

WORKER PROTECTIONS IN THE Y VISA PROGRAM
“Secure Borders, Economic Opportunity and Immigration Reform Act of 2007”

Provides a legal way for needed workers to enter the U.S. Many low-wage jobs in the U.S. today are filled by undocumented workers who have few rights and are afraid to speak up about workplace abuses. Replacing this broken system with Y visa workers who have the same protections as U.S. workers is vital to ending worker exploitation. The program also protects American workers by ensuring they will always receive the first opportunity to hold these jobs and will not be unfairly undercut by vulnerable immigrant workers. The Y visa program:

Requires Employers to Look for American Workers First. Employers who want to bring in Y visa workers must:

- Recruit U.S. workers beginning at least 90 days before applying to the Y program, and extensively advertise the job so U.S. workers can apply
- Offer the job to any eligible U.S. worker.
- Ensure that they have not displaced a similarly-employed U.S. worker.

Restricts Employers in High Unemployment Areas from Bringing in Workers. Employers in counties where the unemployment rate is more than 7 percent cannot bring in Y visa workers unless they receive a waiver from the Department of Labor.

Bars Bad Actors from Participating in the Y Visa Program. Employers who violate the terms of the Y visa program, as well as employers who have repeatedly or willfully violated our wage and hour laws or committed egregious health and safety violations, are barred from seeking Y visa workers for up to three years. Violators of human trafficking laws are permanently barred.

Ensures a Level Playing Field.

Y visa workers must receive the same wages, benefits, and working conditions as similarly-employed U.S. workers. This includes paying at least a local prevailing wage (calculated based on Bureau of Labor Statistics data), so that American workers are not forced to compete against artificially low wages.

Y visa workers can move to other jobs so long as those employers have complied with the requirements of the program.

Y visa workers have whistleblower protections from intimidation or threats, and maybe permitted to stay in the country to provide needed evidence in cases involving labor and immigration law violations.

Requires Employers To Cover Workplace Injury Costs. If the position is not covered by worker's compensation insurance, the employer must provide equivalent insurance.

Prevents End-run around Tax and Employment Laws. Y visa workers cannot be treated

as independent contractors. This helps to ensure that state and federal taxes and workers' compensation are paid and reported for all Y visa workers, and legal wages are paid to Y visa workers.

Establishes Strict Monitoring of Labor Recruiters. Each foreign labor recruiter must provide accurate information about the jobs advertised. Recruiters cannot charge workers for their recruitment. Workers have the right to enforce the terms that labor recruiters promise. Recruiters must register with DOL and post a bond to ensure that workers are adequately protected.

Provides Tough Penalties for Those Who Break the Law and Gives the Government Strong Enforcement Authority.

Workers who are harmed by employers who break the law can seek unpaid backpay and benefits. The Department of Labor can impose stiff penalties up to \$5,000 per violation per affected worker in the case of willful violations. Additional fines apply when willful violations harm American workers.

Department of Labor is authorized to hire 1,000 additional staff to investigate violations and enforce labor laws.