

Partial Setback for North Carolina's Statute Governing Unionization of Farmworkers

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The Carolinas are the least unionized states in the nation, according to the Bureau of Labor Statistics. Similarly, unionization of farmworkers in the Carolinas also is very low. Unlike other business segments governed by the National Labor Relations Act, however, the unionization of farmworkers is governed by state law. Recently, a Federal Court issued an interim ruling about a North Carolina law governing unionization of farmworkers.

State law in the Carolinas does not condone the unionization of farmworkers. Indeed, in 2017, North Carolina amended its laws to prohibit two controversial union tactics: (1) using lawsuits to unionize farms and (2) banning farmers from being required to withhold union dues from farmworkers' paychecks. The new statute brought an end, at least temporarily, to the use of both methods in North Carolina.

A union filed a lawsuit in Federal Court in North Carolina challenging the statute's prohibition against those union's tactics. On February 25, 2021, a U.S. Magistrate Judge issued a preliminary ruling partially in favor of the union. The Magistrate Judge recommended granting summary judgment against the portion of the 2017 law that prevents unions from filing large, wage-related lawsuits against a farmer and then offering to settle those claims in exchange for the farmer recognizing unionization of farmworkers. In the same ruling, however, the Magistrate Judge rejected the union's challenge of the statute's provision preventing a farmer from having to deduct union dues from the paychecks of farmworkers. The future of the lawsuit and the related barriers to unionization will be determined by a District Judge and will be subject to appeal.

Unionization of farms in the Carolinas remains a risk, particularly if the Court's initial ruling stands and unions are allowed to use large, expensive lawsuits to leverage unionization through voluntary recognition. Agribusiness is vital to the Carolinas' economy, so the issue of unionization of farms should be carefully monitored by farmers and other agribusinesses.