

# Washington orchardists take pay muddle to lawmakers

## Rules for piece-rate pay at issue

By **DON JENKINS**  
Capital Press

OLYMPIA — Washington tree fruit growers are asking legislators to set rules for paying piece-rate workers, effectively intervening in pending federal lawsuits spawned by a 2015 state Supreme Court decision.

The ruling in *Lopez v. Sakuma* required growers to pay piece-rate workers separately for 10-minute rest breaks.

The decision upset longstanding practices, left unresolved key questions and exposed growers to more lawsuits.

The suits seek back pay for rest breaks going back three years. The suits also seek separate compensation for time piece-rate workers spend on activities such as traveling between fields, attending meet-



Don Jenkins/Capital Press  
Farmworkers watch a video on piece-rate work during a hearing of the Senate agriculture committee Feb. 14 in Olympia. The tree fruit industry is asking lawmakers to set rules for paying piece-rate workers.

ings and storing equipment.

U.S. District Judge Salvador Mendoza Jr. in Richland this month said workers were eligible for back pay for rest breaks. He referred the ques-

tion about compensation for other activities to the state high court.

Mendoza's referral stemmed from a class-action lawsuit filed against the

Dovex Fruit Co. in Wenatchee by Terrell Marshall Law Group, a Seattle law firm.

The lawsuit seeks back pay for an estimated 800 workers. The lawsuits also expose

growers to potential penalties and attorney fees.

Tree fruit industry representatives told the Senate agriculture committee Tuesday that growers don't want to be blindsided again by a court decision.

"It isn't fair that a class-action lawsuit is my source of clarity to pay my team members. That's not right," said West Mathison, president of Stemilt Growers in Wenatchee.

Sen. Brad Hawkins, R-East Wenatchee, has introduced legislation requested by the Washington State Fruit Tree Association. The bill would dictate terms for retroactive pay and future payments for piece-rate workers.

Senate Bill 5720 would allow farms to settle back pay claims by paying 4 percent of a workers' gross earnings over the three years before the Sakuma ruling.

Farmers would be required to try to contact workers. Un-

paid wages would go to the Department of Labor and Industries.

The legislation also would allow farms to pay piece-rate workers 108 percent of the state's minimum wage for rest breaks and other time on the job not engaged in piece-rate work.

Washington's minimum wage is \$11 an hour.

Labor activists said the bill would deprive workers from seeking just compensation through the courts.

"To put it simply, this is legislative wage theft," Washington State Labor Council policy director Eric Gonzales said.

In the Sakuma ruling, the court instructed farms to calculate how much each piece-rate worker would have earned by working through rest breaks.

Tree Fruit Association President Jon DeVaney said the bill will simplify calculating pay.

## Oregon plans five-year project to wipe out large Japanese beetle infestation

By **ERIC MORTENSON**  
Capital Press

PORTLAND — The Oregon Department of Agriculture is holding a pair of meetings in March to talk about its proposed five-year plan to knock out an infestation of Japanese beetles on about 1,000 acres in the Bethany and Cedar Mills areas of Washington County.

The project would include spreading insecticide granules on lawns and ornamental planting beds for five consecutive years at approximately 2,500 private residences. Each residence would be treated once per year. The department is hoping for 100 percent cooperation from homeowners, and is relying on trusted local sources, including master gardeners, to explain why eradication is necessary.

The proposed measures reflect the department's grim view of an infestation discovered last summer, when a record 369 beetles were found in traps and numerous live beetles were found eating roses and other plants. The infested area is adjacent to Northwest Portland.

Japanese beetles are an invasive pest capable of causing heavy damage to valuable Oregon crops, including nursery plants, wine grapes, cane berries, cannabis, hazelnuts and more. Clint Burfitt, the ag department's insect pest program manager, said failure to stop the infestation would cost Oregon agriculture an estimated \$43 million a year.

He said the estimate includes the lost value of nursery plants that would be quarantined and could not be shipped out of state. "Many plant products we sell wouldn't be welcome any longer," Burfitt said.

The estimate also includes

### Japanese beetle



Courtesy of en.wikipedia.org

**Binomial name:**

*Popillia japonica*

**Appearance:** Iridescent copper-colored elytra, green thorax and head

**Diet:** Roots of grasses during larval stage; foliage and fruits of many common trees, vines and crops during adult stage

**Life cycle:** Typically one year; extended in cooler climates

**Origin:** Japan

**First observed in U.S.:** 1916

near Riverton, New Jersey

14-16 mm (Actual size)

**Control methods:** Chemical and biological; mechanical traps

Source: USDA Animal and Plant Health Inspection Service

Capital Press graphic

the cost of controlling beetles on established turf such as golf courses and parks, and the increased production cost, including pesticide use, of growing ornamentals, wine grapes, fruit and nuts.

"If we're successful, we eliminate the reality of longterm pesticide use in agricultural and urban areas," Burfitt said. "It's an economic and ecological issue."

The treatment proposed by the Department of Agriculture is a granular form of Acelepryn, an insecticide commonly used to control grubs on golf courses. The department would apply the insecticide in April or May, when Japanese Beetles are in their grub, or larval, form.

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