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**SENATE COMMITTEE ON LABOR, PUBLIC EMPLOYMENT AND RETIREMENT**  
**Senator Lola Smallwood-Cuevas, Chair**  
**2025 - 2026 Regular**

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<b>Bill No:</b>	AB 1514	<b>Hearing Date:</b>	July 9, 2025
<b>Author:</b>	Committee on Labor and Employment		
<b>Version:</b>	July 2, 2025		
<b>Urgency:</b>	No	<b>Fiscal:</b>	Yes
<b>Consultant:</b>	Alma Perez-Schwab		

**SUBJECT:** Worker classification: employees and independent contractors: licensed  
manicurists: commercial fishers

**KEY ISSUES**

This bill 1) extends the exemption for commercial fishers in American vessels from the ABC test under *Dynamex* (AB 5, Gonzalez, Chapter 296, Statutes of 2019) until January 1, 2031 and instead applies the *Borello* test; 2) reapplies and extends, to January 1, 2029, a previously expired AB 5 exemption for licensed manicurists meeting specified criteria; and 3) requires the Employment Development Department (EDD) and the Division of Labor Standards Enforcement (DLSE) to submit specified information to the Legislature regarding claims filed by licensed manicurists, as specified.

**ANALYSIS**

**Existing law:**

- 1) Establishes a comprehensive set of protections for employees, including a time-sure minimum wage, meal and rest periods, workers' compensation coverage in the event of an industrial injury, sick leave, disability insurance (DI) in the event of a non-industrial disability, paid family leave, and unemployment insurance (UI). (Labor Code §§201, 226.7, 246, 512, 1182.12, & 3600 and UI Code §§1251 & 2601)
- 2) Provides that for purposes of the Labor Code and the Unemployment Insurance Code, where another definition of "employee" is not otherwise specified, and for the wage orders of the Industrial Welfare Commission (IWC), a person providing labor or services for remuneration shall be considered an employee unless the hiring entity satisfies the 3-part ABC test (per *Dynamex Operations West, Inc. v. Superior Court* (2018) 4 Cal.5th 903):
  - a. The person is free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact.
  - b. The person performs work that is outside the usual course of the hiring entity's business.
  - c. The person is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed.(Labor Code §2775)
- 3) Exempts from the application of the ABC test, and instead, applies the definition of an employee as set forth in *S. G. Borello & Sons, Inc. v. Department of Industrial Relations* (1989) (*Borello*), to specified occupations and business relationships, including the use of professional services under certain circumstances. (Labor Code §2778)

- 4) Exempted, *until January 1, 2025*, from the ABC test the services provided by licensed manicurists, provided that the individual:
  - a. Sets their own rates, processes their own payments, and is paid directly by clients.
  - b. Sets their own hours of work and has sole discretion to decide the number of clients and which clients for whom they will provide services.
  - c. Has their own book of business and schedules their own appointments.
  - d. Maintains their own business license for the services offered to clients.
  - e. If the individual is performing services at the location of the hiring entity, then the individual issues a Form 1099 to the salon or business owner from which they rent their business space.  
(Labor Code §2778(L))
- 5) Exempts, *until January 1, 2026*, a commercial fisher working on an American vessel from the ABC test for employment status but specifies that such individual is eligible for unemployment insurance benefits if they are otherwise eligible, as specified. (Labor Code §2783(g)(4))
- 6) Defines “commercial fisher” as a person who has a valid, unrevoked commercial fishing license issued pursuant to Article 3 (commencing with Section 7850) of Chapter 1 of Part 3 of Division 6 of the Fish and Game Code. (Labor Code §2783(g)(1))
- 7) Defines “working on an American vessel” to mean the taking or the attempt to take fish, shellfish, or other fishery resources of the state by any means, and includes each individual aboard an American vessel operated for fishing purposes who participates directly or indirectly in the taking of these raw fishery products, including maintaining the vessel or equipment used aboard the vessel. (Labor Code §2783(g)(1))
- 8) Requires the Employment Development Department, each March 1, to issue an annual report to the Legislature on the use of Unemployment Insurance (UI) in the commercial fishing industry. This report shall include, but not be limited to, all of the following:
  - a. Reporting the number of commercial fishers who apply for UI benefits.
  - b. The number of commercial fishers who have their claims disputed.
  - c. The number of commercial fishers who have their claims denied.
  - d. The number of commercial fishers who receive unemployment insurance benefits.  
(Labor Code §2783(g)(3))
- 9) Establishes within the Department of Industrial Relations, the Division of Fair Labor Standards Enforcement (DLSE) led by the Labor Commissioner, tasked with administering and enforcing labor code provisions concerning wages, hours and working conditions. (Labor Code §56)
- 10) Creates a comprehensive Unemployment Insurance (UI) system, administered by the Employment Development Department (EDD), where employers pay an experienced-based tax on total payroll that are used to fund UI benefits to unemployed workers. (UI Code §§301, 602, 675, 926, 970, 977 & 1251)

