



A Union of Professionals

STRENGTHEN REGULATION OF FOREIGN LABOR RECRUITERS TO INCREASE SECURITY & PREVENT HUMAN TRAFFICKING & LABOR ABUSES

The Border Security, Economic Opportunity, and Immigration Modernization Act, S. 744, includes legislation to strengthen regulation of foreign labor recruiters, which is an essential element in increasing national security and preventing human trafficking and labor abuses. Labor recruiters are often complicit or directly involved in the trafficking of workers, exploiting U.S. nonimmigrant visa programs. Labor recruiters discriminate on the basis of race, color, sex, religion, age and disability, circumventing U.S. laws. They retaliate against workers who complain about unlawful treatment. These recruiters, who operate in a climate of impunity, lure impoverished and desperate foreign workers to the United States, promising jobs described as plentiful and lucrative. They rely on coercive tactics, charging guestworkers exorbitant illegal fees that often force the workers to stay in abusive or exploitative working conditions under debt bondage or other forms of slavery.

What this legislation would accomplish?

- Ban exorbitant fees that result in situations of debt bondage or create vulnerability to other forms of human trafficking, forced labor and modern-day slavery.
- Prevent discrimination and retaliation in the recruitment process.
- Provide businesses and workers with helpful tools to identify and utilize legitimate foreign labor recruiters. Specifically:
 - **Disclosure:** Foreign labor recruiters would be required to disclose to the worker full and complete information about the terms and conditions of work in the United States. Most importantly, no foreign labor contractor could charge a worker any fee related to recruiting activities. No foreign labor contractor may knowingly provide false or misleading information to workers.
 - **Registration:** Foreign labor recruiters would be required to obtain a certificate of registration (for a fee) from the Secretary. The Secretary would be required to maintain and update a list of all recruiters indicating their compliance with this provision. Employers who use registered foreign labor contractors will have a safe harbor from liability.
 - **Enforcement:** Employers and foreign labor contractors would be subject to administrative and civil penalties for violations of this provision. Administrative remedies and registration fees cover the costs of the program. A private right of action is available against foreign labor recruiters.

Why should your office support this?

- A better system of tracking foreign labor recruiters who are bringing workers into our country is needed, as is interagency collaboration on collecting and publishing data. This legislation includes important provisions that will improve national security.
- Foreign labor recruiters are increasingly relied upon to facilitate the migration of labor from one country to another. While many foreign labor recruiters behave ethically and lawfully, many others do not. They misuse U.S. visa programs such as the H-2A, H-2B, H-1B, and J-1 to exploit workers.
- Recruiters often charge exorbitant fees for their services, forcing workers into debt bondage. Recruiters falsify documents, and deceive workers about the terms and conditions of work, increasing workers' vulnerability to human trafficking.

