



The Bottom Line

JULY 2022 | VOL. 143

California's AB5 Law Inspires Port-Disrupting Protests

Summary

Truckers have effectively blocked the port of Oakland in protests over California's AB5 Law, which requires companies that hire independent contractors to classify them as employees.

Background

California Assembly Bill (AB) 5 passed in 2019, but ongoing legal challenges prevented it from going into effect in January 2020. The law stems from the California Supreme Court's decision against Dynamex Operations West Inc., a package and document delivery company. The court found that Dynamex had misclassified its delivery drivers as independent contractors rather than employees and that all California-based companies that use independent contractors must follow the "ABC test," a three-pronged test to determine whether a worker is an employee:

- The person is free from the control and direction of the hiring entity, both in contract and in fact
- The person performs work outside the usual course of the hiring entity's business.
- The person is customarily engaged in an independently established trade, occupation, or business of the exact nature of the work performed.

The California Trucking Association argues that it is tough to meet those standards. Consequently, the law will take 70,000 independent truckers off the roads, further exacerbating the supply chain issue and backlog at the ports.

AB5 is also part of a more significant regulatory battle. Proposition (Prop) 22, which took effect in 2020, changed the rules for companies like Uber, Lyft, and Door Dash and made all employees independent contractors. This change is vital because independent contractors are not entitled to the same benefits as staff workers. For example, independent contractors are not entitled to paid family leave, workers' comp, overtime, or unemployment insurance.

Prop 22 was overturned in February 2022, and gig workers were again entitled to benefits.

The International Brotherhood of Teamsters labor union has argued that AB5 aims to protect owner-operators. The status quo has deprived truckers for years because companies classify them as independent contractors. Truckers, however, have operated as independent contractors for decades in California. Because AB5 changes how they would be classified, truckers are worried they will have to take on added costs. Independent truckers who own or lease their trucks and don't work for larger companies worry they will be forced to spend tens of thousands of dollars on insurance premiums or join unions to function.

Current Status

Due to the independent trucker protests, the Oakland International Container Terminal (OICT) management closed operations on Wednesday and Thursday last week. The port's other three marine terminals are also effectively shut down for trucks while some vessel operations are underway. All last week, truckers protested California's gig worker labor law, which was inspired by the rise of gig economy platforms like Uber, Lyft, and DoorDash. A two-year legal stay was recently lifted when the Supreme Court decided not to hear a case that would have protected truckers from the law's impact.

At the Port of Oakland, over 2,100 trucks go through the terminals daily. It is the eighth-largest port in the country, importing a wide range of items, from Australian wine and meat to aluminum from South Korea, furniture from China, clothing, and electronics.

Some Southern California truckers turned off their trucks, blocked terminals, or staged slow rolls to snarl traffic around the ports of Los Angeles and Long Beach Wednesday to express frustration over the controversial state law.

Impact

The protests, which blocked the terminal gates, forced some longshoremen not to navigate through the crowds for fear of their safety. Dockworkers can refuse to enter a marine terminal if they feel "unsafe or endangered in any way." Port of Oakland officials tell CNBC there were closures due to the lack of dock workers at the terminals. ILWU labor came to work at the SSA terminal; however, once they arrived, some ILWU members chose not to enter the terminal. Without a full complement of labor, SSA decided to close its operations.

Last week one hundred truckers protested at the ports of Los Angeles and Long Beach, but because of the size of the ports, the impact was not as severe as Oakland. An estimated 15,000 trucks move through these ports daily, more than seven times the trucking capacity of Oakland. But even with their immense size, the ports of LA and Long Beach have been severely congested, and any trucker disruption only adds to the delays. The biggest problem at these West Coast ports has been rail wait times of around 11 days. Because of the railroad container pile-up, land capacity at the Port of LA is currently 90%. Any delays in trucks picking up containers only adds to the backlog.

RESOURCES

[What is AB5? The Bill Behind LA's Trucker Protest - NBC Los Angeles](#)

[Trucker protests over gig worker law shut Port of Oakland terminals \(cnbc.com\)](#)