Overtime for Agricultural Workers

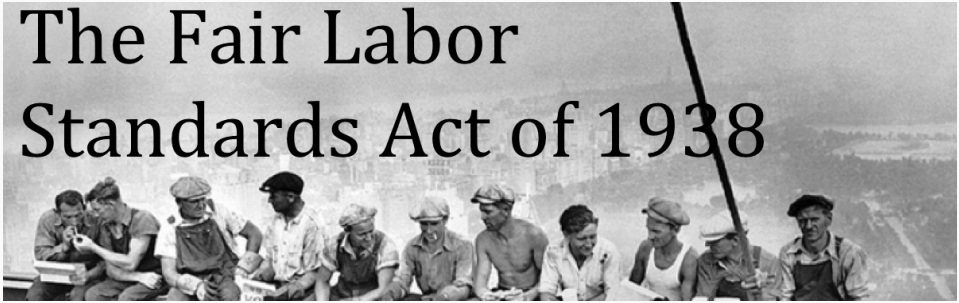
An examination of California's new legislation

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November 2, 2023

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In the U.S., the Fair Labor Standards Act (FLSA) sets federal standards for minimum wages, child labor, overtime pay, and other terms of employment.

But the act exempts some workers and industries from these standards.

EMPLOYEE RIGHTS

UNDER THE FAIR LABOR STANDARDS ACT

FEDERAL MINIMUM WAGE

$7.25 PER HOUR

BEGINNING JULY 24, 2009

The law requires employers to display this poster where employees can readily see it.

OVERTIME PAY

At least 1½ times the regular rate of pay for all hours worked over 40 in a workweek.

CHILD LABOR

An employee must be at least 16 years old to work in most non-farm jobs and at least 18 to work in non-farm jobs declared hazardous by the Secretary of Labor. Youths 14 and 15 years old may work outside school hours in various non-manufacturing, non-mining, non-hazardous jobs with certain work hours restrictions. Different rules apply in agricultural employment.

ADDITIONAL INFORMATION

- Certain occupations and establishments are exempt from the minimum wage, and/or overtime pay provisions. Certain narrow exemptions also apply to the pump at work requirements.
- Some state laws provide greater employee protections; employers must comply with both.

Motivation and Legal Background



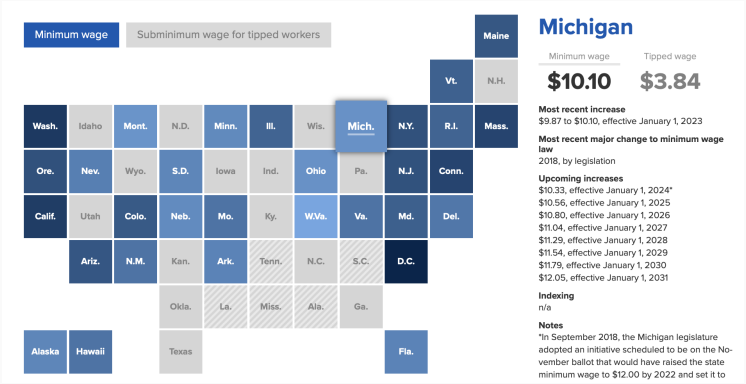
Farm workers and the agricultural operations employing them are among the exempt.

At the federal level, farm workers are not legally entitled to overtime pay, some (smaller) employers are not required to pay the minimum wage, and child labor laws are less stringent.

Motivation and Legal Background

However, the FLSA also requires employers to comply with state laws, which can provide "greater employee protections"

