

SB 1818
Undocumented Worker Rights
Effective: Immediate

Existing law provides protections, rights, and remedies to persons who have applied for employment, or persons who are employed, in this state pursuant to provisions in the Civil Code, the Government Code, the Health and Safety Code, and the Labor Code.

This bill would make a legislative finding and declaration that all protections, rights, and remedies available under state law, except as prohibited by federal law, are available to individuals regardless of immigration status who have applied for employment, or who are or who have been employed, in this state. The bill would further find and declare that for the purposes of enforcing state labor, employment, civil rights, and employee housing laws, a person's immigration status is irrelevant to the issue of liability and no inquiry shall be permitted into a person's immigration status except when necessary to comply with federal immigration law.

This law was enacted specifically to counteract and reject the U.S. Supreme Court ruling in Hoffman Plastic Compound Inc. v. NLRB. The Supreme Court ruled that US immigration policy prohibited an award of back pay to an undocumented worker who was not legally authorized to work in the United States. This law clarifies that all protections, rights, and remedies are indeed available to all state residents who have applied for employment, or are employed, regardless of their immigrant status. This new law underscores the importance of compliance with the Immigration Reform and Control Act, which mandates that employers complete the INS Form I-9 requirements for all employees.