



## **1. What is Assembly Bill 5?**

California recently adopted Assembly Bill 5 (AB 5), authored by Asm. Lorena Gonzalez (D-San Diego).

AB 5 places into law an independent contractor test known as the “ABC” test. In order to be considered an independent contractor, a worker must satisfy all 3 parts of the test:

- A. The person is free from the control and direction of the hiring entity, both in contract and in fact.
- B. The person performs work that is outside the usual course of the hiring entity’s business.
- C. The person is customarily engaged in an independently established trade, occupation, or business of the same nature as the work performed.

Certain independent contractors, such as insurance agents, physicians, attorneys, accountants, engineers, and direct sellers were placed under a different test. With few exceptions, the relationship between independent truckers and their carriers, brokers and shippers will be governed by the “ABC” test.

## **2. How will this impact owner-operators?**

Carriers, brokers and even shippers will have to demonstrate that their business arrangements satisfy all 3 parts of the “ABC” test.

## **3. I own my own truck and have my own operating authority. I am not leased to a carrier. Does that satisfy the law?**

The law does not differentiate leased owner-operators from those who operate under their own authority. All hiring entities will need to satisfy the “ABC” test.

## **4. I am not a California resident and/or I work for an out-of-state carrier. Does this law apply to me?**

If you are a California resident performing work within California, AB 5 applies to you. Applicability of California labor law to other work situations is not currently a settled matter of law.

## **5. I am in construction trucking. Can I still work as an owner-operator?**

Yes, but only under the following circumstances until January 2022.

The “ABC” test shall not apply to a subcontractor providing construction trucking services for which a contractor’s license is not required if all the following are satisfied:

- The subcontractor is a business entity formed as a sole proprietorship, partnership, limited liability company, limited liability partnership, or corporation.

- For work performed after January 1, 2020, the subcontractor is registered with the Department of Industrial Relations as a public works contractor, regardless of whether the subcontract involves public work.
- All construction trucking services must be performed by employees, unless the subcontractor is a sole proprietor who operates their own truck to perform the entire subcontract and holds a valid Motor Carrier Permit.
- The subcontractor negotiates and contracts with, and is compensated directly by, the licensed contractor.

## 6. Is there hope for a trucking carve out?

CTA and other industry associations will push hard for a trucking carve out next year, but it is highly unlikely anything will happen before AB 5 goes into effect on 1/1/2020.

## 7. What is CTA doing about this?

The CTA and two owner-operators have sued the State of California to prevent the application of the “ABC” test to the trucking industry. That lawsuit is pending review in federal district court. Several district court decisions have already been issued finding parts of the “ABC” test preempted by federal law.

## 8. What can I do?

The politicians who voted for AB 5 must hear your stories. Please take a moment to scan the code below and tell your state representatives how AB 5 is impacting your business and your life. If you are not able to access QR code content on your phone, visit [bit.ly/AB5shareyourstory](https://bit.ly/AB5shareyourstory) to contact your state representative.



Questions? Contact us at (916) 373-3500 or visit [www.caltrux.org](http://www.caltrux.org).

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