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LEGISLATIVE ACTION ALERT

**The
Guardian**

California advances bill that would 'lead the world' on gig worker rights

[Kari Paul](#) August 30, 2019

Assembly Bill 5 would enact protections for workers, requiring them to meet three standards to be considered a contractor

A bill that would fundamentally change the way tech giants – such as [Lyft](#) and Uber – engage with workers has passed a major hurdle in the California legislature. Assembly Bill 5 would change the way businesses classify employees and dramatically expand protections for gig workers. If it becomes law, it would represent a big win for labor advocates across the state. “This bill not only does important things immediately for workers, but also sets a framework for the future we think is really important,” said Steve Smith of the California Labor Federation.

AB5 [passed California's state assembly](#) 53 to 11 in May and was passed Friday in a vote of 5 to 2 in the state senate's appropriations committee. It will now move to the full senate for a vote on 13 September. The legislation will enact protections established by the California state supreme court in a May 2018 decision known as Dynamex, which uses a three-part test to determine if contractors qualify as employees entitled to protections and benefits.

Under Dynamex, a company will have to complete an “ABC test” to classify a worker as a contractor, proving they are (a) free from the company's control, (b) doing work that isn't central to the company's business, and (c) have an independent business in that industry. If the worker doesn't meet all three of these standards, they will be classified as an employee and entitled to benefits including unemployment insurance, health care subsidies, paid parental leave, overtime pay, and a guaranteed \$12 minimum hourly wage.

AB5 would affect a number of industries relying on workers classified as contractors, including nail salons, construction companies, day cares, and others – [with some exemptions](#). It would also fundamentally change the way gig economy companies such as Lyft and Uber function in California. [Uber](#) and Lyft drivers demonstrated in San Francisco on Tuesday to rally support for the legislation. “We are here today to say ‘enough is enough’, that drivers deserve the same rights and protections as employees,” [said Edan Alva](#), a driver who lives in Alameda, California, at the demonstration. “We are here to show we have been organizing for a long time and that we are not going to go away, we will keep fighting until we get what we deserve,” he added.

“No longer will we stand back while Uber makes a fortune off the backs of workers who are increasingly an afterthought,” added Carlos Ramos, an Uber driver and organizer. Uber and Lyft have been outspoken against the bill, arguing that their workers enjoy flexibility and should not be classified as full-time employees, and implying they cannot afford to pay benefits and higher wages to drivers.

The ride-share companies, who have intensified campaigns against AB5 in the weeks leading up to its vote, sent drivers in-app notifications to sign a petition against the legislation and reportedly even paid them to attend events in opposition to AB5. Uber and Lyft drivers were promised \$25 to \$100 to attend a rally in Sacramento to express opposition to AB5, [according to the Los Angeles Times](#). Lyft circulated a petition in emails to both drivers and customers of the ride-hailing app in California, imploring them to sign and encourage legislators to “fix AB5”. On Wednesday, Uber [proposed a policy](#) it said would pay drivers a minimum wage of \$21 per hour and provide workplace protections including sick leave and compensation for injuries while driving. Drivers say the minimum wage, which applies to time after a trip is accepted, would affect 40-60% of a driver’s time on the road and would not adequately address complaints.

In a statement, Uber argued its proposal would set a minimum earnings standard, providing stability to workers while allowing for flexibility. It touted its proposal as the first in the nation to give drivers a collective bargaining process, and stressed it would include access to benefits like sick leave and injury protections. On Thursday, Uber and Lyft announced [they would commit](#) \$60m to fight AB5 with a state-wide ballot initiative to continue treating workers as contractors. DoorDash has also committed \$30m to a potential 2020 ballot measure.

Drivers’ advocates have argued companies such as Uber have the financial bandwidth to compensate drivers differently, but chose not to. Uber, which was [valued at \\$82.4bn](#) when it went public in May, has plenty of funds to spend on employees, said Veena Dubal, an associate professor of employment law at UC Hastings College of Law, said. The company spent \$2.3m on federal lobbying in 2018, up \$1.8m from money spent in 2017.

“[Uber and Lyft] have said over and over again this is going to ruin their business, but it is not clear to me how this will ruin them,” she said. “It may ruin the way they are currently functioning, and might force them to change their business model to invest in the workers that actually produce value for the companies.” She said it is not yet clear if these costs will be passed along to consumers, causing higher fees to use ride sharing apps in California. Although the bill will only affect how national companies treat workers in California, labor advocates hope it will motivate other states to enact legislation protecting gig workers. “My sense is that other states will begin passing similar laws,” Dubal said. “This could very well turn the tides across state lines.”

On Monday, more than 70 academics from across the country – law professors, labor economists, sociologists, political scientists – sent a letter to state legislators and Governor Gavin Newsom encouraging the passage of AB5. “California is poised to lead the country – indeed, to lead the world – with the strongest law on record to protect workers from misclassification,” said the letter, signed by academics from Cornell University, University of California - Berkeley, CUNY school of law, and others. “We oppose attempts to carve platform gig workers out of Dynamex and AB5.”

Several presidential candidates have spoken in favor of the proposal, including senators Kamala Harris, Bernie Sanders and Elizabeth Warren. Democratic presidential candidate Pete Buttigieg made an appearance at a [driver demonstration](#) in favor of AB5 in San Francisco on 27 August. “I stand with gig workers,” Buttigieg said. “You deserve protection against sexual harassment. That means you deserve overtime protections – and yes, that means you deserve a union.” Some US states, including Massachusetts and New Jersey, have similar standards, but there is opposition at a federal level. In May, the National Labor Relations Board [released an opinion](#) stating drivers were not employees. Gig workers and advocates also caution that the bill should just be the start of new protections.

“AB5 is a great first step toward raising standards for gig workers, but from what we understand it doesn’t open up opportunities for them to collectively bargain for a union,” said Lauren Casey, a spokeswoman for campaign group Gig Workers Rising. “The next step will be getting that pathway cleared so they are able to unionize.”

Read entire article at: <https://www.theguardian.com/technology/2019/aug/29/california-lawmakers-consider-bill-that-would-lead-the-world-on-gig-worker-rights>