- Stricter regulation of labor recruiters is needed to protect workers entering the United States legally from human trafficking and other abuses. Stronger legal safeguards will ensure the integrity of the American economy, which is undermined when unregulated actors fraudulently deceive workers about the terms and conditions of work. It will also help to fix some of the structural failures in U.S. visa programs that foreign labor recruiters now exploit (including within the H-2A, H-2B, H-1B, and J-1 visa programs).
- The bipartisan group of 8 Senators has included these provisions in S.744. These provisions enjoy bipartisan support.
- Studies that document the extent of this problem in the U.S. and abroad, include:
 - [The American Dream Up for Sale: A Blueprint for Ending International Labor Recruitment Abuse](http://www.cdmigrante.org/wp-content/uploads/2013/03/The-American-Dream-Up-For-Sale.pdf) <http://www.cdmigrante.org/wp-content/uploads/2013/03/The-American-Dream-Up-For-Sale.pdf>
 - Close to Slavery: Guestworker Programs in the United States <http://www.sharedprosperity.org/splcenter.org.SPLCguestworker.pdf>
 - Recruitment Revealed: Fundamental Flaws in the H-2 Temporary Worker Program and Recommendations for Change <http://www.cdmigrante.org/wp-content/uploads/2013/01/Recruitment-Revealed-Fundamental-Flaws-in-the-H-2-Temporary-Worker-Program-and-Recommendations-for-Change.pdf>
 - Immigrant Workers in U.S. Agriculture: The Role of Labor Brokers in Vulnerability to Forced Labor, <http://www.verite.org/helpwanted/research-reports>
 - [Visas, Inc: Corporate Control and Policy Incoherence in the U.S. Temporary Foreign Labor System](http://www.globalworkers.org/our-work/publications/visas-inc), <http://www.globalworkers.org/our-work/publications/visas-inc>
- The incidence of known human trafficking cases involving foreign labor recruiters is increasing dramatically in the United States. There are many examples of both criminal and civil cases against foreign labor recruiters that demonstrate the need for greater regulation in this area. A few case examples follow:
 - In [United States v. Askarkhodjaev](#), three defendants affiliated with Global Labor Solutions were successfully prosecuted by the Department of Justice on fraud in foreign labor contracting charges. These defendants were charged along with nine others in a labor trafficking case involving victims in at least 14 states. The defendants coordinated with recruiting agencies abroad, as well as personally traveling to foreign countries, including Jamaica, the Philippines and the Dominican Republic, to recruit vulnerable workers to be exploited in the U.S. hospitality industry under H-2B visas. Prior to leaving their home countries, workers were fraudulently promised provision of free housing, transportation, and food, as well as steady work that would allow them to easily pay back the exorbitant recruitment, visa application, and transport fees of up to \$5,000. Recruiting agencies also warned the workers that escaping from their U.S. employers would result in deportation and an ongoing debt for the fees. Workers, once recruited, were provided worse jobs and transported to different states than promised. They were housed in deplorable conditions for which they were charged “rent” deducted from their paychecks. As a result, workers made so little that they struggled to pay off the fees while being able to feed themselves. This situation was exacerbated by additional fees of up to \$3,000 for periodic visa renewal applications. The agency threatened that if a worker returned to his or her home country without permission, his or her family would be charged a fee of \$5,000.
 - In [David et al v. Signal International et al.](#), the Southern Poverty Law Center brought a class action suit on behalf of hundreds of Indian guestworkers fraudulently promised green cards for

themselves and their families. So alluring was this promise, that workers abruptly left their existing steady employment in India and as guestworkers in the United Arab Emirates. In exchange for recruitment to work in Gulf Coast shipyards in the aftermath of Hurricane Katrina, victims were charged as much as \$20,000. In order to pay, they took out substantial loans, liquidated their life savings, and sold their family homes and valued possessions, only to be trapped in guarded, overcrowded U.S.-based labor camps. The EEOC has also filed against Signal International based on violations arising from their discriminatory treatment of Indian nationals specifically.

- In Mairi Nunag Tanedo et al. v. East Baton Rouge Parish School Board et al., Universal Placement International, a foreign labor recruiter, brought qualified Filipino teachers into the U.S. to teach in Louisiana public schools. Prospective teachers were interviewed in-person in the Philippines or via video-conference from the U.S. After paying a \$5,500 recruitment fee, prospective teachers were effectively committed to teaching in the U.S. because they could not otherwise pay back such a large fee. Only then did the recruiter notify them that a second fee of up to \$10,000 would be required before they ever started work. Once in the U.S., teachers who attempted to complain were silenced when the recruiting agency filed frivolous and expensive lawsuits against them.
- In United States v. Glah et al., employees of International Personnel Resources were charged with numerous counts of immigration and visa fraud in connection with an illegal H-2B visa recruitment ring. IPR employees fraudulently applied for excessive H-2B visas for fictitious workers whose identities were plucked from a Mexican phonebook. Having successfully garnered a large portion of the annually available H-2B visas, IPR provided guestworker employers fraudulent visas for illegally recruited workers. Foreign workers from Mexico brought to work in Pennsylvania and New Jersey were then informed by IPR that rather than returning home after their seasonal employment visa had expired, they were required to accept winter employment in the Southeast on a supposed visa extension. The workers were told that if they were not willing to accept this work assignment, they would not be granted visas to work for their Northeastern employers the next year.