
THIRD READING

Bill No: AB 1514
Author: Committee on Labor and Employment
Amended: 7/2/25 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 5-0, 7/9/25
AYES: Smallwood-Cuevas, Strickland, Cortese, Durazo, Laird

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/29/25
AYES: Caballero, Seyarto, Cabaldon, Dahle, Grayson, Richardson, Wahab

ASSEMBLY FLOOR: 76-0, 5/1/25 (Consent) - See last page for vote

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

SOURCE: Author

DIGEST: 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.

Background:

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.

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 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.

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.

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. This 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.”

[NOTE: Please see the Senate Labor, Public Employment and Retirement Committee analysis on this bill for more background information and information on prior and related legislation.]

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee:

- Administrative costs to the Department of Industrial Relations (DIR) have yet to be determined, but could exceed \$150,000 annually (Labor Enforcement and Compliance Fund).
- The Franchise Tax Board (FTB) indicates that this bill would not change the way income or franchise tax is calculated under current law. However, it could change income and expense amounts report to FTB, which would have an unknown impact on General Fund revenues (see Staff Comments).
- EDD would incur minor and absorbable costs to implement its provisions of the bill.

SUPPORT: (Verified 8/29/25)

Alliance of Communities for Sustainable Fisheries
Apollo Charters
Augello Enterprises LLC DbA. 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: (Verified 8/29/25)

Association of Language Companies
California Civil Liberties Advocacy
LanguageLine Solutions

ARGUMENTS IN SUPPORT:

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."

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

ARGUMENTS IN OPPOSITION:

There is 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. They argue, “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.”

ASSEMBLY FLOOR: 76-0, 5/1/25

AYES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Arambula, Ávila Fariás, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Castillo, Connolly, Davies, DeMaio, Dixon, Elhawary, Ellis, Flora, Fong, Gabriel, Gallagher, Garcia, Gipson, Jeff Gonzalez, Mark González, Hadwick, Haney, Harabedian, Hart, Hoover, Irwin, Jackson, Kalra, Krell, Lackey, Lee, Lowenthal, Macedo, Muratsuchi, Nguyen, Ortega, Pacheco, Patel, Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Celeste Rodriguez, Michelle Rodriguez, Rogers, Blanca Rubio, Sanchez, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Ta, Tangipa, Valencia, Wallis, Ward, Wicks, Wilson, Zbur, Rivas

NO VOTE RECORDED: Chen, McKinnor, Papan

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