



February 2020

## Will California's Ban on Freelance Work Lead to Blue State Turnaround?

BY KERRY JACKSON

The backlash over California's Assembly Bill 5, legislation that robs workers of their freedom, was likely not expected by lawmakers. They're accustomed to an electorate that agreeably goes along with whatever policies they impose, no matter how invasive.

The response to AB5, which outlaws, with a few exceptions, freelance and independent contract work, has been an outlier. There's a lot of anger over the law.

Hundreds who not only want but need to regain their right to earn a living have rallied for repeal in San Francisco, Sacramento, Los Angeles, and Folsom. They're "fighting back" against AB5's "bizarre and ruinous"—and unrealistic—standards. Some are "suffering" because of the law. The rallies weren't Antifa-like riots but a reasonable demonstration of frustration from everyday Californians outraged that Sacramento legislated away their rights and their independence through a bill written by the AFL-CIO.

"None of the people impacted by AB5 wanted the government's help in the first place," was the Chico Enterprise-Record's way of explaining the "common theme" of the Sacramento rally.

Frustrated workers have vented on Twitter, using hashtags such as #AB5, #RepealAB5, #AB5Stories, and #FixAB5.

---

*“None of the people impacted by AB5 wanted the government's help in the first place.”*

---

“Living in California destroys opportunity. Thanks @GavinNewsom & @LorenaSGonzalez just when I thought it couldn’t get any worse in this once-amazing state,” tweeted storyteller and cartoonist Linda Rothstein.

Like so many others who feel they’ve been robbed, musician Adrian Galysh didn’t hold back, “The #AB5 nightmares keep adding up. Bad legislation passed by corrupt politicians.”

Some are wondering if their political preferences are a mistake.

“One of many people,” writer Kirsten Mortensen tweeted, “who are now questioning their party affiliation thanks to #AB5. Will Dems wake up and #repealAB5 in time to stanch the blood?”

Mortensen’s comment should chill the blood of the dominant party in California. And it brings home another point. The victims of AB5 cross a broad spectrum of Californians. They are truck drivers, opera singers, writers, rideshare drivers, custodians, hairdressers, musicians, dancers, housekeepers, artists, and home repairmen, to name a few.

While there’s great diversity, which is normally a point of pride among California lawmakers, the pain is disproportionately spread. Women, who make up two-thirds of all freelancers, and prefer the flexibility and the financial opportunities of the gig economy over traditional employment, and the disabled, who are self-employed at nearly twice the rate—11% to 6%—as the non-disabled, are getting the worst of it.

Despite the law’s recency—it took effect only on Jan. 1—legislative, ballot, and legal reprisals are already stacking up.

Lawsuits have been filed by the California Trucking Association, the Freelance Journalists American Society of Journalists and Authors, and Uber and Postmates, both of which rely on independent contractors to carry out their businesses.

A number of companies, including Uber and Lyft, plan to spend \$110 million to place an initiative on the November ballot that would classify app-based rideshare and delivery drivers as independent contractors not covered by the law. Of course, they need to protect their businesses from AB5’s destruction. A Barclays analysis found that if rideshare drivers are reclassified as hired employees, Uber could lose \$500 million a year, Lyft \$290 million.

But it’s too bad more of the businesses that are being handicapped by the law didn’t pool their resources to build a ballot measure that would repeal the entire mess.

There are at least six bills in the Legislature, as well. Two are aimed at repealing AB5, the rest designed to add more exemptions from the law to the ones included in the bill’s final version. That much of the 2020 legislative session will be dominated by AB5 repeal and reform, as will several races around the state, confirms that Sacramento went too far again.

Like so many other laws passed in California during the Blue State Era, AB5 was a solution in search of a problem that has introduced some nasty consequences. It might well be the worst law on what has become a long list of injurious policies. Its effects are so baleful and widespread that it’s tempting to wonder if Democrats made a mistake with AB5 that will break their stranglehold on state politics. And it might break their dominance in states such as New Jersey and New York, which are pursuing their own efforts at “cracking down hard on the gig economy.”

California Democrats will try to mollify some of the anger with more exemptions. But will that be enough? We’re seeing a restlessness in California that hasn’t been present in some time. We might look back at 2020 being a political turning point in the state, with Assembly Bill 5 the force that changed the direction.

*Kerry Jackson is a fellow with the Center for California Reform at the Pacific Research Institute.*