



Senator Bernie Sanders Introduces Bill To Overhaul The Gig Economy

Insights

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As if gig businesses haven't had enough bad news to digest in the past few weeks... fresh off the heels of the California Supreme Court's decision in the *Dynamex Operations* case, members of Congress are now focusing on increasing workplace rights for gig economy workers while handing them the ability to bargain collectively.

Yesterday, Senator Bernie Sanders introduced The Workplace Democracy Act, with the goal of increasing workers' rights to bargain for better wages, benefits, and working conditions. The bill is co-sponsored by Sens. Kirsten Gillibrand (N.Y.), Kamala Harris (D-Calif.), Elizabeth Warren (D-Mass.) and 10 other Democrats.

As summarized by Sanders's office, the bill would narrow the definition of an independent contractor, revise the National Labor Relations Act (NLRA), and increase protections for workers in the gig economy by extending collective bargaining rights to gig workers. Currently, only those classified as employees only have the right to unionize and negotiate collectively with employers. The proposed law would expand the definition of an employee. Under the bill, if a worker performs work that is not **outside the usual course** of the hiring entity's business (essentially, if the worker satisfies Prong B of *Dynamex's* ABC test), the worker would be classified as an employee.

The bill goes further than just impacting gig businesses, however. It would also allow employees to form a union through a majority sign-up process, which would reduce the ability of management to intervene in the formation of a union. The bill would also require employers to negotiate with a new union within 10 days of receiving a request and require workers in every state to pay dues to the union that represents them. Notably, this would end Right-to-Work rules in 28 states that ban unions from requiring all employees in a bargaining unit to pay dues.

Bernie Sanders's plan for gig employers is in stark contrast to legislation passed in Florida, Texas, Indiana, Kentucky, and Utah that allows for gig employers to continue classifying their workers as independent contractors.

Although The Workplace Democracy Act is highly unlikely to pass given the current Republican majority in Congress, gig businesses should continue to monitor the efforts of Congress to pass legislation that narrowly defines the definition of an independent contractor and the national conversation about gig workers' rights.

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