

California port truckers stage protest against state law affecting independent contractors

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Hundreds of truck drivers protested and picketed on Wednesday at the ports of Los Angeles and Long Beach in demonstrations that sprawled along the 110 Freeway, bringing traffic to a halt. Truckers are opposing the California State Assembly Bill 5 (AB5), whose stated goal is to establish employee status classification for some gig workers and which establishes a three-factor test to determine whether workers are independent contractors or employees. The protest is expected to spread to Oakland and Northern California, where protests are anticipated next Monday.

The picketing takes place as West Coast dockworkers have been working without a contract since July 1. The International Longshore and Warehouse Union has been meeting in secret with the port administrators and the Biden administration in a bid to prevent a strike. Meanwhile railroad workers have voted by 99.5 percent in favor of a strike, but the Biden administration is likely to intervene and appoint an emergency board to prevent a walkout.

However, the truckers' actions show the enormous potential for a joint struggle linking up dockworkers, truckers, railroad workers and other crucial sections of the working class in US supply chains. A broader movement is underway against substandard pay and benefits, runaway inflation, overwork and unsafe working conditions.

According to estimates, 70,000 truckers are owner-operators and at risk of losing their ability to work in California under AB5. This would include two-thirds of the state's port truckers, potentially compromising transport and logistics in crucial hubs responsible for more than 40 percent of US imports.

AB5's three-prong requirements would regulate, for the most part, the relationship between owner-operators and carriers. The law requires the following:

- A: The worker 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 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 many independent truckers, these tests are difficult to meet. In particular, point B above establishes that the contracting company (carrier) cannot be in the same line of work that the contracted company is being hired to do. This means that for an owner-operator being leased to a carrier would become illegal in California.

The options for independent truckers are therefore to either pursue a "trucking authority," move out of state, or sell their truck and become a company driver.

Obtaining an authority implies a number of costs, risks and requirements (clients not paying, maintenance and repair costs, insurance coverage) that big carriers can defray and amortize more easily than an individual owner-operator. With the concentration of capital, large corporations would defeat any small business competition.

A trucker from out of state told the WSW: "AB5 makes what I do illegal in California. My carrier and a lot of others just canceled the lease of any owner-operator living in California. Under my own authority, I would have much more expensive 'new venture' insurance, lower discounts, lower revenue and zero backend office support. Under my own authority I would likely be struggling or already out of business."

AB5 was signed into law in 2019 and went into effect on January 1, 2020. In September 2020, AB2257 rewrote some of the requirements and exempted a slew of professionals, such as photographers, editors, freelance writers, content contributors, translators, fine artists and

musicians from the classification requirements.

In November 2020, app-based ride-share delivery services Uber, Lyft, DoorDash and Instacart launched a ballot measure, Proposition 22, to the tune of \$200 million, to maintain the “independent contractor” classification of their workforce.

Their intent was for the corporations to dodge the cost of important employment benefits (health insurance policies and contributions to privately managed retirement accounts, paid vacations and sick leave) and tax contributions on workers’ behalf (payroll tax, Social Security and Medicare tax contributions).

In August 2021, Proposition 22 was declared unenforceable as a whole by a Superior Court judge on the basis of two of its sections being unconstitutional. Mainly, the court ruled that the proposition limited the legislature’s constitutional power to extend workers’ compensation benefits to app-based drivers.

Meanwhile, on June 30, 2022 the Supreme Court refused to hear a case filed in August 2021 by the California Trucking Association (CTA) challenging the legislation. This is the last legal challenge that prevented the implementation of AB5. Following the court’s ruling, the CTA declared, “[g]asoline has been poured on the fire that is our ongoing supply chain crisis.”

According to estimates, 70 percent of truckers who move loads to and from some of the busiest West Coast ports are affected by the implications of the bill. Despite reassuring statements from port authorities that “we are working with our drayage partners and other stakeholders to ensure that goods can be delivered safely and quickly through the supply chain,” the protests could cause supply chain disruptions, especially within a very inflammable context of industrial unrest.

Conditions for truckers have become increasingly difficult: “Truckers in general are overworked and underpaid,” a trucker told the WSWs. “Trucking is one of the professions where you can work 70+ hours a week, and companies by law are not required to pay overtime pay. Workdays are often 11+ hours a day, 6 days a week, 60-70+ hours worked a week. It can be brutal.

“This industry needs to pay hourly for company drivers,” he continued. “No more CPM (Cents Per Mile) pay or by the load pay. Straight hourly with mandatory overtime after 40 hours. Truckers receive little to no worker protections when it comes to wages. Why do you think we are seeing so many class action lawsuits for companies paying below minimum wage?”

For years, the International Brotherhood of Teamsters

union has tried to capitalize on truck drivers’ discontent, limiting the struggle to the question of reclassification of independent contractors as employees, through a series of toothless stunt strikes. The Democratic Party, in the form of the AB5, delivered such an accommodation to the Teamsters, who seek to recruit members and increase their dues base. But for workers, AB5 will resolve none of their fundamental issues.

First, the bill will offer a 70,000-strong massive workforce to carriers and large transport corporations that they can easily tap into, imposing substandard wages and mediocre, if any, benefits at the discretion of their investors and stockholders.

Second, the Teamsters union has been working hard alongside the Democratic Party for the purpose of recruiting new dues-paying members under the guise of reclassification. The Teamsters’ unionization campaign has nothing to do with defending workers: It serves the strategy of the Democratic Party to promote unions and integrate them more directly into the state apparatus and corporate management. For those truckers already in the Teamsters, the union has “bargained” away wages and benefits for decades. In 2018, the Teamsters overrode a majority “no” vote by the membership to impose a new contract at UPS, which contained a new classification of “hybrid,” part-time delivery driver, an attack on one of the last decent-paying positions at the company.

The struggle necessary for an improvement of living standards requires unity with other sections of the working class, union and non-union, across the entire the supply chain. Such a struggle would be extremely powerful and could bring the entire world economy to its knees.



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