



**FOR IMMEDIATE RELEASE:**

**House of Representatives Passes PRO Act, Set to Devastate Independent Contracting & Small Businesses Nationwide**

*California's AB5 has already destroyed income for thousands of legitimate small-business owners; subject to multiple federal lawsuits on unconstitutional grounds*

*FEB. 7, 2020, Washington, D.C.*—On February 6, the U.S. House of Representatives passed the PRO Act ([HR2474](#)) in what supporters claimed was an effort to enhance workers' rights to unionize. While the bill purports to provide worker protections, it would all but outlaw the chosen careers of millions of independent contractors nationwide. A similar bill, AB5, passed into law in California on January 1, has already harmed the livelihoods of thousands of independent contractors in that state, resulting in lost income and lawsuits.

“Though it’s a well-intentioned law, it’s written by labor unions and signed off on by lawmakers who appear unconcerned about the devastating fallout here in California,” said Alisha Grauso, California Freelance Writers United (CAFWU) co-leader. Since California’s law went into effect just a month ago, numerous companies have blacklisted California freelancers for fear of penalties from the confusing and overreaching AB5 law. “We are a nonpartisan group, and we notice which lawmakers listen to our sounds of alarm and who does not.”

HR2474 and AB5 are based on the Great Depression-era “ABC” test, which determines whether someone is an independent contractor or an employee, regardless of whether he or she owns and runs a business:

*“(A) the individual is free from control and direction in connection with the performance of the service, both under the contract for the performance of service and in fact;*

*“(B) the service is performed outside the usual course of the business of the employer;*  
*and*

*“(C) the individual is customarily engaged in an independently established trade, occupation, profession, or business of the same nature as that involved in the service performed.”*

While House Democrats say the purpose of including the ABC test in the legislation is to determine a worker’s right to organize, we have seen its catastrophic effects. To date, AB5 has had devastating effects on independent contractors across 800+ industries, including journalism, photography, music, theater, translation, nursing, and trucking. Other professions were arbitrarily exempted, such as attorneys, doctors, grant writers, and hair stylists. The national bill could be used as a precedent to force companies to hire contractors as staff, even when they wish to remain independent—or to hire contractors from other countries who can do similar work. What’s more, the majority of independent contractors prefer freelance work over employment, according to the U.S. Bureau of Labor Statistics.

“AB5 is killing careers and forcing us to consider leaving this state we love,” says Randy Dotinga, board member and former president of the American Society of Journalists & Authors, which has joined with the National Press Photographers Association to sue California over AB5’s constitutionality. “If the national bill passes, where will we go?”

CAFWU and Fight for Freelancers ad hoc coalitions in New Jersey, New York, Massachusetts, Illinois, and Washington urge House members to amend the bill’s language to replace the ABC test with the widely used IRS test to determine the classification of contractors vs. employees.

"The IRS test is in line with the economy of 2020. It gives freelancers the flexibility they need to innovate and grow small businesses," says Bridget Kuehn, co-founder of Fight For Freelancers-Illinois. "The ABC test was written in the 1930s for factory workers. Those who drafted it never envisioned the economy of today where technology would empower workers with specialized skills to work with clients across the country."

A December 2019 poll by Contently found:

- **88 percent** of independent contractors oppose the law

- **75 percent** say they prefer freelancing over a full-time job
- **87 percent** say they do not trust lawmakers to represent their best interests

The 2019 “[Freelancing in America](#)” survey released by the Freelancers Union and Upwork showed:

- **57 million people**, or **35 percent** of the U.S. workforce, are freelancers, up from around 53 million in 2014
- Freelance income currently makes up almost **5 percent** of the country’s GDP, or close to \$1 trillion
- **46 percent** of freelancers can’t take full-time, traditional jobs for personal reasons, such as health issues and caregiving for sick or aging family members or young children to care for at home.

The legislation disproportionately affects marginalized communities, such as LGBTQ, the disabled, and single parents, many of whom choose to freelance for the flexibility and, often, the increase in pay it affords. The bill also disproportionately harms independent contractors over age 55 who often freelance when pushed out of jobs or to make ends meet during pre-retirement, according to a report from the U.S. Treasury Department. One in three independent contractors are age 55 or older, according to the U.S. Bureau of Labor Statistics.

“These laws are 20th-century approaches to 21st-century work,” says Jen Singer, a freelance writer and co-founder of Fight For Freelancers New Jersey, which is working with lawmakers in that state to reword similar legislation. “As a single mom, I would have less flexibility and less income if I were forced to become an employee of someone else’s company instead of running my own.”

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