

# Gig Economy Giants Try To Block California's New Misclassification Law

Insights

12.31.19

The truck drivers were the first group to take aim at AB5 through a lawsuit, and the freelancers followed suit. Soon before the clock strikes midnight to ring in the new year, two giants of the gig economy fired their own shot. Uber and Postmates filed a federal lawsuit on December 30, hoping to overturn the controversial new law that will raise the bar to make it very difficult for the average gig economy company to classify their workers as independent contractors.

The main legal argument is that the law is unconstitutional because it specifically takes aim at gig economy companies while treating businesses in other industries in a preferential manner. It points out that there a “random” assortment of 24 industries that received exemptions from compliance – including travel agents, construction truck drivers, and commercial fisherman – and the arbitrary nature of these professions violates the equal protection clauses of the state and federal constitutions. “There is no rhyme or reason to these nonsensical exemptions, and some are so ill-defined or entirely undefined that it is impossible to discern what they include or exclude,” the lawsuit says. “AB-5 is a vague and incoherent statute that does not accomplish what its sponsors have stated they sought to achieve.” Other arguments in the lawsuit focus on due process concerns, arguing that individuals are unfairly prevented from working in the gig economy field because of the new law, and the constitutional contracts clause because reclassifying workers would invalidate their existing workplace agreements.

Postmates issued a statement accompanying the lawsuit indicating that it still believed the best route for the state to take would be to collaborate with businesses and workers to find a mutually satisfactory solution. “Now is not the time to give up or stop talking,” the company said. “Californians deserve a thoughtful, collaborative process to address the 21st century workforce. Not another false choice.” But the lawsuit also requests a preliminary injunction that would put the law on ice while the parties battle over its fate in litigation. As of the time of this publication, there was no indication that the court was entertaining such a request before the new year begins and the law takes effect. As always, we’ll monitor the situation and provide updates on any noteworthy developments.

## Related People

---





**Richard R. Meneghello**

Chief Content Officer

503.205.8044

Email