



AB 71 – Borello Test for Independent Contractors

Assemblywoman Melendez - 67th Assembly District

Assembly Bill 71

Background

Independent contracting has become a stable source of income for millions across the country - especially for engineers, software developers, therapists, accountants, writers, hair stylists, drivers, artists, construction workers, and emergency room doctors. About 1 in 14 workers are independent contractors nationally and 47% of all millennials across the United States freelance (a 9% increase since 2014).

In California specifically, nearly two million residents choose to work independently – full-time or part-time.

Statistics indicate that more and more Californians are choosing to work independently as their full-time career or for additional income to make ends meet.

Problem Being Addressed

Recently, the California Supreme Court overturned three decades of California employment law by establishing the stringent “ABC” test, imposing far more restrictive criteria on independent contractors than ever before.

Not only did it bypass the legislative process on determining a flexible work model, but it created severe economic insecurity and hardship for Californians in nearly every industry in this state.

In July 2018, business leaders sent a letter to the Governor warning that the new test

created by the Dynamex decision would “decimate businesses.”

The business community has continued urging the Governor and Legislature to limit the court’s ruling to apply only to workers involved in the Dynamex case and asked that the decision not apply to other contractors for the next two years.

Which code section is affected?

Amend LAB Section 2750.5; Add LAB 2750.7

Summary

Assembly Bill 71 will protect independent contracting in California by codifying the “Borello test” that initially provided the basis for independent contracting for over 30 years. These factors include, but are not limited to, the right to discharge without cause, whether the one performing services is engaged in a distinct occupation or business and the method of payment, whether by the time or by the job.

This measure will ensure millions of Californians will continue to work by providing consistent and clear direction to businesses statewide.

Staff Contact

Madeline Cline, Fellow –
916-319-2067

madeline.cline@asm.ca.gov

Jared Yoshiki, Chief of Staff –
916-319-2067

jared.yoshiki@asm.ca.gov