



TO: House Insurance Committee  
FROM: Gary Daniels, Chief Lobbyist, ACLU of Ohio  
DATE: November 29, 2017  
RE: House Bill 380

To Chairman Brinkman, Vice Chair Henne, Ranking Member Bocchieri, and members of the House Insurance Committee, my name is Gary Daniels, chief lobbyist for the American Civil Liberties Union of Ohio (“ACLU of Ohio”) and I appear to present opponent testimony on House Bill 380.

HB 380 is not a complicated bill but its effects will be felt by the most vulnerable among us as it forbids workers’ compensation to injured, sick, diseased, and dying people because of their immigration status. HB 380 also ignores the complexities and nuances of immigration law and this bill’s proposed safeguards for undocumented workers are impractical.

The ACLU of Ohio believes the immigration status of a worker should not be a factor in their receiving or being denied workers’ compensation. Undocumented workers suffer the same injuries and contract the same diseases as US citizens and those immigrants with proper work authorization. Many of these same workers are employed in sometimes dangerous and hazardous industries. These include construction, manufacturing, and agriculture, among others. Yet, under HB 380, it is only the unauthorized workers who will be left with no practical recourse when they suffer workplaces injuries, sickness, and death.

HB 380 is also written with no recognition of how a person’s immigration status may change over time and the variables that might contribute to their being in or out of status. For example, HB 380 defines “illegal alien” basically as a person who meets one of the following three criteria – 1) they entered the US without the proper authorization and documents, 2) the alien once enjoyed legal status but has violated the terms of that status and are now considered out of status or, 3) the alien has overstayed a visa. (HB 380 also defines “unauthorized alien” as an alien not authorized to be employed in accordance with the federal Immigration Reform and Control Act of 1986).

In other words, it appears HB 380 will deny workers compensation benefits under these scenarios:

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- Worker #1 arrived from a foreign country, is legally in the US, and is employed here in Ohio. His legal status is dependent on his specific employment. However, the factory where he is employed is shut down. As a result, he, under federal immigration law, is now out of status. But, he suffered a workplace injury one month ago and wants to file for workers' comp. How does HB 380 affect him?
- Worker #2 was employed under a lawful visa that is now expired, although she remains in the US. During her final month of employment, Worker #2 suffered an injury she did not believe to be serious. However, weeks go by and the injury persists. After leaving the employer, she finally receives medical care and learns the injury is more serious than she thought and she will require surgery. Will she be subject to HB 380?
- Worker #3 was brought to the US as an infant by her undocumented parents. She is considered a DACA (Deferred Action for Childhood Arrivals) immigrant which, despite her status, allowed her to receive a green card so she can be legally employed. Does HB 380 preclude her from receiving workers' compensation because it appears to make no allowances for DACA immigrants?
- Worker #4 was legally employed at one time. However, that visa expired and she decided to apply for, and eventually received, a student visa. In between obtaining visas, she was technically out of status but is now back in status. She also later developed serious health problems traced back to her working conditions. Will the passage of HB 380 mean she is out of luck regarding workers' compensation benefits?

These are but a few of the numerous ways the broad language of House Bill 380 may affect numerous workers who do not appear to be the focus of this bill but will suffer its consequences all the same.

Under HB 380, it is also easy to envision scenarios where employers will continue to simply ignore or not adequately confirm the immigration status of their employees while assigning them to risky work duties with potentially dangerous consequences. After all, what would be the incentive not to?

Proponents of this bill believe allowing the worker to file suit against the employer under at least some circumstances will act as a deterrent to hiring undocumented workers. However, I suspect most unscrupulous employers fully realize the chances an undocumented worker will hire legal counsel and file such lawsuits are practically non-existent for a variety of reasons.

House Bill 380 is unnecessary, anti-worker, and filled with vague, uncertain language. The ACLU of Ohio urges your rejection of this misguided legislation.