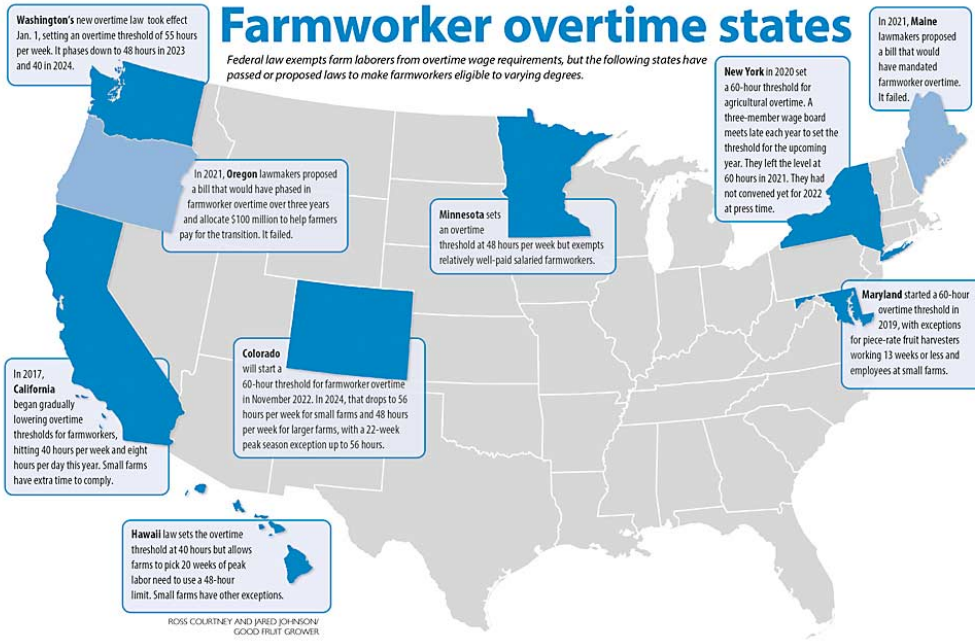
We are very familiar with this in the context of minimum wages...



Agricultural employers across the country are becoming more familiar with this in the context of overtime laws

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

Motivation and Legal Background

Agricultural employers across the country are becoming more familiar with this in the context of overtime laws

And the issue is gaining traction in many more states and federally



JULY 12, 2023

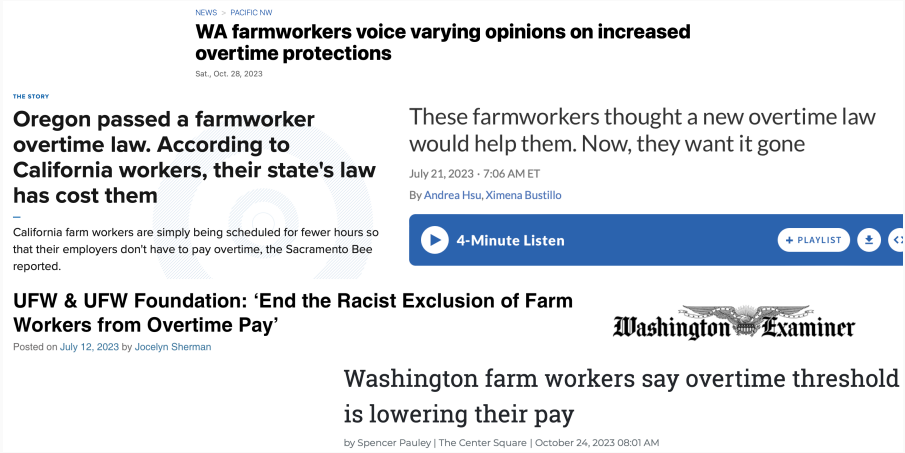
Padilla, Grijalva Introduce Legislation to Strengthen Labor Protections to Ensure Farm Workers Receive Fair Wages

WASHINGTON, D.C. — Today, U.S. Senator Alex Padilla (D-Calif.) and Representative Rául M. Grijalva (D-Ariz.-07) reintroduced the *Fairness for Farm Workers Act*, legislation to update the nation's labor laws to ensure farm workers receive fairer wages and compensation. The bill would amend the *Fair Labor Standards Act of 1938* to provide overtime and additional minimum wage protections for farm workers.

"It's past time we correct our nation's labor laws to include the farm workers who have been unjustly excluded from protections," **said Senator Padilla.** "Last year, I experienced a small dose of the demanding work under extreme weather conditions that farm workers do to feed millions of families across the country. Farm workers are indispensable to our economy—they deserve to be treated with dignity and paid fairly for their back-breaking and essential work. The Senate must pass the *Fairness for Farm Workers Act* to finally bring economic justice to these workers."

Motivation and Legal Background

Yet, the implications for workers are not clear...



Research Questions and Results Preview

Whether: Are workers are impacted?

What happens to worker hours after an overtime law goes into effect?

$\Rightarrow$ Hours decrease; More workers work below the new OT thresholds

How: What outcomes are impacted?

Do we see changes in worker earnings, multiple job holdings, or injuries?

