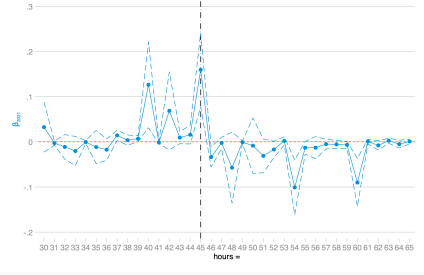


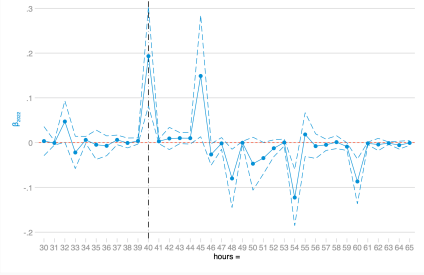
Robustness: Bunching, California Only

Back



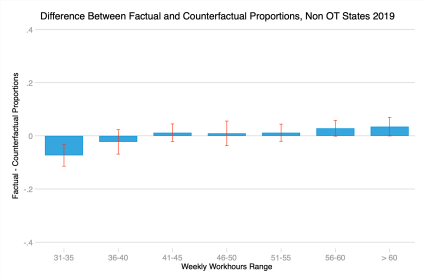


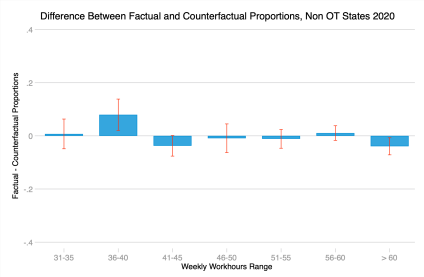


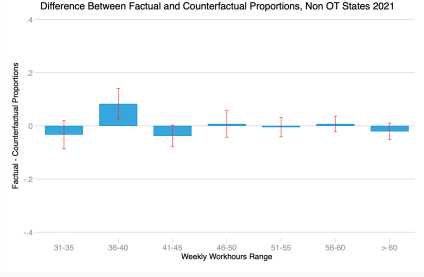


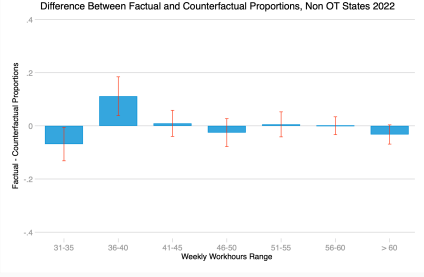
Robustness: No Earnings Changes in Control States

Back





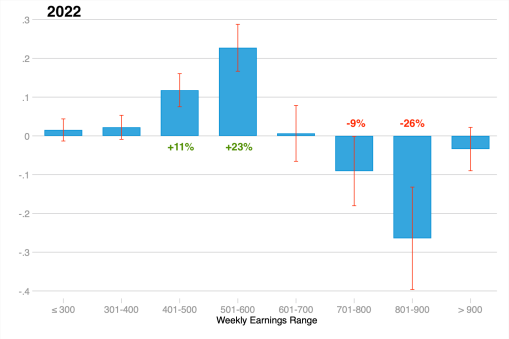




Tying Things Together: Hours & Earnings in 2022

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

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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...

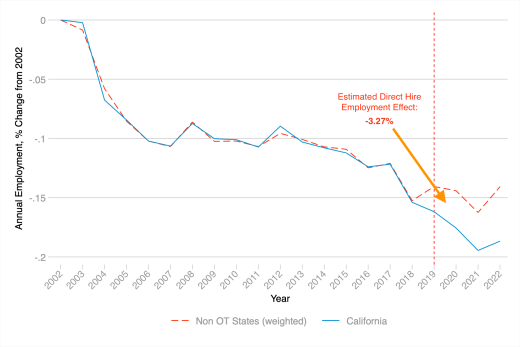
Approach 2: Synthetic DiD

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

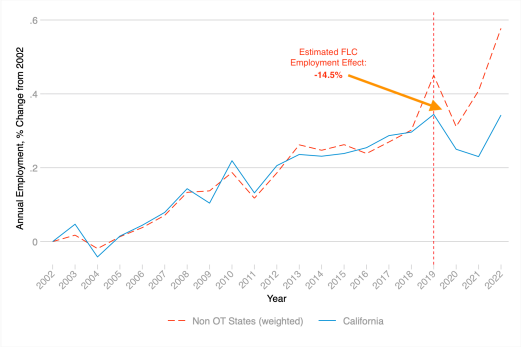
No Significant Employment Effects for Overall Employment (QCEW data)

