

RESIST & rebuild

CALIFORNIA LABOR FEDERATION 2017

FACT SHEET SB 306 (Hertzberg) PROTECT WHISTLEBLOWERS FROM EMPLOYER RETALIATION

Purpose

To protect a worker's right to act as a whistleblower and report illegal activity without fear of being fired or otherwise retaliated against.

Background

California state laws offer workers a variety of basic protections, from the right to a safe workplace to guarantees that hourly workers will earn at least the minimum wage. The importance of these laws, and their role in improving Californians' overall quality of life and standard of living, cannot be overstated.

Nevertheless, what is written in the law and what is experienced at work are often two very different things. These rights are only as good as their timely enforcement, and despite diligent work from state enforcement officials, the reality is that workers too often face retaliation when reporting labor law violations.

This is especially true for workers who act as whistleblowers, alerting higher-ups of official misconduct, fraud, or other violations of the law.

Despite many attempts to fix the problem, retaliation remains disturbingly common across California. A worker sees a life-threatening safety hazard, reports the violation to Cal/OSHA, and is fired for speaking up. Someone notices they were not paid for all hours worked, tells their manager about it, and has their hours cut. Most employers do not do anything like this, but those that do create a world of negative consequences for affected workers.

If a worker believes he or she will be fired for reporting health and safety violations, for example, who would ever actually pick up the phone and make the call? Not only does inaction put the individual worker at risk, it jeopardizes the life of everyone at the work-site, including the employer.

When workers fear retaliation for reporting wage theft or speaking out about improper actions by the employer, all workers suffer. The chilling effect of allowing such abuse to continue is immediate, harmful, and unconscionable. In addition, when workers are fearful of revealing employer misconduct, honest employers face a competitive disadvantage.

When a whistleblower faces retaliation, the process takes so long to resolve that it sends a clear message to other workers that reporting the truth is not protected. Even if the worker is reinstated a year later, the rest of the workforce has already been scared into silence. Once that much time has elapsed, the willingness to report illegal activity is long gone.

What This Bill Will Do

SB 306 (Hertzberg) will allow whistleblowers to seek an immediate and temporary injunction when they face retaliation for reporting violations of state law.

For example, should a worker be fired for calling Cal/OSHA, this bill will give the Labor Commissioner or that worker the right to seek immediate reinstatement while the retaliation claim is processed. With this change, whistleblowers will have much less to fear when wondering whether or not to report violations.

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LEGISLATIVE AGENDA

SB 306 will improve working conditions across California by bringing illegal activity to light and discouraging retaliation before it happens. In doing so, the bill will also minimize any unethical competitive advantage by employers who save money cutting corners or underpaying workers.

Support

- ~ California Labor Federation (Co-Sponsor)
- ~ State Building & Construction Trades Council of California (Co-Sponsor)
- ~ SEIU California (Co-Sponsor)

Key Contacts

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