



The POWER Act

Protect Our Workers from Exploitation and Retaliation Act

JUNE 2018

IN MAY 2018, REP. JUDY CHU (D-CA) REINTRODUCED THE Protect Our Workers from Exploitation and Retaliation (POWER) Act, which provides critical labor protections for some of our country's most vulnerable workers — immigrants — and contains vital safeguards against retaliation by employers.

Too often when immigrant workers assert their labor or civil rights or organize for better working conditions, they face threats of immigration enforcement from unscrupulous employers seeking to silence them. This retaliation undercuts workers' ability to enforce their rights and results in more dangerous workplaces and lower wages for all workers.

By mandating changes in how the U.S. Department of Homeland Security (DHS) conducts worksite immigration enforcement and by creating new protections for workers, POWER would help ensure that enforcement of federal immigration law does not undermine workers' basic job-related rights.

Increasingly, people recognize that employer retaliation based on immigration status hurts all workers. In fact, in 2013, the key provisions of the POWER Act were included in the comprehensive, bipartisan immigration reform bill passed by the Senate (S.744). Now as a standalone bill, the POWER Act marks a vital step forward and will help create safe and just workplaces for all workers.

POWER's Key Provisions

- **U visas for victims of retaliation.** The POWER Act would expand eligibility for a U visa to certain workers involved in a workplace claim who reasonably fear or have actually been threatened with force, physical restraint, serious harm, or other abuses. To qualify, a worker must have suffered substantial abuse or harm from the serious labor violation, or must show that he or she would suffer extreme hardship if removed from the U.S. In addition, the worker must cooperate with a federal, state or local prosecutor, judge, or investigating agency.
- **Stay of removal and employment authorization.** Workers who have filed or who are material witnesses in a

workplace claim may receive a stay of removal and employment authorization until the workplace claim is resolved. This would allow labor law enforcement agencies such as the U.S. Department of Labor (DOL) to more effectively prosecute employers who break the law.

- **Strengthening labor agencies' investigative powers.** In certain situations, DHS would be *required* to ensure that workers detained as part of worksite immigration enforcement are not removed from the U.S. before an agency investigating allegations of labor violations has a chance to interview these workers.

POWER's Importance

- **Supports workers' ability to vindicate their labor rights.** POWER's provisions will help ensure that workers involved in labor disputes will not be deported without an opportunity to speak with labor agencies, such as DOL or the Equal Employment Opportunity Commission.
- **Reduces the incentives for employers to use immigration as an issue to avoid compliance with labor laws.** Currently, an employer that does not want to follow labor law can use immigration enforcement—or the threat of such enforcement — to quash workers' attempts to vindicate their rights.
- **Allows labor agencies to effectively serve immigrant workers.** POWER ensures that investigators and attorneys at labor agencies have the opportunity to interview workers who are victims of labor violations. Without this provision, labor agencies' ability to investigate violations is limited, particularly if those workers are removed from the U.S. before investigators can speak with them.
- **Promotes efficiency of DHS.** While providing protections against retaliation for workers, POWER also provides clear guidance to DHS in cases that could otherwise have its enforcement working at cross-purposes with the DOL.