**This bill:**

- 1) Extends from January 1, 2026 to January 1, 2031, the sunset date on the exemption from the application of the ABC test for commercial fishers working on an American vessel.
- 2) Additionally, extends the requirement that EDD issue an annual report to the Legislature on the use of unemployment insurance in the commercial fishing industry, including the total number of commercial fishers that are applying for, and receiving, UI benefits.
- 3) Reapplies and extends, until January 1, 2029, the exemption from the application of the ABC test for licensed manicurists meeting the conditions specified in existing law.
- 4) Requires the Employment Development Department and the Division of Labor Standards Enforcement to report to the Legislature by June 1, 2026, the annual number of claims filed by licensed manicurists against business or establishment owners since January 1, 2020, involving allegations of misclassification or other violations of the Labor Code, including the number of investigations undertaken, the number of workers impacted, and the number and outcomes of enforcement actions initiated, per business or establishment owner.

**COMMENTS****1. Background:***Dynamex and AB 5:*

The employer-employee relationship is at the core of the rights and obligations found within Labor Code. Being classified as an employee is essential to trigger most of the employer mandates and worker protections found within existing law. California's wage and hour laws (e.g., minimum wage, overtime, meal periods and rest breaks, etc.), workplace safety laws, and retaliation laws protect employees, but not independent contractors. Additionally, employees can go to state agencies such as the Labor Commissioner's office to seek enforcement of these laws, whereas independent contractors must resolve their disputes or enforce their rights under their contracts through other means.

For several decades, the employer-employee relationship was under pressure due to the increased use of independent contractors and the misclassification of employees. For employers lawfully using the independent contractor model, they trade control over the working conditions for being released from many of the primary obligations of being an employer, including paying overtime, remitting payroll taxes, securing workers' compensation coverage, and ensuring a healthy and safe work environment. Unfortunately, this model created incentives for employers to misclassify employees as independent contractors. In 2017, California's Employment Development Department Tax Audit Program conducted 7,937 audits and investigations, resulting in assessments totaling \$249,981,712, and identified nearly *half a million* unreported employees.<sup>1</sup>

The issue culminated with a 2018 Supreme Court decision, *Dynamex Operations West, Inc. v. Superior Court* (2018) 4 Cal.5th 903. Under *Dynamex*, a worker is considered an

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<sup>1</sup> Employment Development Department 2018 Annual Report on Fraud Deterrence and Detection Activities, [https://edd.ca.gov/About\\_EDD/pdf/Fraud\\_Deterrence\\_and\\_Detection\\_Activities\\_2018.pdf](https://edd.ca.gov/About_EDD/pdf/Fraud_Deterrence_and_Detection_Activities_2018.pdf).

employee and not an independent contractor, unless the hiring entity satisfies all three of the following conditions (ABC test):

- A. The worker is free from the control and direction of the hirer in connection with the performance of the work, both under the contract for the performance of such work and in fact;
- 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 the work performed for the hiring entity.

