

National Employment Law Project

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Who are day laborers and temporary workers?

Day laborers and temporary workers are short-term employees working in industries such as landscaping, construction, food processing, and domestic and factory work. Some day laborers utilize the tradition of street corners, negotiating with potential employers at designated “shape-up” sites, while others seek work through sites operated by community and/or faith-based organizations. A growing number of workers find jobs through employment agencies who generally collect a fee from the employer and day laborer for placement with third party employers.

What kinds of workplace problems do day laborers and temporary workers face?

Working conditions are characterized by low wages, frequent non-payment or illegal deductions from wages, and hazardous health and safety violations. Some problems include:

Wage Violations—

Surveys of day laborers in Los Angeles, CA, Chicago, IL, and Long Island, NY reveal that nearly 50% of day laborers reported non-payment of wages by temporary day labor agencies or the on-site employers. Day laborers experience wage and hour problems that take many forms: non-payment of wages; payment of less than the agreed upon rate; payment by checks with insufficient funds, late payments and excessive fees for equipment and services required for job. The short term employment relationship and fear of retaliation make recovery of wages difficult. Furthermore, lack of access to social and legal services leave few options for day laborers seeking to recover unpaid wages.

Health and Safety--

Occupational injury and fatality rates are disproportionately higher than those in other industries. Day laborers often toil under hazardous conditions without the benefit of health and safety training or equipment. Due to the lack of notice requirements, most day laborers have no advance warning about possible exposure to hazardous materials or dangerous tasks. Desperate for work and fearing retaliation, day laborers often risk life and limb without ever reporting work hazards. A Chicago day labor study found that nearly half of the respondents (46%) were worried about their health and safety on the job. Yet, only 56% of those concerned reported the problem to the temp agency or on-site employer. The belief that no corrective action would be taken and that temp agencies and employers would refuse future employment prevented reporting. These fears are valid. The same study found that when day laborers actually reported health and safety concerns, employers took corrective action in only 60% of the cases.

What kinds of workplace problems do day laborers and temporary workers face? (continued)

Retaliation—

Day laborers and temporary workers seeking to enforce the employment and labor laws are subject to intimidating retaliation. Without anti-retaliation protections, day laborers continue to endure dangerous and unjust conditions without recourse.

What is wrong with existing workplace laws?

The majority of workplace laws protecting day laborers and temporary workers were written for full-time, permanent employees. The short term nature of day labor and sub-contracting pose significant barriers to enforcement of laws, and the workers do not receive the same benefits or wages as full-time permanent employees performing the same work. For the most part, benefits are related to the number of hours worked. Thus, day laborers and temporary workers usually do not have health insurance, sick days, and retirement and pension benefits. New laws are needed to reflect the needs of these workers.

What does this bill do?

The Day Labor Fairness and Protection Act expands and protects the rights of day laborers and temporary workers by providing for strong wage and hour protections, requiring employers to provide health and safety equipment and a safe work environment, prohibiting retaliation against day laborers and temporary workers seeking to enforce their rights, and imposing harsh penalties on employers who break the law.

For a details on the Day Labor Fairness and Protection Act go to, www.nelp.org

What can I do to support the Day Labor Fairness and Protection Act?

Contact your Congressional representative and ask them to work with Rep. Luis Gutierrez (D-III) to pass this important piece of worker legislation. Contact one of the organizations below to connect with a campaign in your area:

National Day Labor Organizing Network

Contact: Pablo Alvarado
(213) 353-1336

North American Alliance for Fair Employment

Contact: Kim Foltz
(617) 482-6300

National Employment Law Project

Contact: Luna Yasui
(212) 285-3025 x105

Where can I find more resources for day laborers?

Go to, <http://www.nelp.org/nwp/initiatives/day/index.cfm>

This online resource contains:

Day Labor Research

This section contains academic studies, government reports and other resources for day laborers and day labor advocates.

Legal Resources for Day Laborers and Advocates

This section contains NELP fact sheets and other legal resources for day laborers and day labor advocates.

Legislative and Policy Advocacy Resources

This section contains legislative advocacy resources for day labor organizers and policy makers.

second page