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Direct Hire Crop Employment

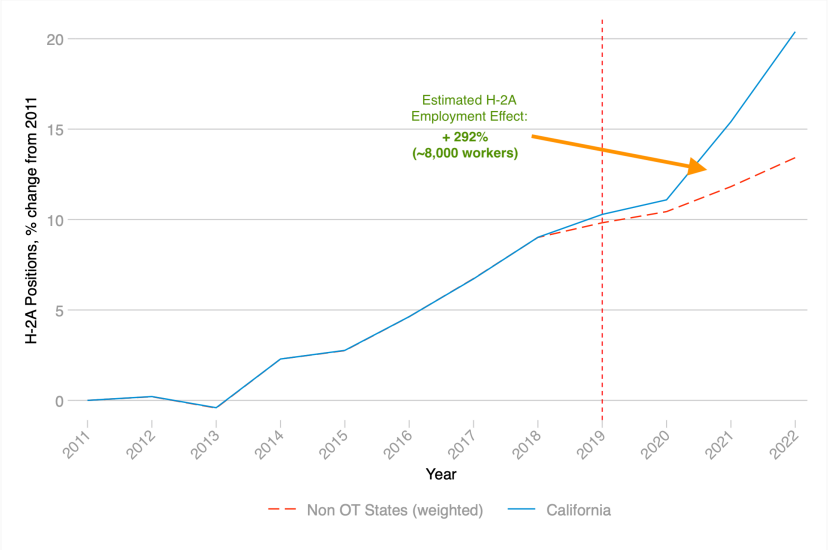


Contract Hire Crop Employment



▸ Full Results Back

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



Results: QCEW Employment, Alternative Specifications

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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

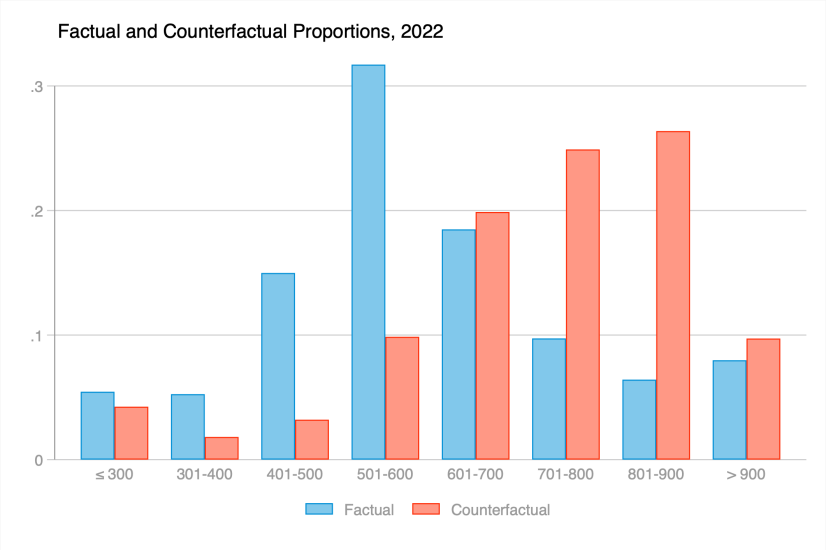
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All H-2A Workers, Since 2011

	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

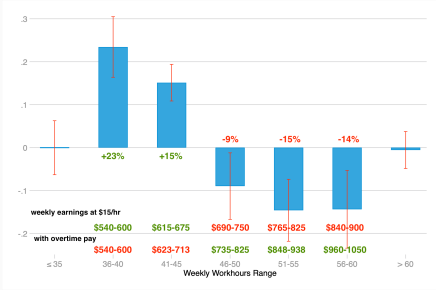
OREGON DEPARTMENT OF REVENUE

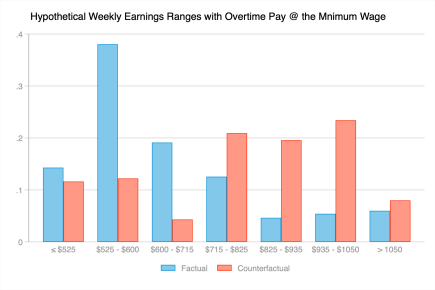
Employer Tax Credit for Agriculture Worker Overtime Pay

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

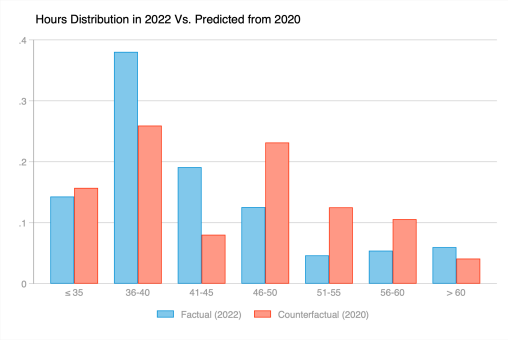
Is this overtime law actually helping California's farmworkers? Lawmaker proposes a reversal

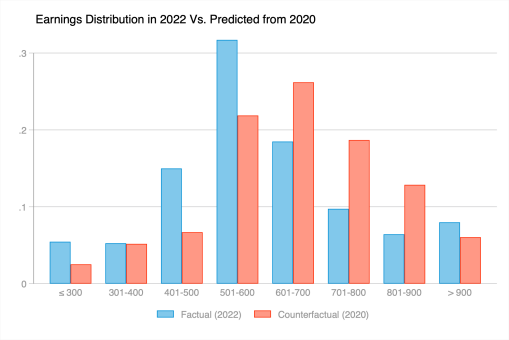
BY MATHEW MIRANDA
UPDATED MARCH 11, 2024 9:29 AM

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