In 2019, AB 5 (Gonzalez, Chapter 296, Statutes of 2019) codified the Dynamex decision requiring that employers prove that their workers can meet the ABC test in order to be lawfully classified as independent contractors, and exempted from the test certain professions and business-to-business relationships. AB 5 also provided specified industrial categories where the long-standing *Borello* test would remain the standard for determining who is an employee. Under *Borello*, in *S. G. Borello & Sons, Inc. v Dept. of Industrial Relations* (1989) 48 Cal.3d 341, the California Supreme Court created an 11 point “economic realities” test on whether someone could lawfully be considered an independent contractor.

Also in 2019, AB 170 (Gonzalez, Chapter 415, Statutes of 2019) provided newspaper distributors an exemption from the ABC test under Dynamex and specified that instead, the determination of employee or independent contractor status would be governed by *Borello*. The exemption was set to sunset January 1, 2021. In 2020, AB 323 (Rubio, Chapter 341, Statutes of 2020), among other things, extended the sunset date on the newspaper distributors exemption from January 1, 2021, to January 1, 2022.

Also in 2020, AB 2257 (Gonzalez, Chapter 38, Statutes of 2020) recast and clarified the business-to-business referral agency, and professional services exemption to the 3-part ABC test and exempted additional occupations and business relationships including licensed manicurists (with a sunset date of January 1, 2022) and a commercial fisher working on an American vessel (with a sunset date of January 1, 2023 and a required report on the use of Unemployment Insurance in the commercial fishing industry).

Since then, several bills have been introduced and signed into law extending the sunset dates on some of the AB 5 exemption provisions that had been part of the AB 5 negotiations. For licensed manicurists, the exemption was extended again in 2021 through AB 1561 (Committee on Labor and Employment, Chapter 422, Statutes of 2021) from January 1, 2022 to January 1, 2025. For commercial fisheries, in 2022 AB 2955 (Committee on Labor and Employment, Chapter 443, Statutes of 2022) extended the exemption from January 1, 2023 to January 1, 2026.

*EDD Report: Use of Unemployment Insurance in the Commercial Fishing Industry*

According to the March 1, 2024 report by Employment Development Department (EDD) on the use of the UI system by commercial fishermen, per existing law as noted above, from January 1 2023 – December 31, 2023:

- The number who applied for UI benefits: 284 (down from 441 in 2020)
- The number of claims disputed: 2 (down from 7 in 2020)
- The number of claims denied: 1 (up from 0 in 2020)
- The number who received UI benefits: 238 (down from 391 in 2020)
- The total amount of UI benefits paid: \$1,763,160 (down from \$5,613,933.50 in 2020)

*This bill:*

This bill would extend the commercial fishers AB 5 exemption from January 1, 2026 to January 1, 2031 and the licensed manicurist exemption would be reapplied (expired January 1, 2025) and extended to January 1, 2029. Additionally, to assist in evaluating the industry and the need for a more long term solution, the bill requires EDD and DLSE to report on the number of claims filed by licensed manicurists against business or establishment owners involving misclassification or other Labor Code violations.

## 2. Need for this bill?

According to the author:

“Certain exempted industries from AB 5 (the test for employment status in the labor code) have expired and without an extension, the workers in those industries must be classified as employees...Labor stakeholders believe that licensed manicurists need a more permanent regulatory framework, with oversight from a state agency, but need time to determine the appropriate framework. This bill will give stakeholders time to develop that framework by extending the exemption for three years.

This bill would extend the sunset on the licensed manicurists’ exemption from AB 5 for three years but include important reporting requirements by the EDD and the DLSE on labor violations in the industry to help stakeholders and policymakers develop the appropriate regulatory framework for this profession and better protect these workers from misclassification and wage theft.

The AB 5 exemption for commercial fishers working on an American vessel will sunset on January 1, 2026. In order to maintain continuity in the industry and in recognition of commercial fishing’s contribution to our state’s food security and supplying sustainably sourced seafood to restaurants in California, AB 1514 extends the exemption until January 1, 2031. The bill continues critical reporting requirements by the EDD to the Legislature on unemployment claims of commercial fishers so we can determine the appropriate employment status for these workers.”

