

MOTION BY SUPERVISORS HILDA L. SOLIS

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Oppose California State Proposition 22 to Guarantee Labor Protections and Benefits for Gig Workers

In September of 2019, California passed and adopted Assembly Bill (AB 5), which established a criteria-based test, the “ABC test”, for the classification of a worker’s status as an independent contractor or statutory employee under the California Labor Code. The ABC test instructs that in order to hire an independent contractor, businesses must prove that the worker is free from the employer’s control, the work takes place outside the usual course of business, and that the worker is engaged in an independent trade in that industry.¹ AB 5 seeks to protect gig workers who are not receiving guaranteed labor protections and benefits, such as fair wages, healthcare, sick leave, overtime pay, unemployment insurance, and the right to unionize.² App-based companies such as Uber, Lyft, DoorDash, Instacart, and Postmates have brought forth legal challenges to AB 5 – in order to avoid providing their workers with the critical

¹ https://www.law.cornell.edu/wex/abc_test

² <https://www.vox.com/2019/9/11/20850878/california-passes-ab5-bill-uber-lyft>

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protections afforded by AB 5.

Uber, Lyft, DoorDash, Instacart, and Postmates have taken extraordinary measures to exempt themselves from current state law and have brought forth Proposition 22 to reclassify app-based workers as independent contractors. Under Proposition 22, state employment-labor laws would not cover app-based drivers and would also prevent local jurisdictions from setting their own rules for app-based companies, including setting a higher minimum compensation for app-based drivers. In an effort to maximize their profits at the expense of their drivers, this proposition would allow for the continuation of denying their drivers the rights and protections they are owed. If this ballot measure is successful, it will require a seven-eighths majority of both the State Senate and Assembly to amend the proposition or pass any law pertaining to app-based drivers. This measure would set a precedent of a new business model throughout the state that is unfair to every company that pays its workers a fair wage, offers its workers healthcare, abides by employer mandates, and pays employment taxes.

Proposition 22 was created and funded by these multibillion-dollar corporations that have invested \$184.3 million to support the measure on this November ballot, the most expensive ballot measure in California history.³ Through this measure, they hired lawyers and political operatives to collect the signatures they need to ask California voters for a special exemption to shift the costs of doing business onto their drivers. These corporations employ vulnerable workers whom are 78% from communities of

³ [https://ballotpedia.org/California_Proposition_22,_App_Based_Drivers_as_Contractors_and_Labor_Policies_Initiative_\(2020\)](https://ballotpedia.org/California_Proposition_22,_App_Based_Drivers_as_Contractors_and_Labor_Policies_Initiative_(2020))

color, and 70% working more than 30 hours a week. Proposition 22 would allow these corporations to create their own rules and contribute to the widening of racial inequality by exploiting communities of color in California.

Proposition 22 was not created for gig-workers but the multibillion-dollar corporations who seek to avoid providing their drivers with adequate rights and protections. It is important that this Board takes a stance against Proposition 22 and ensure that every employee in California receives the full protections of AB 5 entitled to fair wages, healthcare, sick leave, overtime pay, unemployment insurance, and the right to unionize.

I, THEREFORE, MOVE that the Board of Supervisors take an official position to oppose Proposition 22, which will exploit workers by creating a legal channel for app-based companies to not provide their workers with the critical protections afforded by AB 5.

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