

Assembly Bill 1362

Foreign Labor Recruiters

Assembly Member Ash Kalra

SUMMARY

Assembly Bill (AB) 1362 would ensure the proper implementation of SB 477 (Steinberg, Chapter 711, Statutes of 2014) by requiring that *all* foreign labor recruiters (FLRs) register with the Labor Commissioner, not just those who recruit workers through the H-2B visa category.

BACKGROUND

Roughly 350,000 immigrants come to California annually on temporary work visas. These workers are commonly recruited for seasonal or temporary work in the United States through Foreign Labor Recruiters (FLRs). However, FLRs have been able to employ fraudulent and illegal tactics to recruit workers for decades because there has been no uniform Federal mechanism to prevent and hold FLRs accountable for their unlawful tactics.

In 2014, California passed SB 477 (Steinberg) to address this lack of regulation of FLRs by requiring them to register with the Labor Commissioner, requiring employers to hire *registered* FLRs, and, most importantly, providing protections and remedies for the foreign workers solicited and recruited to work temporarily in California. SB 477 also prohibited FLRs from charging workers recruiting fees, specified fair contractual terms in the recruiting and employment process, provided legal remedies for workers harmed by violations of the law by both FLRs and employers, outlawed retaliation against workers exercising their rights under the law, and imposed a bonding requirement on FLRs to provide funds to cover violations.

These requirements and protections should cover *all* foreign labor contractors who recruit workers under all visa categories with only two exceptions: J-1 visas and talent agency recruiters (who are already governed under a more restrictive licensing program). Unfortunately, SB 477 has been interpreted as being limited solely to FLRs recruiting workers under H-2B visas, leaving many temporary and seasonal workers vulnerable to exploitation.

Human traffickers have exploited this loophole by operating outside of specified but unintended limitations. Such practices have especially harmed vulnerable temporary agricultural workers (H-2A visa holders) who make up the temporary visa category with the most documented instances of human trafficking. Labor and sex trafficking continue to be a pervasive issue in the solicitation and hiring of foreign workers under all visa categories. In limiting the scope of SB 477 to FLRs recruiting under the H-2B visa, the remaining 345,000 temporary foreign workers coming to California annually are left without essential protections from human trafficking and abuse.

SOLUTION

AB 1362 closes the SB 477 loophole by making it clear that *all* foreign labor contractors are covered with only two exceptions: J-1 visas and talent agency recruiters. Specifically, this bill would strike Section 9998 of the Business and Professions Code, which inadvertently narrowed SB 477's scope.

As a result, the bill would align the law with the legislative intent so that FLRs recruiting workers under *all* visa categories, including but not limited to A-3, B-1, H-1B, H-1C, H-2A, H-2B, L-1, O-1, 1, P-3, and TN visas are covered. By covering all foreign labor recruiters, AB 1362 will ensure that immigrant workers such as domestic workers, agricultural workers, and nurses are protected against wage theft, human trafficking, and other labor violations.

SPONSORS

Sunita Jain Anti-Trafficking Initiative
Freedom United
Justice at Last
Pilipino Workers Center of Southern California
Santa Clara County Wage Theft Coalition

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