



California Adopts New Exemptions From AB 5 Independent Contractor Classification

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Last week, California Governor Gavin Newsom signed a bill intended to exempt certain workers from the strict requirements of the ABC test for independent contractor classification. The law took effect immediately when Newsom signed [AB 2257](#) on Sept. 4, 2020.

California adopted [AB 5](#) last year, which requires that businesses treat workers as employees **unless they pass the ABC test**: (A) the worker is free from the company's control and direction; (B) the worker performs work that is outside the usual course of the hiring entity's business; and (C) the worker is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed.

The law has been **widely criticized** by business groups and freelancers, who argued that the new standard was too strict and made it more difficult for them to earn a living. AB 2257 aims to address some of these criticisms by exempting various occupations from the requirements of AB 5. The list of newly exempted occupations include:

- Animal services including dog groomers and walkers
- Caddies
- Competition judges

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- Specialized performers teaching master classes
- Still photographers
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- Tutors
- Videographers
- Web designers
- Wedding and event planners and vendors
- Workers who run errands
- Youth sports coaches

These new categories are in addition to the 47 categories of workers identified for special treatment under the original formulation of AB 5. Like with those original categories of workers, the categories exempted under AB 2257 each have their own special hurdles that, once met, allow them to be

assessed pursuant to the less-stringent, multifactor test for independent contractor classification previously adopted in *S.G. Borello & Sons, Inc. v. Department of Industrial Relations* (1989).

Assemblywoman Lorena Gonzalez, who authored both AB 5 and AB 2257, said the clean-up bill aims to address the needs of people who are legitimate freelancers while making sure that companies don't exploit workers. Gig economy tech companies such as Uber and Lyft remain subject to the original AB 5 formulation and have been lobbying for the passage of a voter initiative addressing their businesses that is on the ballot this November.