



CHAMBER  
of  
COMMERCE

**Via Email Only**

March 3, 2020

The Honorable Richard Bloom  
California State Assembly  
State Capitol  
P. O. Box 942849  
Sacramento, CA 94249-0050

VIA EMAIL: [guy.strahl@asm.ca.gov](mailto:guy.strahl@asm.ca.gov); [josh.kurpies@asm.ca.gov](mailto:josh.kurpies@asm.ca.gov); [tim.pershing@asm.ca.gov](mailto:tim.pershing@asm.ca.gov)

Re: AB 5 – Worker status: employees and independent contractors.

Dear Assemblymember Bloom:

Thank you for taking the time to meet with us the other week about the key priorities for California. As we discussed, we wanted to follow up regarding our recommendation for changes to AB 5.

We understand the interest of the legislature to codify the California Supreme Court decision in *Dynamex Operations West, Inc. v. Superior Court of Los Angeles*. However, the law as written is exceedingly complex, overly burdensome and a hardship for all businesses, particularly small businesses.

We recommend the following changes to AB 5:

- (1) The law should contain an exception for workers hired for a brief duration (3 projects or under \$10k in cumulative value per year) or for under a certain length of time (we recommend 30 days or less per year). It is overly burdensome to require a hiring party to analyze the law as it applies to someone hired for 3 hours, like, say, furniture movers, gardeners or other limited piece arrangements.
- (2) We recommend a small business exception which would exclude application of the law to companies with revenues of \$10 million per year and under. Companies of this size do not

have the resources, time or money to comply with the complexities of this law. Such companies often do small deals with vendors which do not justify the time spent hiring an attorney to figure out how AB 5 applies to them.

- (3) The “occupational” exception should be expanded to include common independent contractor professions including social workers, physical therapists, occupational therapists, musicians and others.
- (4) The “professional services” exception should be expanded to include roles in the entertainment industry (sound engineering, video tech, editing, camera person) and restrictions prohibiting the application of this category to entertainment activities (streaming, videos, television, live shows, etc.) should be removed.
- (5) One of the most problematic aspects of the law is the criteria for the “business to business” exception. The 12 requirements to establish the “business to business” exception are impractical and place an undue burden on employers. We recommend removing the following requirements (quoted from the text of the legislation):

“(B) The business service provider is providing services directly to the contracting business rather than to customers of the contracting business.”

*Explanation: this requirement is impractical and only serves to prohibit any business from subcontracting its work when it has a need to do so.*

“(C) The contract with the business service provider is in writing.”

*Explanation: this requirement should be eliminated as to business projects under \$5,000, the small claims court jurisdictional level. Many companies hire contractors for small projects and requiring them to develop a written contract for each project would cost more than the value of the services.*

“(D) If the work is performed in a jurisdiction that requires the business service provider to have a business license or business tax registration, the business service provider has the required business license or business tax registration.”

*Explanation: Businesses, particularly small businesses, do not have the time or expertise to understand the registration requirements for other industries for which they hire vendors. This burden should be placed on the independent contractor.*

“(G) The business service provider actually contracts with other businesses to provide the same or similar services and maintains a clientele without restrictions from the hiring entity.”

*Explanation: This requirement is self-defeating for new contractors. If I start a new business and company X is my first client, then by definition neither the company nor I can meet this requirement. It is also unreasonable to require a contracting business to prove that a vendor has other clients.*

“(H) The business service provider advertises and holds itself out to the public as available to provide the same or similar services.

*Explanation: Again, it is unreasonable to require a contracting business to prove that a vendor is advertising and holds itself out to the public as providing similar services.*

These are the most concerning issues but by no means all of them.

As currently written, AB 5 is a trap for the business owner, subjecting them to attorney’s fees for trivial violations and making it impractical to do business in the state.

We strongly urge you to support the changes we recommend.

Sincerely,

A handwritten signature in black ink, appearing to read "Todd Johnson", with a long horizontal flourish extending to the right.

Todd Johnson  
President and CEO  
Beverly Hills Chamber of Commerce

CC: Senator Ben Allen  
CC: Assemblymember Lorena Gonzalez