



# **Independent Contractor Rules Threaten New Jersey's Small Businesses and Jobs:**

*Lessons from California's Failed Approach*

**BY DANIELLE ZANZALARI**

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### The Proposed Rule

Working as an independent contractor is one of the fastest-growing ways Americans earn income due to the flexibility it offers parents, caregivers, students, and those seeking supplemental earnings. Today, more than [72 million people](#)—nearly [one in three U.S. workers](#)—participate in some form of freelance or gig work.

Yet, New Jersey’s Department of Labor has proposed new, expanded rules to codify the ABC test, which would reclassify many independent contractors as employees. The proposal is a three-pronged approach that

1. broadens the definition of employer control to treat ordinary business practices, such as requiring insurance, using digital platforms, or setting basic safety standards, as evidence of control,
2. redefines a client’s home or a worker’s own vehicle as the employer’s place of business, and
3. dismisses traditional markers of independence, such as professional licenses, receiving 1099 forms, or working with multiple clients, and instead presumes most workers should be classified as employees.

Together, these changes tilt the standard toward a presumption of employment, leaving far fewer legitimate paths for independent contracting.

This proposal not only [risks](#) economic harm, but also disregards [evidence](#) from California’s Assembly Bill 5 (AB5), where sweeping reclassification eliminated opportunities for thousands of freelancers and forced lawmakers to carve out massive exemptions after widespread backlash.

## Lessons from California's AB5

California enacted AB5 in 2020 with the same goal New Jersey now pursues: reclassifying independent contractors as employees. The outcome was damaging—studies show that roughly [one in ten independent contractors](#) lost work, and [contracts](#) disappeared across hundreds of professions. The economic fallout was so severe that lawmakers quickly carved out more than 100 [exemptions](#), covering occupations from newspaper cartoonists and youth sports coaches to real estate and lawyers. These carve-outs created an arbitrary system of winners and losers, while voters went even further by approving a ballot measure to [exempt](#) app-based drivers. [Research](#) has shown that “the AB5 experiment should not diffuse to other states or the federal government,” as it has created a patchwork law that destabilized smaller industries while leaving others untouched, underscoring the economic inefficiency of blanket reclassification.

## Who would be Hurt by the ABC test

This rule would most hurt [women](#) and men with young children who rely on flexible hours for school drop-off, pickup, and caregiving responsibilities at home. Retirees would also be [affected](#), since many take on post-retirement independent contracting to stay engaged and supplement their income. It would disproportionately affect immigrants and minorities, many who use gig work as a first [step](#) into the American workforce to gain income while learning the language, customs, and norms before transitioning to other careers. Independent financial professionals have also [warned](#) that reclassification would erode their autonomy and client trust, since clients value advice from independent advisors.

And this list is not exhaustive: workers in nearly every sector—writers, clergy, personal trainers, pharmacists, and more—have [spoken out](#) against California's AB5. Similar dissatisfaction should be expected in New Jersey, not only among workers but also among residents who would face higher costs for goods and services, from haircuts to childcare and catering. That concern is already reflected in the [public record](#), where about 8,300 written comments were filed and 99% opposed the rule.

## Flawed Justification

Governor Murphy's Task Force on Misclassification justified its [recommendations](#) by claiming that worker misclassification was rapidly increasing and costing the state millions in lost tax revenue. Yet, as Kim Kavin, co-founder of Fight for Freelancers, has shown through congressional testimony [and detailed review](#) of the Task Force's own citations, those claims rest on outdated and mischaracterized studies. For example, the report cites a supposed 40% rise in “misclassification” of employees when the underlying data actually showed a 40% increase in independent contracting during the Great Recession years. Basing sweeping policy on distorted or misused numbers is not only wrong, but it risks thousands of people's careers.

## A Better Path Forward

Most independent contractors (79%) want to keep their flexible status but want access to portable benefits—programs like health insurance, retirement savings, or paid leave that follow workers across jobs and clients rather than being tied to a single employer. Any such program must ensure that benefits do not trigger an employment relationship under unemployment law or the ABC test.

Instead of eliminating independent work, New Jersey should:

- » **Explore portable benefit systems** that travel with workers job-to-job, such as Washington State’s [pilot program](#) for gig workers
- » **Focus enforcement on genuine cases of abuse**, not on independent professionals as an entire industry where the [majority](#) report they are happy and thriving
- » **Encourage innovation in flexible work models** rather than shutting them down so workers can continue to choose work arrangements that fit their lives—choices they are best positioned to make, not the government

This approach allows workers to opt for more support if they want it, while preserving the independence and entrepreneurial spirit at the heart of freelancing.

## Final Points

New Jersey’s ABC proposal would undermine economic freedom, constrict economic growth, limit job opportunities, and repeat California’s mistakes. Independent contracting is not a loophole, but a legitimate career path that millions of workers *freely choose* because they value the flexibility and independence it provides. [Surveys](#) show that 84% of full-time independents say they are happier, 65% feel more secure, and more than half report they will never return to a traditional job.

California’s experience shows what’s at stake: many independent contractors lost income opportunities, businesses faced higher operating costs, and consumers often paid more for everyday services. If policymakers want to expand worker protections, they should explore voluntary, portable benefit options rather than dismantling flexible arrangements that so many depend on. Independent contractors are their own bosses—choosing their schedules, clients, and terms of work—and they should not be forced into a traditional employment structure that strips away that freedom while raising costs for families and businesses across New Jersey.

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