## 3. Proponent Arguments:

Several fisheries are in support, including the Pacific Coast Federation of Fishermen’s Associations, arguing:

“Previous extensions, passed with unanimous support in 2019 and 2022, recognized the unique structure of commercial fishing and the well-established federal and state laws that have governed this industry for more than a century. Without reauthorization, the current exemption will expire, creating significant legal and operational uncertainty for fishermen and the businesses that depend on them.

Fishermen are not traditional employees. They are independent harvesters operating under federal maritime laws that provide clear worker protections, including the Jones Act, which ensures compensation for injuries and requires formal agreements between vessel owners and crew regarding wages and working conditions. Additionally, maritime law provides for ‘Maintenance and Cure,’ a long-standing system ensuring medical care and basic living expenses for injured seamen. These laws, developed over decades, recognize the unique and highly regulated nature of commercial fishing, making AB 5’s employee classification framework inappropriate for this industry.”

Regarding the licensed manicurists provisions, the Professional Beauty Federation of California is in support and writes:

“We played an instrumental part in drafting the language inserted into AB 5, establishing additional statutory standards for beauty/barbering establishments to lawfully utilize independent contractors (or ‘booth renters’ in beauty industry parlance). We believe this level of statutory clarity is helpful to all parties in our industry, including the behind-the-chair professionals, the salon owners and our paying customers. We believe it is only fair to continue treating manicurists and their salon owners on equal footing as skin and hair establishments...”

There is additional support from Precision Nails asking for an amendment to expand the reporting requirements to include all beauty workers, licensed or not, writing: “Limiting reports solely to licensed manicurists will further isolate and target this segment of our industry, present a distorted view of the scope of misclassification and discourage manicurists from filing claims out of fear of retaliation and weaponization, individually and collectively.”

#### **4. Opponent Arguments:**

California Civil Liberties Advocacy is opposed to the measure unless it is amended arguing, “While we support the bill’s intent to restore the independent contractor status of licensed manicurists, the current form introduces ambiguity and unnecessary burdens that undercut its stated purpose and risk retraumatizing a workforce disproportionately composed of Vietnamese-American women.” CCLA is asking for the following amendments and makes the following concluding comments:

“Unless the following changes are made, we must oppose this bill:

1. Clarify the term “certain licensed manicurists” and align the Digest with the operative language to avoid discriminatory or selective enforcement;
2. Remove the sunset date in Section 2778, subdivision (b)(1)(L)(iii), and make the exemption permanent absent specific legislative repeal;
3. Strike or severely narrow the EDD/DLSE reporting requirement. If retained, the reporting must be anonymized, prospective only, and justified by findings of systemic abuse—which do not currently exist.

California’s Vietnamese-American manicurists have already endured the confusion and instability created by the dubious exemptions language of AB 5 (see Lab. Code, § 2775). This community deserves not more probation, but permanent restoration of their dignity and economic self-determination.”

There is additional opposition from LanguageLine Solutions and the Association of Language Companies who are both seeking an additional exemption from the ABC test for professional interpreters – as is currently provided for translators. As noted by the Association of Language Companies:

“California has the highest number of residents who are classified as Limited English Proficient, as well as some of the most robust protections for language access rights at the state level, starting with the Dymally-Allatore Act. Language access is a civil right under both California and US laws and regulations, and indeed, it is a gateway right in terms of LEP citizens and residents exercising their constitutional rights to due process, free speech, voting (for citizens), and many other rights. Language access is critical in healthcare, where it is required under 45 CFR 92, the enacting rule for §1557 of the Patient Protection and Affordable Care Act. Language access is the standard of care under the Joint Commission on Accreditation in the healthcare space.

However, the current interpreter exemption in AB 2257 at §2777, is unworkable. Language service companies are not ‘referral agencies’— they recruit and vet linguists, ensure compliance with state and federal language access requirements, and assume liability for interpreting services. Under this limited exemption, which as noted above, cleaves interpreters away from translators, California has seen hundreds of interpreters leave the state, or leave the profession. Since the passage of AB 2257 in 2020, this has resulted in the loss of tax revenue to the state, but more problematically, increased difficulty for service providers in healthcare, the courts, municipal governments, and schools in providing language access – a right guaranteed under both California and Federal laws and regulations.”

