

# #DISRUPT INEQUALITY

## Defend Dynamex

### YES ON AB 5

#### AB 5/Dynamex Q&A

#### **What is Dynamex?**

In the Dynamex CA Supreme Court case, the Court ruled unanimously that companies must use a simple test, already adopted by other states, to determine if a worker is truly an independent contractor instead of an employee. The ruling removes uncertainty for businesses and ensures that companies aren't cheating workers out of basic protections like a minimum wage, unemployment insurance and workers' compensation that they deserve as employees.

#### **What is AB 5?**

Worker advocates have joined with Assemblymember Lorena Gonzalez Fletcher to enshrine the Dynamex ruling into state law and close loopholes that allow some big corporations to continue cheating. The bill, AB 5, clarifies the decision and protects both employees and those who are actually independent contractors.

#### **Why is AB 5 needed?**

By enshrining the Dynamex decision in state law, we can create one clear definition of employment that is easy to understand and follow.

In addition, this bill will clarify what employment relationships are not covered by the decision, providing certainty to industries that are unsure of the case's implications.

The reality is that most businesses do not misclassify workers and have been forced to compete with this illegal model. With the Dynamex decision and the clarity from AB 5, we can level the playing field for companies that follow the law and raise standards for millions of California workers.

#### **If someone wants to be an independent contractor, shouldn't they have that choice?**

Anyone who wants to go into business for themselves as an independent contractor will continue to have that choice. This bill in no way limits legitimate independent contractors. There's always going to be a place in our economy for those who want to be their own boss and contract their services to businesses that follow the law. What we need to stop is the practice of some unscrupulous employers calling employees "independent" just so they can cut corners on costs. When businesses flout the law with these schemes, we all pay the price. Good businesses struggle to compete. Workers are cheated out of pay and basic protections and our state loses billions in revenue that supports our schools, public safety and roads. That's why Dynamex and AB 5 are so important.

## **AB 5 is a one-size-fits-all approach. Doesn't this issue require a more nuanced approach?**

The author of the bill, Asm. Lorena Gonzalez, and the bills sponsors have been meeting with every group and industry that has concerns about the bill's approach. The legislature has convened an informational hearing to get public input. AB 5 is an incredibly thoughtful approach to a complicated issue. Remember, the Dynamex decision is the law of the land. AB 5 clarifies the decision so there's no uncertainty, while protecting all workers from unfair treatment due to being misclassified on the job.

## **Will the bill pass?**

We have broad support for AB 5. Unions, worker advocates, social justice groups, community allies and many others have expressed support. The legislature realizes that when workers are cheated out of pay and basic protections, inequality grows. This is the legislature's chance to act, not only to protect workers who are currently mistreated, but to ensure the future of work includes opportunity for everyone to get a fair day's pay and basic protections on the job in return for a hard day's work. That's what the American Dream is all about.

## **Does the Governor support AB 5?**

We're confident the governor is committed to a future that doesn't leave working people behind. While he hasn't commented on the bill, we look forward to having many conversations with him and his staff about its importance.

## **What's the bill's impact on the state?**

Bringing workers who are unlawfully classified into employee status will mean fewer workers relying on the safety net when they are sick, laid off, or hurt at work. It will also significantly benefit the state. In California, misclassification audits conducted by California's EDD from 2005-2007 recovered \$111,956,556 in payroll taxes, \$18,537,894 in labor citations, and \$40,348,667 in employment tax fraud. **In the Dynamex case, the DLSE estimated that misclassification costs the state \$7 billion annually.**

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