

California Sheep Industry Unintended Consequences

Historically, California law pertaining to sheep/goat (herder) compensation, exempted this occupation from overtime and hourly wage requirements.

More recently, the herder exemption from overtime wages was repealed. As a result, herder wages will increase by over 50% and the California sheep industry will be substantially downsized. In fact, it is happening now. (See attached letters from producers.)

Industry Overview

- California currently ranks #1 in wool production and #2 in sheep inventory with 550,000 head.
- There are over 3,500 family operations raising sheep/goats in California who employ about 375 herders.
- These family operations depend on infrastructure (e.g. veterinarians, feed suppliers, sheep shearers, processors) provided by a sustainable commercial sheep industry.
- Consumer demand for locally raised lamb is expanding. Unless the unintended consequences are corrected, consumers can expect reduced availability of supply, higher prices, and increased dependence on imported products.
- Sheep/goat production is uniquely nomadic, requiring a mobile and skilled workforce. This unique nature of work prevents operators from mitigating this cost increase with shift work available to other agricultural sectors.
- Herders are primarily responsible for animal welfare and grazing management in remote locations where tracking hourly work is not possible. Each herder has great autonomy in decisions over their flock and workday.
- Herders working in California are the highest paid in the United States.

Human and Economic Impacts

- The impact of state law will result in compensation exceeding neighboring sheep/goat producing states by 40-80%.
- Unlike other industries, sheep/goat producers are required to provide herders with food, housing, and cell phones at no cost to the herders.

Ecological Impacts

- Sheep/goat targeted grazing aligns with Governor Newsom's Climate Change Executive Order (N-82-20). As a wildfire prevention tool, it produces a net benefit in carbon sequestration and air quality, and is especially suited to enhance carbon neutrality in situations of rural-urban interface.
- Targeted grazing provides countless environmental benefits: reduces severity of fires; promotes healthy forests by grazing vegetation harmful to trees; improves wildlife habitat; and utilized in areas too steep for people and machinery, or too close to residential areas sensitive to or restricted from chemical treatments of landscape.
- Government agencies, municipalities, homeowner associations, and nonprofit groups are increasingly using targeted grazing to manage vegetation in areas that cannot otherwise be managed. Most of these agencies require herders to be present.

PROPOSED SOLUTION

The proposed solution (see attached) will still require payment of overtime wages but will bring herder compensation back into reality. It will give producers a fighting chance to stop the downward economic spiral which has brought into sharp focus the future viability of the industry in California.

AB 1066
Unintended Consequences
(Sheep/Goat Herder Compensation)

AB 1066 threatens the economic viability of California sheep and goat production and related businesses, and the functionality of the federal H-2A program.

Administrative Relief (Options)

1. 48 hour week

The work of range herders (sheep and goat) occurs, by definition, away from the employer's headquarters and away from managers, where actual hours worked cannot be tracked. Congress recognized this in exempting range herders from both the overtime and minimum wage requirements of the Fair Labor Standards Act (FLSA). The Department of Labor (DOL) under the Obama Administration further acknowledged this in a 2015 rulemaking process and set the estimated hours worked per week at 48 hours, even though range herders are available on a continuous basis. Multiple courts have upheld this interpretation as both reasonable and well-supported by available evidence. See, e.g., Hispanic Affairs Project v. Acosta, 901 F.3d 378, 391-393 (D.C. Cir. 2018). (Merrick Garland, Presiding Judge)

California Application: 25 or less employees (compensation per month – 4.333 weeks)

	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>2024</u>	<u>2025</u>
(IWC Standard)	\$1955.74	\$2133.52	\$2311.24	\$2489.02	\$2666.81	\$2666.81	\$2666.81
(48 Hour Week)	\$1955.74	\$2133.52	\$2311.24	\$2489.02	\$2666.81	\$2750.15	\$2889.05
(AB1066)	\$1955.74	\$2133.52	\$2311.24	\$3444.64	\$3730.37	\$3777.05	\$4381.20

California Application: 26 or more employees (compensation per month – 4.333 weeks)

	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>2024</u>	<u>2025</u>
(IWC Standard)	\$2133.52	\$2311.24	\$2489.02	\$2666.81	\$2666.81	\$2666.81	\$2666.81
(48 Hour Week)	\$2133.52	\$2311.24	\$2566.81	\$2889.05	\$2889.05	\$2889.05	\$2889.05
(AB 1066)	\$2952.64	\$3232.98	\$3518.71	\$4381.20	\$4381.20	\$4381.20	\$4381.20

2. Credit sheep and goat producers for meals provided to range herders:
 \$400 per month value established by the Obama Administration