



An Open Letter to Senators Kelly, King, Manchin, Sinema and Warner

*Thank you for **NOT** co-sponsoring the PRO Act. Please protect our careers by standing firm.*

March 25, 2021

Dear Senators,

We are a nonpartisan, grassroots group of thousands of independent contractors from all walks of life, all across the United States, and we are writing to thank you for protecting us by continuing to forgo co-sponsorship of the PRO Act.

The PRO Act contains the same ABC Test that created chaos and income loss in California last year for independent contractors in [hundreds of professions](#), from journalism to translation to theater. The problem with this ABC Test is that it [misclassifies true independent contractors as employees](#), upending our small businesses and chosen careers.

This ABC Test, which was written in the 1930s, cannot tell the difference between a truly exploited warehouse worker and a successful freelance graphic designer in our modern economy. The primary effect of implementing this ABC Test in California was not creating jobs or building unions, as proponents claimed it would do; instead, it wiped out independent contractor work, led to multiple federal lawsuits against the state that continue today, and created [outright hostility](#) toward lawmakers who championed it.

[Recent reporting](#) suggests that Senate Majority Leader Chuck Schumer has promised the AFL-CIO he will bring the PRO Act to a floor vote if it gains 50 co-sponsors. Yet, Leader Schumer acknowledged [in September 2020](#) that he needed to work with freelancers like us to ensure that the ABC Test problem in the bill was resolved, so that California's mistake

would not be repeated nationwide. Despite his words, Leader Schumer has taken no action to remove or replace the ABC Test in the PRO Act. This legislative problem remains.

We therefore strongly urge you to continue withholding your support for the PRO Act as long as the ABC Test is still in the bill.

If the PRO Act passes as written, it would be [the first time](#) the federal government has adopted this overly restrictive ABC Test, with the specific intention of *limiting* ways to earn a living. [Legal experts from both the employee and the employer side of the fence say](#) that, at best, adding this ABC Test into federal law through the PRO Act would create confusion and years' worth of court cases because of conflicts with existing law. We know these experts are correct because of the poor outcome California continues to experience since this ABC Test went into effect there. Injecting this ABC Test into federal law—starting with labor law in the PRO Act, and then spreading it to other areas of law [as planned](#)—would unleash the same senseless economic pain and suffering that California's independent contractors have endured. Only this time, that pain would strike as many as [59 million Americans](#) who earn at least a part of their living as independent contractors today.

The majority of independent contractors wish to remain classified as independent contractors. [The federal government's own research](#) shows that precious few of us are the types of app-based “gig workers” whose work is typically cited as the need for this ABC Test. Instead, skilled professionals are one of the fastest-growing segments of the independent workforce, [according to research from 2020](#). A 15-year study that the IRS and U.S. Treasury [released in 2019](#) showed that the largest group of independent contractors is in the nation's top quartile of earners.

Outlawing our careers with the ABC Test in the PRO Act has nothing to do with protecting exploited workers. It is an attack on our ability to live the American dream. This is especially true for [women, who report](#) having a better work-life balance, less stress, higher earnings and healthier lives as independent contractors.

Studies by the federal government, Gallup, ADP Research and others have repeatedly shown since 2015 that [70% to 85% of independent contractors](#) want to keep working the way we are working now. We do not wish to be forced into employee status, which would require us to seek traditional jobs that many of us do not want, and that in many cases do not even exist. We strongly disagree with PRO Act supporters who say we need “protections” such as a guaranteed minimum wage. The majority of us working as our own bosses are already happier, healthier and earning as much as or more than we would in traditional jobs.

To be clear: Even with the nation's economy reeling during the pandemic in 2020, [60% of independent contractors said](#) there was no amount of money that would get us to take a traditional job. We do not want what the ABC Test in the PRO Act would force upon us. This ABC Test does not protect us. It destroys us.

[Recent reporting suggests](#) that your voice mailboxes are being bombarded with calls from the Democratic Socialists of America and the International Union of Painters and Allied Trades, all urging you to sign on as a co-sponsor of the PRO Act. Given that the ABC Test in the PRO Act would not affect the work of anyone who is already a unionized employee, we hope that you will reject those calls from unaffected people, and instead stand firm to protect those of us whose careers the ABC Test would upend.

Thank you for being reasonable, moderate voices in the U.S. Senate. We need more lawmakers like you who understand that freedom of choice applies to working styles as much as to anything else. We value your support and recognize that as long as you withhold co-sponsorship of the PRO Act, you are standing up in support of Americans like us.

Sincerely,

Debbie Abrams Kaplan, Kim Kavin, Jen Singer and Karon Warren
Co-leaders, Fight For Freelancers USA

#NoABCforUSA #FightForFreelancers
@Freelancers_USA
www.fightforfreelancersusa.com