

Gig Economy Feels Bite of California Law After Uber, Lyft Loss

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- A.B. 5 proves steep hurdle in AG lawsuit
- Gig companies' business models threatened

Uber Technologies Inc. and Lyft Inc. faced the direct consequences of California's rigid law that makes it hard for companies to rely on independent contractors, with a court ruling that threatens the future of gig companies in the state.

A [California court Monday ordered](#) the ride-hailing giants to reclassify their drivers as employees, denying the companies' pleas that they shouldn't have to comply with Assembly Bill 5, a law passed in 2019 that lays out three criteria that a company must meet to deem workers independent contractors. The so-called "ABC test" roiled employers in the state, particularly those in the gig economy whose business models rely on contractors.

The decision is the first blow against Uber and Lyft since the new California law passed, and the outcome could have an impact on pending government cases against [DoorDash Inc.](#) and [Instacart](#). It also may trigger more lawsuits under another [unique California law](#) that allows individual employees to sue companies over labor violations on behalf of the state. Workers in California have filed suits against gig companies, as well, but many of those are funneled to arbitration.

The stakes are high for the gig economy in worker classification cases, as employees are entitled to benefits such as overtime, minimum wage, and health care, among other rights. Reclassifying drivers as employees could lead to 20% to 40% increases in business costs for gig companies, according to Bloomberg analysts. Uber has said it would need to [raise prices](#) in California between 25% to 111%, depending on location, to cover those increased costs.

Gig companies have been aggressive in avoiding that outcome. Uber's leaders have [pushed](#) for the government to create a third classification of worker, have [sued](#) to block A.B. 5, and also funded a petition to overturn that law through a [ballot initiative](#).

State Enforcement

The California Attorney General and the state's largest cities brought a lawsuit against Uber and Lyft for allegedly defying A.B. 5, thus [avoiding worker arbitration agreements](#) that allowed the companies to avoid a court ruling on the merits of classification claims.

"A California judge has at last said 'no more' to Uber and Lyft's endless game-playing," Shannon Liss-Riordan, a Boston-based attorney who represents gig economy workers in cases across the U.S. "Rather than making plans to comply with California law and provide their drivers the legal protections that employees enjoy, these companies have spent their energies on sidestepping the law, defending their

avoidance of the law, and thumbing their noses at the California courts, legislature, and their own workers, who have made these companies into the successes they are.”

The companies have said they’ll appeal the Monday ruling.

“Drivers do not want to be employees, full stop,” Lyft said in a statement. “We’ll immediately appeal this ruling and continue to fight for their independence. Ultimately, we believe this issue will be decided by California voters and that they will side with drivers.”

Like the California attorney general, workers who bring Private Attorneys General Act suits can bypass arbitration agreements and class-action waivers. Several worker classification cases already have been filed under PAGA.

California’s ABC test requires companies to clear three hurdles to classify a worker as a contractor: weighing the employer’s control over how the work is performed; whether the services are within the normal course of business; and whether the workers have an independently established role. These replaced a test that took on dozens of factors to balance who should be a contractor.

New Jersey, Massachusetts, and Connecticut also use that standard for determining who’s an independent contractor. [Massachusetts](#) in July sued Uber and Lyft over driver classification. New Jersey last November hit Uber with a [\\$650 million bill](#) for not paying unemployment and disability insurance taxes because the company had been misclassifying drivers as contractors.

[A report](#) from the UC Berkeley Labor Center found that if the companies treated drivers as employees they would have paid \$413 million into California’s unemployment insurance between 2014 and 2019. The state recently borrowed \$348 million from the federal government to make unemployment insurance payments to Californians.

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