



# 12 Ways the **PRO Act** Will Hurt American Workers



**The Protecting the Right to Organize (PRO) Act** is making its way through Congress and, if approved, would fundamentally change the US economy and the way Americans work.

The legislation is getting headlines for nationalizing the California law that put thousands of independent contractors and gig workers out of a job. But, harmful as that is, it's far from the worst part of the PRO Act. This legislation profoundly rewrites American labor law, eliminates the balance of power that currently exists between unions and businesses, and would ban right-to-work laws across the country.

*This resource was developed in partnership with the Institute for the American Worker.*

**1 It would repeal right-to-work laws, resulting in many workers being forced to join a union in order to keep their jobs.**

The PRO Act would strip states of their ability to protect workers from being fired for not paying a union. A majority of states have these laws on the books, giving private-sector workers a choice in whether or not they want to belong to or pay a union. Under the PRO Act, these workers could be forced to pay union fees to keep their jobs.

**2 It would make it extremely difficult to work as (or hire) an independent contractor.**

The PRO Act would implement California's sordid AB5 law nationwide. As a result, tens of millions of independent workers will be at risk of losing their businesses or being forced into untenable work arrangements. The legislation would consider all workers, even those who currently make their living as contractors, as full-fledged employees unless they can satisfy a stringent three-pronged test, known as the ABC Test.

- a. The worker must be absent control from the business, meaning the worker sets his/her own schedule and timeline, dictates how the work is completed, etc.
- b. The worker must provide a service or product that's outside the normal business of the client. For example, a writer could create content for a hotel website as a contractor but would not be permitted to do freelance writing for a news website.
- c. The worker has an independently established, professional business that focuses on the service being provided.

**3 Under the PRO Act, franchise owners can't run their businesses as they see fit.**

And it would more closely tie them to the decisions and liability of their corporate counterparts. The PRO Act would re-classify many small businesses that franchise or contract with larger companies as "joint-employers," wherein both businesses would be liable for employment decisions of the other. This means a corporation could be sued for the actions of a mom-and-pop franchise, which will lead the large corporations to exert more control over franchisees. Similarly, companies that merely do regular business with each other (such as a janitorial service that cleans a department store) would also be tied together and would be responsible for each other's actions.



4

**It would prohibit employers from permanently replacing workers during a strike,** and

striking workers would immediately need to be rehired to their old position once the strike ends. This means businesses could find it hard—if not impossible—to keep the doors open during labor disputes, ultimately hurting those employed there.

5

**It would allow unions to strike and picket businesses that aren't even involved in a labor dispute.**

Currently, striking is only allowed of businesses that have some involvement with a labor union, but the PRO Act would allow striking of completely neutral parties. For example, if a union is involved in a dispute with an auto manufacturer, it could also strike in front of a parts supplier that provides material to the manufacture, even though the supplier has no involvement with or way to solve the dispute.

6

**It could overturn secret ballot unionization elections, making workers vulnerable to coercion and bullying.**

Employees' secret ballot votes could be thrown out if a union claims an employer interfered with an organizing election that the union lost and an employer could not prove they were innocent. The National Labor Relations Board could throw out the election and recognize the union if a majority of employees signed cards before the election. This process, known as "card check," takes place out in the open, making workers vulnerable to intimidation, as the union organizers and their colleagues would be able to see how they vote.

7

**It would eliminate workers' privacy by giving unions access to their personal information in an electronic, searchable format.**

During an organizing election, unions would have access to employees' personal cell phone numbers and home and email addresses. Employees would not be able to prevent the company from distributing this information.

8

**It would permit a union to spend months organizing an election without ever alerting the business owner until the election takes place.**

This means workers would be robbed of the ability to receive important information about what unionization might mean for their workplace, and business owners would not be aware of organizing attempts until they take place.

9

**It would violate the attorney-client privilege standard for business owners** by forcing employ-

ers to disclose if they receive legal advice from attorneys regarding unionization issues. The attorney would also be required to disclose if they were paid for this consultation.

10

**It would take away the options for businesses and workers to settle certain employment disputes out of court.**

The PRO Act removes the ability of companies and workers to settle certain employment disputes outside court through a voluntary and mutually agreed upon arbitration process. However, another part of the PRO Act says that if a union contract is not reached quickly enough, a government-appointed arbitrator would determine the contract and both parties would be forced to accept it, even if one party never agreed to arbitration. Unlike employees and the business owner, the arbitrator will not be as familiar with the company or its employees.

11

**It would force business owners to subsidize union business** by making their equipment available

to employees for union business. Employers could not limit the use of their computers, email systems, phone lines, and other equipment.

**"It would impose steep fines on businesses, while allowing unions to act without recourse."**

12

**It would impose steep fines on businesses, while allowing unions to act without recourse.**

Under the PRO Act, job creators would be subject to heavy civil penalties, ranging from \$500 to \$100,000. The fines could be imposed on the business or on the individuals at the company. The Act imposes no such penalties on unions who violate the law.