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California's war on workers

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For more than 40 years, the Lake Tahoe Music Festival provided local residents and tourists with classical music concerts. It was a modest event compared to such festivals elsewhere but much beloved in the community. However, last month, the event's producers announced that this summer's performances will be the final ones. The festival is closing up shop, the latest victim of a California law that severely limits the ability to hire independent contractors — in this case, musicians — in the Golden State.

That law, known by the bill name AB 5, was intended as a response to perceived abuses within California's changing economy. According to the Federal Reserve, as many as 3 in 10 workers are now part of what can broadly be termed the "gig" economy, a system of employment characterized by short-term, contract-based employment (or "gigs"). Ride-sharing services such as Uber and Lyft are perhaps the most visible examples of this class of employment, but the gig economy also includes all sorts of freelance, part-time, and temporary jobs, including those for musicians, designers, and nurses.

Such jobs frequently offer many advantages to workers, including the freedom to set their own hours. On the other hand, because gig workers are classified as "independent contractors" rather than "employees," most gig jobs do not provide benefits such as health insurance and sick leave. Moreover, several recent court cases called into question how contracted gig economy workers should be defined, most notably, Dynamex Operations West v. Superior Court of Los Angeles. Workers from Dynamex, a package delivery service, accused the company of violating their wage rights by misclassifying employees as independent contractors. The court agreed, ruling that Dynamex wrongly classified the employees, and the company had to pay lost wages.

Responding to these cases and other complaints, as well as a push by labor groups to unionize Uber and Lyft drivers, the California legislature passed AB 5 in 2019. The law, sponsored by Democratic Assemblywoman Lorena Gonzales of San Diego, established a new definition of "employee" based on the Dynamex decision. Henceforth, a worker would be classified as an employee if A) the worker is free from control or direction of the hiring entity, B) the work is outside the company's usual business, and C) the worker is independently involved in an occupation, trade, or business of the same nature as the work performed.

No sooner had the law passed than a torrent of unintended consequences began to sweep across California's self-employed communities. As is too often the case with well-intentioned regulations, those most affected were not big corporations, but rather vulnerable workers. Low-skilled workers and immigrant communities will be among the groups most likely to lose out.

As contractors lose clientele, they will be forced to seek out traditional employment to make ends meet, and with traditional employment comes less flexibility. For example, single parents are particularly vulnerable in light of the new law, losing the flexibility that enabled them to work while raising small children. Without being able to set their schedules, parents may have to consider expensive alternative arrangements, such as center-based child care.

A mother of three who does freelance transcriptions and closed captioning told Forbes that a website where she receives a large portion of her jobs recently let go of all of its California contractors. As a result, she will lose thousands of dollars a month. Another mother told Forbes she will have to seek out a traditional job, as she has been losing clients due to AB 5. With a traditional job will come a commute time of three hours round-trip. Because of that time lost, she will pay around \$1,000 more per month in child-care costs.

Many workers will simply lose their jobs altogether. One estimate from the Competitive Enterprise Institute suggests that the cost to Uber to hire a new driver will rise from slightly less than \$32,000 today to more than \$56,000 annually under AB 5. Uber will almost certainly respond by hiring fewer drivers. In addition, those drivers hired as employees may be forced to work 40-hour weeks or be denied the ability to work for both ride-share services at the same time. Perhaps that is why a Heritage Foundation survey found that almost three-quarters of Uber and Lyft drivers want to be their own boss.

But AB 5 isn't just about ride-sharing. Not surprisingly, occupations with powerful and well-connected lobbies, such as lawyers and Hollywood actors, received exemptions. Yet AB 5's broad new definition of an employee vacuumed up more than 1.5 million Californians involved in some type of independent contracting. Independent truck drivers are another group likely to be hit hard by the law. According to the California Trucking Association, AB 5 will put as many as 70,000 owner-operator truckers out of work.

Another casualty is the liberal political blog Vox, which recently laid off hundreds of freelance journalists, who, because of the new law, can now produce no more than 35 articles per year. Vox told the journalists that they could apply for a small handful of part-time and full-time jobs instead. This incident alone showcases hundreds of people who already lost a much-needed source of income. With the new law, it will also be difficult for them to find freelance work elsewhere in the state.

Moreover, as the case of the Lake Tahoe Music Festival demonstrates, the arts are also vulnerable. Orchestras in California, for example, are now unable to hire musicians on short-term contracts. Similar problems have hit community theaters. Many nonequity actors and stagehands outside of movies and television receive only small stipends, but, with the new law, theaters would have to classify them as employees. For example, the Contra Costa Musical Theater, a 59-year-old community theater group, recently announced that it would be going dark due to the bill.

And it's not just those who earn income as contractors taking a hit under AB 5. The legislation will also affect consumers, making an already-expensive state harder to make ends meet in. Companies will be forced to raise prices as their overhead expenses increase. If ride-sharing drivers are deemed employees — Uber and Lyft are fighting the requirement in court — then Californians can expect fares to rise. A study from CEI found that the cost of a ride could rise as much as 50% in certain cases. This is particularly troubling in a driving-dependent state such as

California. With increased costs, drivers can expect fewer rides, thereby affecting their incomes as well. As businesses continue to adapt to AB 5's new rules, we can expect even more unseen harm to consumers as prices rise while services and cultural outlets shrink.

While some of the consequences of AB 5 are yet to come, there has been a growing backlash against the law as the problems it's caused have spread, especially among freelance writers and those in the arts. Even the law's sponsor, Assemblywoman Gonzalez, has proposed a series of changes, including lifting caps on how many articles freelancers can write. But so far, the legislature, prodded by the state's powerful unions, has resisted any weakening of the law.

If California were its own nation, it would have the fifth-largest economy in the world. From Hollywood to Silicon Valley, California's growth has made it an example to other states. Unfortunately, California's AB 5-style regulations are not a path other states should follow. While AB 5 only took effect Jan. 1, its first two months have already hurt Californian businesses and workers, with more consequences to come. Legislators in California should, for the sake of contracted workers across the state, reconsider their positions on AB 5.

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