$\Rightarrow$ Earnings decrease (relative to the minimum wage)

Who: Which workers and operations are impacted?

Are impacts different across worker demographics or farm or job characteristics?

Background: California's Assembly Bill 1066 Overtime Phase-in

Effective Date for Employers With		**Overtime Pay Required After**
$\geq$ 26 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`.

Setting Expectations: What can we learn from economic theory and prior work?

The "Basic" Prediction: Employers cut individual hours and hire more workers

- Supported by theory on firms (Brechling, 1965; Ehrenberg, 1971; Hart, 2004; Rosen, 1968) and some data on hours (Buchmueller and Senesky, 2003; Costa, 2000; Hamermesh and Trejo, 2000; Kuroda and Yamamoto, 2012; Skuterud, 2007)
  - Not supported by data on employment (Brown and Hamermesh, 2019; Chemin and Wasmer, 2009; Sánchez, 2017)
  - Not supported by all data on hours (Cahuc and Carcillo, 2014; Johnson, 2003; Trejo, 2003)

Alternatives:

- No hours effects, with reductions in base wages (Ehrenberg and Schuhman, 1984; 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)

Setting Expectations: What can we learn from economic theory and prior work?

Some Possible Corollaries:

- Hourly wages *increase* (Raposo and van Ours, 2010; Sánchez, 2017) *decrease* (Raposo and van Ours, 2010; Sánchez, 2017), or *remain the same* (Chemin and Wasmer, 2009; Kawaguchi et al., 2017)
- Earnings *increase* (?), *decrease* (Chen and Wang, 2011; Raposo and van Ours, 2010) or *remain the same* (Kawaguchi et al., 2017; Kuroda and Yamamoto, 2012)
- Moonlighting increases (Friesen, 2001; Renna, 2006),
- Noncompliance or strategic avoidance increases (Bell and Hart, 1999; Cahuc and Carcillo, 2014; Chen and Wang, 2011; Cohen et al., 2023; Hart, 2004)
- Well-being & Injuries (Hamermesh et al., 2017; Ichihara et al., 2019; Pega et al., 2021)
- Effects differ across workers (Bauer and Zimmermann, 1999; Chen and Wang, 2011; Golden and Wiens-Tuers, 2005; Kawaguchi et al., 2017)

Setting Expectations: What can we learn from economic theory and prior work?

There are MANY possible outcomes.

Data: The National Agricultural Workers Survey (NAWS)

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

Includes only workers currently employed in "Crop Production" or "Support Activities for Crop Production", and who perform tasks related to crop production (pre-harvest, harvest, and post-harvest), or who are supervisors, equipment operators, or packers.

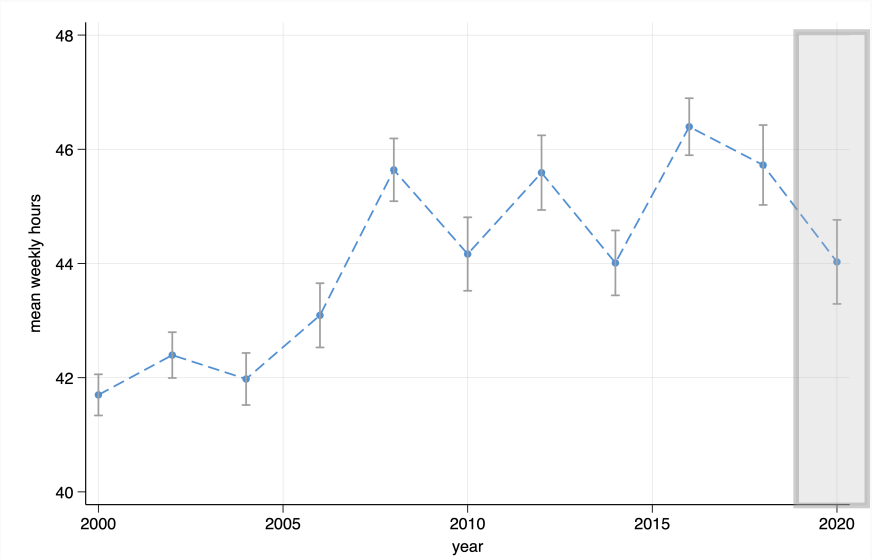
Includes information from 1,200-3,600 interviews with workers at their place of work each fiscal year. Currently available through 2020.

