



Voters Will Have Say Over California Misclassification Law Come November

Insights

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Over a million Californians have said they want a chance to vote on the misclassification law that threatens to upend the gig economy as we know it – and that means that their wish will soon be granted. Thanks to a signature-collecting effort that has already far surpassed the necessary 623,000 signatures needed to place a measure on the ballot, voters in California will have the opportunity to pass a law this November that will exempt certain gig economy workers from the reach of the ABC test and instead ensure they are classified as independent contractors. The ballot measure, known as the “Protect App-Based Drivers & Services Act,” would see typical app-based drivers established as contractors regardless of AB 5 or the findings of state regulators if voters agree. Gig economy companies in California – and their workers – are now one step closer to regaining the independence and freedom that separated them from the business-as-usual world to begin with.

We wrote about the measure when it was unveiled in October 2019. Similar to the laws passed in other states, it would cement contractor status for app-based drivers provided that the hiring entity:

- permits the worker to select their own dates, times, and hours of work;
- allows the worker to reject a request for an assignment any time they wanted;
- lets workers perform services for any other company, including direct competitors; and
- does not restrict the worker from performing any other kind of work.

These are not points of contention, as they are typical working conditions offered to the average worker in the gig economy anyway.

Workers would further benefit from this measure if passed. The new law would require a minimum earning guarantee of at least 120% minimum wage, while permitting healthcare subsidies consistent with employer contributions under the ACA for all those driving 15 hours per week or more. Further, workers would receive expense reimbursements including 30 cents per mile for gas and wear-and-tear, and insurance to cover on-the-job injuries.

Besides these benefits, the initiative would require gig economy companies to enter into written agreements with their workers that would ensure workers are not terminated except for reasons

specifically enumerated in the contract. Moreover, companies would need to provide an appeals process for app-based drivers whose contracts are terminated. Companies would also be required to adopt and enforce strict anti-discrimination and anti-harassment policies, and would provide safety training to app drivers for their protection.

The sponsors of the initiative announced last week that they had acquired well more than the necessary 623,000 signatures needed to get the measure on the ballot. According to CNET, the campaign to pass the measure still has to process the million-plus signatures and conduct internal validity checks before it officially submits the signatures to voting authorities. However, given the sheer number of signatures gathered, it seems but a formality for the measure to be officially placed on the ballot. We'll continue to update the news regarding this proposal as we head towards a momentous Election Day in eight months.

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