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New York State Of Mind: Uber Drivers May Get A Shot At Unionizing In Empire State

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Ridesharing companies like Uber classify their drivers as independent contractors and not employees, which means those workers are not eligible to form unions under the National Labor Relations Act (NLRA). This has stoked anger among labor unions over the years. However, it appears that these drivers may soon have an opportunity to form unions under a proposed New York state bill that is under consideration.

According to Bloomberg Law, "New York lawmakers are planning to introduce a bill that would go beyond making Uber Technologies Inc. … drivers employees by also allowing them to unionize, a move that could clash with federal labor and antitrust laws."

As indicated by Bloomberg, however, this is legally murky territory. The NLRA generally has been held to pre-empt state laws regarding private sector unionization. For instance, Seattle tried to pass an ordinance a few years ago that would have allowed rideshare drivers to organize, but it failed legal challenges and never took hold. Some people have noted a state law may pass muster where a city ordinance did not, but that remains to be seen.

It will be interesting to see whether New York crafts a law that is able to thread the needle here and be enforceable, but the bill remains in nascent stages.

As a general note, this also serves as an important reminder to companies

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that while the use of independent contractors can be an attractive model, there are various laws that come into play that should be considered with those arrangements. For example, misclassification of workers can result in wage and hour penalties, labor law violations, and other consequences.