Roughly one-third of interviews are in California.

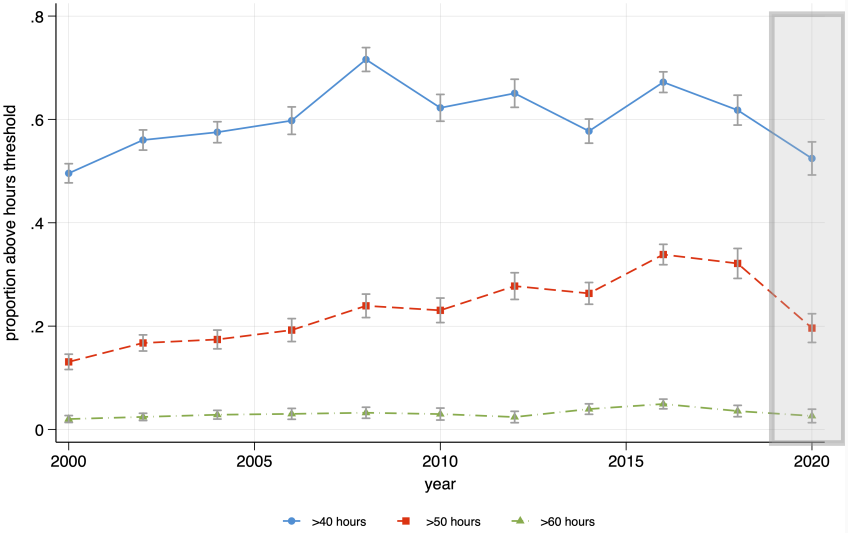
The NAWS includes detailed information on characteristics of current farm job:

- Hourly wage, weekly hours, earnings last pay period, task, crop, and more

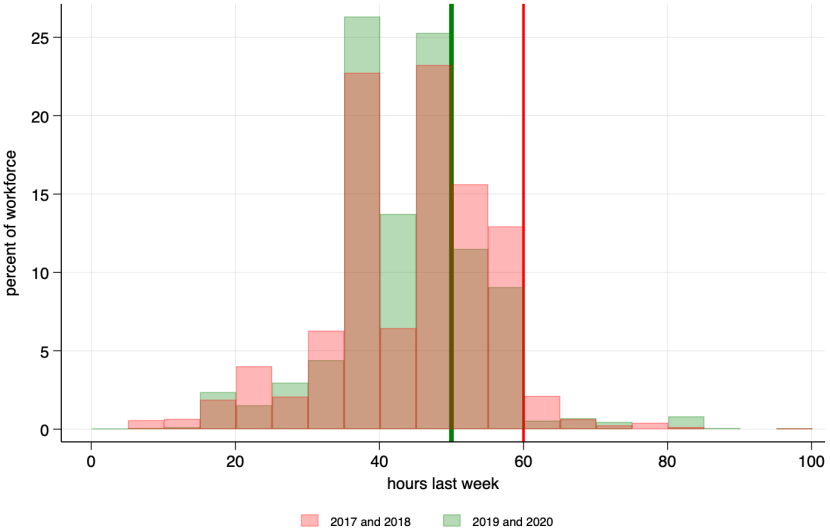
Evidence from the Raw Data: Mean Hours Decrease



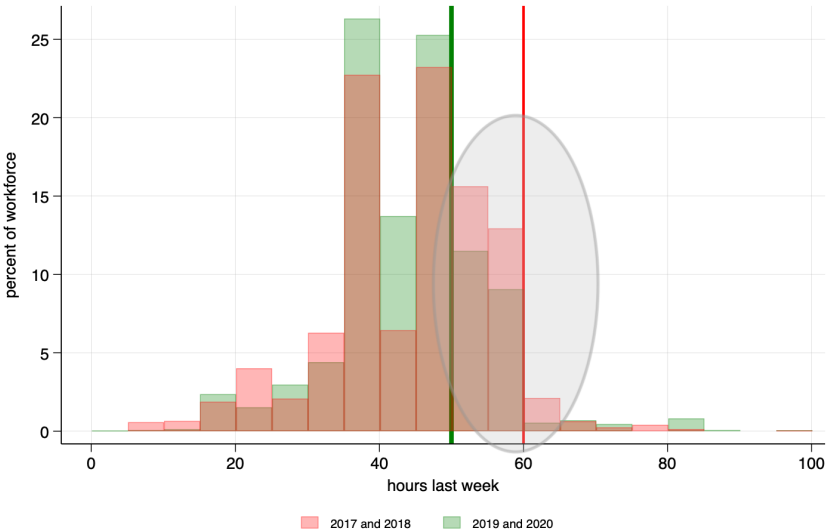
Evidence from the Raw Data: Fewer CA Workers Work $>$ 40 or $>$ 50 Hours



