



Employer Advisory Council of Orange County, Inc.

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New Developments in Employment Law

Update

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EAC Update

California Legislation Codifying ABC Test Passes State Assembly

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On May 29, Assembly Bill (AB) 5 passed the California State Assembly, moving Californians one step closer to full implementation of a new test for independent contractor classification. AB5, which was introduced by Assemblywoman Lorena Gonzalez of San Diego, seeks to codify the California Supreme Court's April 2018 Dynamex decision, which established the "ABC test" to determine classification of workers as employees or independent contractors.

Since its introduction in December 2018, AB5 has undergone several revisions. Most significantly, the bill would confirm that the ABC test will be used in making worker classification decisions under California's Wage Orders, Labor Code, and Unemployment Insurance Code. Also important is a set of carve-outs that appeared in the most recent iteration of the bill: the ABC test would not apply to doctors, dentists, lawyers, architects, accountants, engineers, insurance agents, investment advisers, direct sellers, real estate agents, hairstylists and barbers renting booths at salons, some marketers, and human resources professionals.

The California Chamber of Commerce and the "I'm Independent" Coalition are seeking to make additional exemptions to AB5, including carve-outs for short-term projects, business-to-business contracts, and others. AB5 will now move to the Senate, where it will be heard in Senate Labor Committee in late June 2019.

Guidance for Employers

Though AB5 has not yet been passed into law, California businesses using independent contractors should consult with employment counsel concerning classification of contractors under the Dynamex ABC test. Should you have questions about this new decision, or its implications in your workplace, please contact Amber S. Healy, April Szabo or Jonathan Judge at (562) 653-3200.

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