

September 14, 2022

The Honorable Gavin Newsom
Governor of California
1303 10th Street, Suite 1173
Sacramento, CA 95814

Re: AB 364 (Rodriguez) – Foreign labor contractor registration– Support

Dear Governor Newsom,

On behalf of Freedom United, I write to encourage you to sign into law AB 364 (Rodriguez).

Freedom United is the world's largest community dedicated to ending human trafficking and modern slavery. We mobilize a united community to create power for change by making the public stakeholders in ending modern slavery by equipping millions of supporters with awareness, education and ways to take action that drive real change. We have been campaigning for California to protect all temporary workers since January 2020 with CAST LA. Since the launch of our campaign, we have mobilized 36,879 supporters who want to see AB364 signed into law.¹

Estimates of how many employers directly recruit workers versus those who use third-party recruiters, often called foreign labor contractors (FLCs), are wide ranging, but consistently show that approximately 50% or more workers are secured through third party contractors. In 2013, at least 44% of employers hiring under the H-2A and H-2B programs alone planned to use third-party recruiters. Studies based on worker interviews further show that 80-94.5% of workers are actually recruited through third parties.

The importance of regulating the conduct of these ubiquitous intermediaries is paramount. Numerous reports confirm that the power imbalance between temporary foreign workers and those who bring them into the country often results in extreme labor exploitation, including trafficking. While some contractors behave ethically and lawfully, others do not. Unscrupulous foreign labor contractors misuse U.S. visa programs to exploit workers, often charging exorbitant fees for their services, thereby forcing workers into debt bondage. They falsify documents, impersonate legitimate businesses, and deceive workers about the terms and conditions of proposed employment. Workers who seek to report the abuses or escape their fraudulently induced servitude are threatened with blacklisting, discrimination, and other forms of retaliation, including the imposition of additional fees and violence against themselves, family members, or their home communities.

Unfortunately, a lack of comprehensive and consistent federal oversight and regulation compounds the problems. Regulation of temporary visa categories is fragmented between the Departments of State, Homeland Security, and Labor. As a result of this disjointed oversight,

¹ <https://www.freedomunited.org/advocate/california-protect-workers/>

the lure of cheap labor results in unscrupulous recruiters treating temporary workers as disposable commodities.

AB 364 corrects fragmented federal oversight and regulations by ensuring that any worker coming to California who is authorized to work temporarily in the United States and who is not recruited directly by an employer is protected from exorbitant recruitment fees, false promises, and fraud **at the point of recruitment abroad**. Not only does AB 364 ensure the fair treatment of ***all*** temporary workers coming to California, but its regulation of foreign labor contractors provides essential benefits to all ***businesses*** employing temporary workers. **It weeds out unscrupulous contractors, eliminates unfair competitive advantages at both the contractor and employer levels, and protects employers from liability for their contractors' fraudulent practices.**

The abuses perpetrated by unscrupulous FLCs on temporary workers legally coming to work in California are legion. They include imposition of illegal recruiting fees, visa charges and transportation costs, as well as overcrowded housing, indecent labor conditions, and threats of blacklisting and deportation if complaints are reported. These abuses lead to human trafficking. Indeed, the National Human Trafficking Hotline documents that the majority of its cases involving foreign workers reaching out for help involve temporary work visas and foreign labor recruiters.

To address this well-documented exploitation, in 2016, with wide bipartisan support, California legislators passed SB 477 which was intended to tighten oversight of these recruiters regardless of the profession or visa category through which they recruited workers. The main provisions of the bill:

- Require Foreign Labor Recruiters (FLR) to register with the state and provide comprehensive disclosure of workers' rights to them during the recruitment process, or face penalties for non-compliance
- Provide a safe harbor from liability for employers using registered FLRs
- Establish a complaint mechanism for aggrieved workers to recover damages for violations of the statute

Even when these protections went into effect, recruiters managed to weave a loophole into the legislation that excluded the vast majority of temporary workers, resulting in only 3% of the now more than 300,000 workers coming to the state annually being protected by the law.

Even though unskilled foreign laborers on H-2A visas laboring in our fields and vineyards are the group most exploited by FLCs, not only in California, but nationwide, corrupt FLR practices affect California's tech industry, the other major driver of the state's economy. Abusive FLRs entice corporations with the promise of cheaper labor by substituting foreign workers for US ones. In giving these entities an unfair competitive advantage over corporations who play by the rules, it is not just foreign workers who suffer, but displaced U.S workers and law-abiding businesses as well.

California is the fifth largest economy in the world. It also attracts the most foreign temporary workers of any U.S. state. The vast majority of these workers rely on the services of FLRs. Given the magnitude of the problem and the resulting inequities negatively affecting individual workers, both foreign and domestic, and California's competitive landscape, Freedom United respectfully request that you sign AB 364 into law.

Please demonstrate the leadership Californians have come to expect from their Governors, and serve as a model for the rest of the nation - and the world- to confront and remedy the social injustices derived from exploitation of vulnerable workers, particularly now as we rebuild our economy in the aftermath of the Covid pandemic. Sign AB 364, an important first of its kind piece of legislation to protect all temporary workers coming to California and serve as a model for the nation and globally.

Sincerely,

Joanna Ewart-James

Joanna Ewart-James
Executive Director
Freedom United

Cc: Assemblymember Rodriquez