Workers’ Rights on ICE: What California Can Do to Stop Retaliation and Advance Immigrant Workers’ Rights

California State Assembly Labor Committee
Is California Doing Enough To Protect Immigrant Workers from Retaliation?
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Winnetka, CA (2013)

After day laborer Hector Nolasco requested his full day’s pay, his employer falsely reported him to the police. Nolasco was arrested, put in jail, and faces an immigration hold. He is still in custody.
Profile of Immigrant Workers in California

- 10 million immigrants live in California
- Estimated 2.6 million people, or 7% of Californians, are undocumented
- 1 in 10 workers in California is undocumented (1.85 million workers)

Profile of Immigrant Workers in California

- Low-wage immigrant workers in agriculture, construction, manufacturing, service industries
- 76% of undocumented workers surveyed worked off the clock without pay; 85% did not receive overtime
- 29% of CA workers killed in industrial accidents are immigrants

Source: Public Policy Institute of California, At Issue: Illegal Immigration (2011); Ruth Milkman et al., Wage Theft and Workplace Violations in Los Angeles: The Failure of Employment and Labor Law for Low Wage Workers (2010); AFL-CIO, Immigrant Workers at Risk: The Urgent Need for Improved Workplace Safety and Health Policies and Programs (2005)
California Protections for Immigrant Workers

California SB 1818:

“immigration status is irrelevant” for “purposes of enforcing state labor and employment laws”

Retaliation Against Immigrant Workers

1) Employers call local police, leading to deportation proceedings, due to expansion of immigration enforcement at local level.

2) Employers threaten to or call ICE directly.

3) Employers “self-audit” by re-verifying workforce during labor dispute.

4) Employers use E-Verify in retaliatory fashion.
The Face of Unfair Retaliation: Immigrant Workers

Garden Grove, CA (2012)
After Jose Ucelo Gonzalez, a day laborer, requested his day’s pay, his employer refused, and filed a false police report for robbery, leading to his arrest. An ICE hold was placed on Gonzalez, which led to deportation proceedings.

San Jose, CA (2013)
After California Labor Commissioner found that an employer owed an immigrant worker over $50,000 for unpaid wages, employer visited the worker’s home multiple times, harassed him, and threatened to call ICE.
The Face of Unfair Retaliation: Immigrant Workers

• Expansion of immigration enforcement allows **employers to call police** and falsely accuse workers of crimes, leading to deportation proceedings.

• Immigrant workers end up in ICE custody and deportation proceedings due to immigration holds under **Secure Communities**.

• ICE deported **90,092 Californians** between 2008-2012 under Secure Communities; **56 %** had no prior criminal record, or very minor offenses.


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Retaliation Against Immigrant Workers

San Francisco Bay Area (2012)
Employer announces that it will join the voluntary E-Verify program after workers try to organize a union.

Pomona, CA (2011)
Workers who try to organize a union are fired after employer decides to “re-verify” their work authorization documents.

Photo: David Bacon, UNITE HERE.
Retaliation Against Immigrant Workers

Employers threatened to call ICE in:

- **50% of organizing campaigns** with majority undocumented workers
- **41% of organizing campaigns** with majority recent immigrants

• Employers **improperly conduct I-9 self-audits** after employees file workplace-based complaints or in midst of labor dispute.

• Employers **misuse enrollment in E-Verify** to intimidate or retaliate against workers.

[AB 1236]
Next Steps: How Can California Protect Immigrant Workers from Unfair Retaliation?

Legislative Action:

• Strengthen California’s protections against employer retaliation.

• Increase resources for state labor agencies to fight employer retaliation.

• Pass the TRUST Act.

• Prohibit threats to report a worker’s immigration status.
Next Steps: How Can California Protect Immigrant Workers from Unfair Retaliation?

Administrative Action:

• Strengthen CA DFEH and CA DLSE U visa certification protocol.

• Establish a strike force to fight employer retaliation.

• Reinforce the firewall between immigration and labor law enforcement.