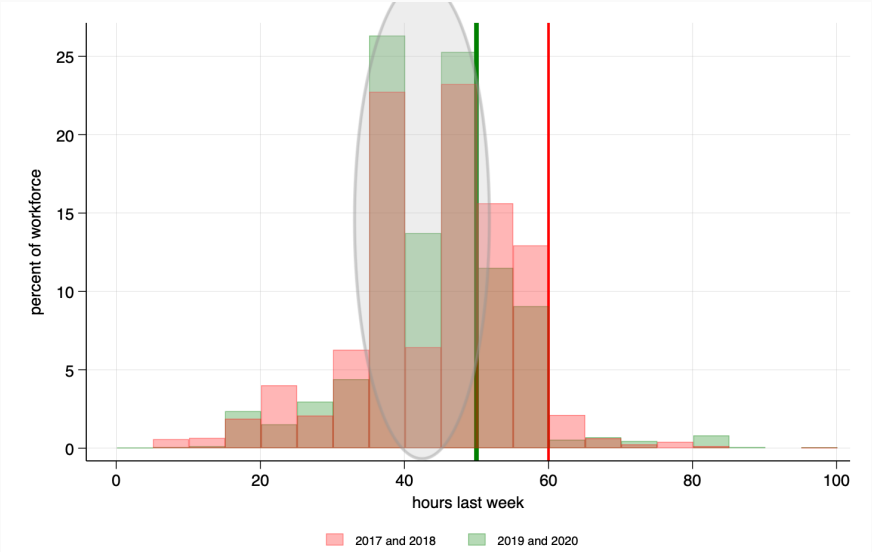
Evidence from the Raw Data: Changes in Distribution of Hours



Fewer CA Workers Work 51-65 Weekly Hours



More CA Workers Work 36-50 Weekly Hours



Methods

These data are informative, but are potentially influenced by other things happening over this time:

1. COVID-19
2. Minimum wage increases
3. General changes in worker demographics

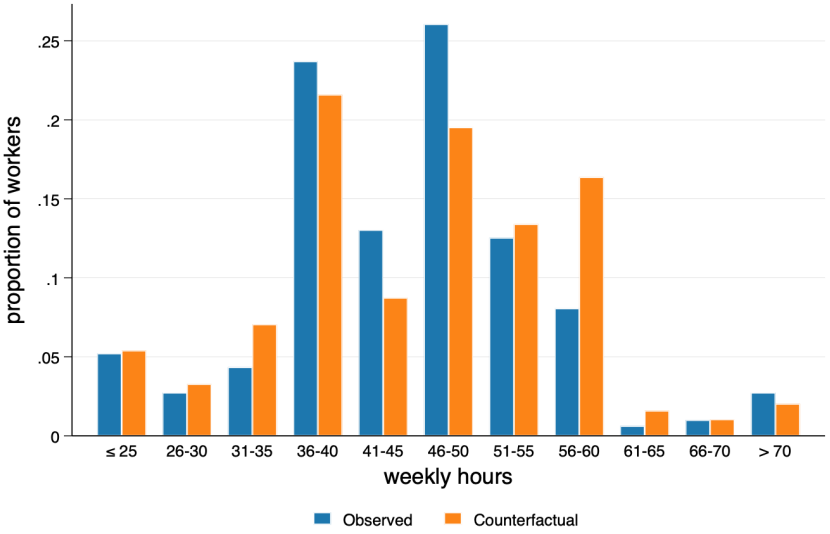
To account for these factors, I use an estimation strategy that allows me to predict the distribution of hours that we would have expected if the policy was not enacted.

