



Alliance To End Slavery & Trafficking

March 24, 2021

Senator Members of the Senate Judiciary Committee
California State Capitol
Sacramento, CA 95814

Senator Members of the Senate Committee Labor and Industrial Relations
California State Capitol,
Sacramento, CA 95814

RE: AB 364 (Rodriguez) – SUPPORT

Dear Committee Members,

On behalf of the [Alliance to End Slavery & Trafficking \(ATEST\)](#) we are writing in strong support of AB 364. ATEST is a diverse alliance of U.S.-based human rights organizations, acting with a shared agenda to end modern slavery and human trafficking domestically and globally. The current member organizations address many different aspects of human trafficking, including both labor trafficking and sex trafficking. We advocate for lasting solutions to prevent labor and sex trafficking, hold perpetrators accountable, ensure justice for victims and empower survivors with tools for recovery. Our collective experience implementing programs at home and abroad provides our coalition an unparalleled breadth and depth of expertise in this area.

This bill provides a technical fix to SB 477 (Steinberg), which ATEST supported in 2014, to ensure implementation of the legislature's intent that, regardless of visa category used to recruit temporary workers, *all* foreign labor recruiters for work in California, with two narrow exceptions, are subject to SB 477's requirements.

In ATEST member's collective national and international experience, regulation of foreign labor recruiters is an essential element in the prevention of human trafficking and forced labor. Labor recruiters are often complicit or directly involved in the trafficking of workers, exploiting U.S. nonimmigrant visa programs. 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 modern slavery.

In 2014, SB 477 took important steps to require increased transparency by the registration of foreign labor contractors/recruiters in order to prevent exorbitant fees that result in situations of debt bondage or create vulnerability to other forms of human trafficking, forced labor, and modern slavery. In addition, SB 477 provided businesses and workers with helpful tools to identify and to utilize legitimate foreign labor recruiters. The Bill requires foreign labor contractors to obtain a certificate of registration (for a fee) from the Secretary of Labor, and employers who use registered foreign labor contractors will have a safe harbor from liability. Foreign labor contractors and companies would be subject to administrative and civil penalties for violations of this provision.

Due to a drafting error, SB 477 is currently interpreted by California Labor Department regulations as limited solely to FLCs recruiting workers under H-2B visas. This interpretation means that only about 5,000 of the approximately 200,000 temporary workers coming to California annually are currently protected, less than three percent. AB 364 rectifies this error by clarifying SB 477's originally intended scope.

Ensuring California comprehensively protects for temporary migrant workers is imperative because despite ATEST advocacy at the federal level for more than 10 years on these issues, a lack of comprehensive and consistent federal oversight and regulation means temporary workers continue to be exploited and trafficked. Regulation of temporary visa categories is fragmented between the Departments of State, Homeland Security, and Labor. As a result of this disjointed oversight, 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.

Currently, no other protections exist under California or federal law at the place of recruitment abroad for temporary workers.

SB 477 was the first legislation passed in the United States addressing the grave human trafficking problems associated with foreign labor contractors' abusive recruiting practices. To combat the problem in California recognized by the Governor and the California legislature, it is essential that SB 477's be enforceable against *all* foreign labor contractors regardless of the visa category through which they recruit foreign workers.

ATEST applauds this effort to better protect potential victims of human trafficking. We thus urge you to pass AB 364, recognizing that the power imbalance between temporary foreign workers and those who bring them into the country can result in extreme labor

exploitation, including trafficking. Passage of this crucial legislation will give California a valuable tool to prevent the suffering and misfortunes of those subject to this modern form of slavery and provide a model for other jurisdictions faced with similar challenges.

Sincerely,

A handwritten signature in black ink, appearing to read 'Terry FitzPatrick', with a stylized, overlapping flourish at the end.

Terry FitzPatrick
ATEST Co-Chair

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Member organizations of the ATEST Coalition include: Coalition to Abolish Slavery and Trafficking (CAST), Coalition of Immokalee Workers (CIW), Free the Slaves, HEAL Trafficking, Human Trafficking Institute, Humanity United Action (HUA), McCain Institute for International Leadership, National Network for Youth (NN4Y), Polaris, Safe Horizon, Solidarity Center, T'ruah: The Rabbinic Call for Human Rights, United Way Worldwide, Verité, and Vital Voices Global Partnership.