



## ATU LEGAL BULLETIN

# YOUR RIGHT TO REFUSE UNSAFE WORK DURING POLITICAL VIOLENCE

On January 6, 2021, a vicious mob attempted, through the use of violence, to prevent the Congress and Vice President of the United States from fulfilling their Constitutional obligations to certify the election of Joe Biden as our nation's 46<sup>th</sup> President. The mob murdered a police officer, and several other individuals were dead before the attempted coup was stopped. Alarmingly, the Federal Bureau of Investigation is warning that armed demonstrations against the swearing in of President Elect Biden are being planned in Washington, DC and all 50 state capitals from January 16 through January 20, 2021.

The January 6, 2021, attempted coup put ATU Local 689 members in our nation's capital at risk of violence, and there is every reason to believe that our members in other cities will be put similarly at risk. **We have a choice and the legal right to refuse unsafe work. This is as true when the hazard is violence in furtherance of sedition, insurrection, an unsafe vehicle, unmitigated COVID-19 risks, or any other dangerous work environment.**

Although the precise statute which protects you may vary on whether you work for a public or private employer, the type of equipment you operate or fix, and the State in which you work, the rules are simple.<sup>1</sup> If you report to work as required and are assigned or asked to do unsafe work, you have a protected legal right to refuse to perform the work if:

1. **You are refusing the assigned work out of a genuine fear for your safety** because political violence has erupted near your route or your employer has assigned you dangerous work such as transporting violent rioters, detainees or law enforcement officers.
2. **Your fear is reasonable**—you are assessing the actual facts before you and relying on good information, such as confirmed incidents attacks on bus operators or buses, credible press reports or police advisories, and not on questionable internet news sources or shop speculation.
3. **You personally have asked your supervisor for safe work.**
4. **The employer has failed to provide you with safe work.**

If you refuse unsafe work:

- Contact your President/Business Agent or union representative immediately to assist you. **You may be asked to deal with management to come up with alternate work or routes, a process which employers can cynically game and abuse.**
- Demand safe substitute work at your current rate of pay while the employer is fixing the problem. No matter where you are, you should file a grievance if the employer puts you in a non-paid status.
- File a grievance immediately to challenge any discipline or retaliation.

If we don't take action to secure our safety, we may die waiting for management to do it for us. If you come into harm's way due to a violent insurrection—as always—exercise your right to refuse unsafe work!

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<sup>1</sup> National Transit Systems Security Act (NTSSA), 6 U.S.C. §1142(b) (U.S.); Surface Transportation Assistance Act (STAA), 49 U.S.C. § 31105(a)(2) (U.S.); Occupational Safety and Health Act (OSH Act), 29 C.F.R. §1977.12(b)(2), (U.S.); National Labor Relations Act (NLRA), 29 U.S.C. § 143 (U.S.).