In this strategy I account for these other factors by:

1. Comparing hours in CA with those in other states
2. Controlling for the minimum wage in CA and comparison states
3. Controlling for worker characteristics

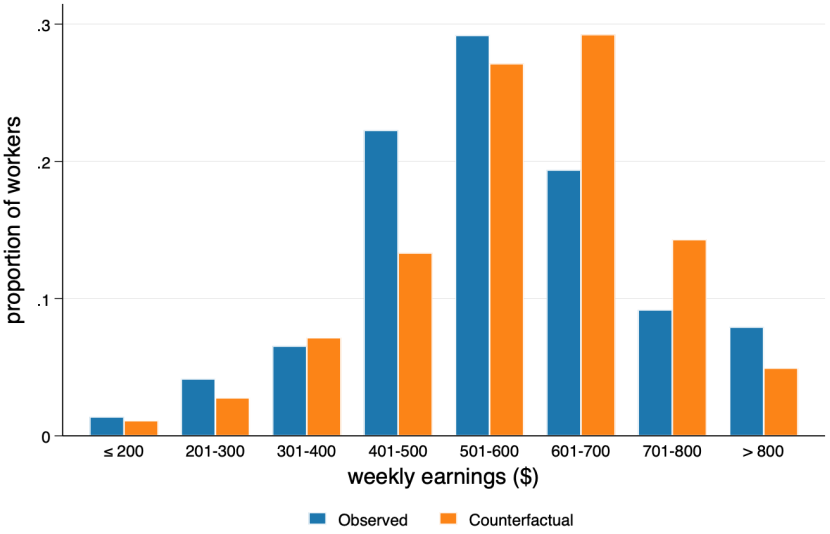
Results: More Workers Work 46-50 Hours, Fewer Work 56-60

Confidence Intervals



Results: More Workers Earn $400-500, Fewer Earn $600-700

Confidence Intervals



Results: Other Outcomes & Who is Most Impacted

My Preliminary Findings of Other Outcomes Suggest...

- Slight increase in number of jobs per worker (driven by increase in number of farm jobs, no change in non-farm jobs)
- No change in moonlighting
- Slight decrease in injuries

My Preliminary Findings of Differential Effects Suggest...

- Changes in hours are concentrated among: those with higher education but less experience in U.S. farm work, those performing more skilled tasks, and those with relatively higher hourly wage rates
- Changes in hours are similar in field crop and vegetable production, with little change for fruit and nut production

Discussion and Policy Implications

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

My estimates 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.

Policy Implications: What Can We Learn? What Can We Improve?

- A slower phase-in might be less disruptive
- A subsidy or tax credit could reduce hours effects, but increase incomes (consider: is this what workers want?)
  - These are both features of NY's overtime laws, which went into effect in 2020
- A missing link: understanding implications for worker wellbeing

Thank you!

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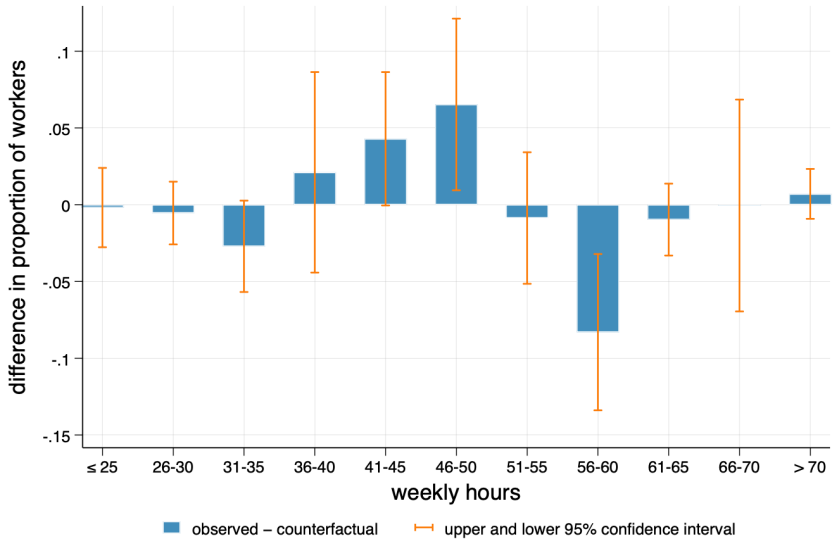
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Results: More Workers Work 46-50 Hours, Fewer Work 56-60

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Results: More Workers Earn $401-500 per week, fewer earn $601-700

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