## 5. Prior Legislation:

AB 224 (Rubio, Chapter 298, Statutes of 2024) extended the exemption for newspaper distributors and carriers from the ABC test under *Dynamex* (AB 5) until January 1, 2030 and instead applied the *Borello* test, and required newspaper distributors and carriers to submit specified information to the Labor Workforce and Development Agency.

AB 2955 (Committee on Labor and Employment, Chapter 443, Statutes of 2022) extended from January 1, 2023, to January 1, 2026, the sunset date on the exemption from the application of the ABC test for commercial fishers working on an American vessel.

AB 1561 (Committee on Labor and Employment, Chapter 422, Statutes of 2021) extended from January 1, 2022 to January 1, 2025, the sunset date on the exemption from the application of the ABC test for licensed manicurists and construction trucking subcontractors. This bill also clarified the scope of the exemption previously granted to a data aggregator and a research subject who willingly engages with a data aggregator to provide individualized feedback, as specified, and clarified that the exemption previously granted to occupations in the insurance industry also extends to an individual providing claims adjusting or third party administration work.

AB 1506 (Kalra, Chapter 328, Statutes of 2021) extended for three years an existing exemption for newspaper distributors and carriers from the ABC Test and required them to submit specified information to the LWDA on the number of carriers for which the publisher

or distributor paid and did not pay payroll taxes for, as well as the wage rates and information to demonstrate compliance of their carriers with the *Borello* test.

AB 2257 (Gonzalez, Chapter 38, Statutes of 2020) recast and clarified the business-to-business referral agency, and professional services exemption from the ABC test for employment status and exempted additional occupations and business relationships.

AB 323 (Rubio, Chapter 341, Statutes of 2020) extended an existing exemption for newspaper distributors and carriers from the ABC test from January 1, 2021 to January 1, 2022, and required an assessment of the effectiveness of contracts to conduct outreach and marketing to specified communities.

AB 170 (Gonzalez, Chapter 415, Statutes of 2019) provided an exemption for newspaper distributors and carriers from the ABC test, as specified, until January 1, 2021.

AB 5 (Gonzalez, Chapter 296, Statutes of 2019) codified the decision of the California Supreme Court in *Dynamex Operations West, Inc. v. Superior Court of Los Angeles (2018)* requiring that employers prove that their workers can meet a 3 part (ABC) test in order to be lawfully classified as independent contractors, and exempted from the test certain professions and business-to-business relationships.

### **SUPPORT**

Alliance of Communities for Sustainable Fisheries  
Apollo Charters  
Augello Enterprises LLC Db. Southern Coast Trading  
Blue Fisheries Inc.  
Bodega Bay Fishermen's Marketing Association  
Buccaneer Fishing  
Cal Marine Fish Company  
California Lobster & Trap Fishermen's Association  
California Lovin Fisheries  
California Wetfish Producers Association  
Carnage Fish Company Inc.  
Commercial Fishermen of Santa Barbara  
Crescent City Commercial Fishermen's Association  
FV Resolution LLC  
F/V Verna Jean LLC  
Freelance Sportfishing Inc.  
Half Moon Bay Seafood Marketing Association  
Humboldt Fishermen's Marketing Association  
Mack Squid LLC  
MacKimmie Fisheries LLC  
Marina del Rey Bait Company  
Morro Bay Commercial Fishermen's Organization  
Ocean Angel Brand  
Oceanside Bait Company  
Pacific Coast Federation of Fishermen's Associations (PCFFA)  
Pacific Vulture LLC  
Port of San Luis Commercial Fishermen's Association



Precision Nails  
Professional Beauty Federation of California (PBFC)  
Salmon Troller's Marketing Association  
San Diego Fishermen's Working Group  
San Francisco Crab Boat Owners' Association  
Santa Cruz Commercial Fishermen's Association  
Silver Bay Seafoods - California, LLC

**OPPOSITION**

Association of Language Companies  
California Civil Liberties Advocacy  
LanguageLine Solutions

**-- END --**