



SIRVA[®] Worldwide
Relocation & Moving

AB5: What it Means for Companies Moving
Employees Within, Into or Out of California

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As of 1 January 2020, California's AB5 law went into full effect. Often referred to as the "gig worker bill", this law requires many workers previously classified as contractors to be reclassified as employees. Since a majority of moving companies rely on independent contractors to deliver some of their moving services, the law will have a significant impact on the way moving services are offered in the state of California. This topic paper will examine what AB5 is, how it will impact the relocation and moving industries, and what can be done to minimise its impact.

What is California Assembly Bill 5?

California Assembly Bill Five (AB5) is designed to regulate companies that work with freelance/contract workers. In 2018, two delivery drivers alleged that their company, Dynamex, had misclassified them as independent contractors rather than employees for purposes of certain California employment laws. The California Supreme Court analysed the workers' status under a three-part test and ultimately agreed that the workers should be classified as employees. As of 1 January 2020, AB5 makes the three-part test outlined by the *Dynamex* court into law. Essentially, this means that in order for a worker to remain a contractor under California law, the worker must meet three specific criteria (and a failure to meet any one criterion will lead to a finding that the worker is an employee).

These criteria, known collectively as the "ABC Test", consist of the following:



The worker must be free to perform services without the control or direction of the hiring company;



The worker must perform tasks that are outside the usual course of the hiring company's business activities; and



The worker must be customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed.

Implications of the AB5 Law for Workers and Companies

Under the new law, there are implications for both workers and companies. Let's take a look at each.

Workers:

The new law will now entitle some previous contractors to the benefits associated with employment as W-2 employees. There have been concerns raised across many industries, including the transport industry, that despite the opportunity for added employee benefits, there are also disadvantages that come with the mandate of this law. For example, it takes away the inherent flexibility and impermanence that draw so many workers to gig work in the first place.

According to FreightWaves, many independent lorry drivers fear the new law will "drive a stake through their business, forcing them to shut down or move to another state".¹ If this becomes a reality, this could be a concern when considering lorry drivers and workers who assist with the moving of household goods. The greater certainty, and more rigid hours and employment conditions that traditionally come with W-2 employment – juxtaposed against those workers who want or need the flexibility that traditionally only comes with independent contractor status – will pose challenges for workers and employers alike as the industry works to achieve compliance with the law, while maintaining sufficient employees, appropriate compensation, cost management and profitability.

The law could also pose economic challenges for workers who've made significant financial investments in their independent business model, such as lorry drivers who purchased their own lorries and enjoy the ability to provide service to different companies throughout the year. In many such cases, AB5 is anticipated to deter industry-specific skilled workers from working with organisations, including moving companies, in the state of California. An injunction was entered into a federal court in California in January of 2020 that precludes the state of California from enforcing this law against certain lorry drivers.² While this injunction provides some relief, there is lingering uncertainty around the scope of the injunction and how long it might last.

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¹ FreightWaves, AB5 Passage Upends California Independent Trucking Model: <https://www.freightwaves.com/news/ab5-passage-upends-californias-independent-trucking-model>

² California Trucking Association v. Attorney General Xavier Becerra, et al. Case No. 3:18-cv-02458-BEN-BLM. United States District Court, Southern District of California. 16/01/2020. Order Granting Preliminary Injunction.

Companies:

Moving Companies will have to analyse the various types of contract workers used in their business to ensure they're compliant with the law. While AB5 itself doesn't mandate the eradication of flexibility altogether, responsibilities of managing employee workers (meal and rest breaks, processing payroll, and providing benefits as required, etc.) may result in increased costs. Companies will have to find the best ways to attract employee workers to jobs historically occupied by contractors. The resulting increase in company expenses and decrease in labour resources may require price increases and impact available capacity and delivery times, all of which will require companies to quickly adapt.

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What This Means for Clients of the Relocation and Moving Industries

Moving companies are being impacted significantly by the implications of AB5, since these providers often rely heavily on skilled contract workers for service delivery. As moving companies and relocation management companies adjust their operational models to align with AB5, availability, service delivery models, and pricing may be impacted in the state of California.

What SIRVA is Doing to Minimise the Impact

All relocation management companies (RMCs) will be affected by the implications of AB5 in California, but clients of SIRVA will be at an advantage due to our integrated relocation and moving service delivery model. Because of our vertically integrated suite of brands (including SIRVA, Allied, northAmerican, SMARTBOX, and more, globally) we're directly and actively engaged with our agents and service providers to develop strategies to ensure continuity of our capabilities in California. While this won't alleviate industry-related challenges brought on by AB5, it does allow us to better prioritise and manage limited resources in ways our competitors won't be able to. It also means SIRVA clients will have first priority when relocating within, to, or from the state of California.

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What Companies and Their Vendors Can Do Together to Minimise Disruption

While SIRVA – and all RMCs – adjust to the resulting complications of AB5, there are several things companies can do to lessen AB5's impact on their California moves and relocations:



Given the choice, minimise peak/summer moving season relocations. Short-term AB5 challenges will be magnified for the industry during peak moving season, especially during the last two weeks of June to the 4th of July.



Keep an eye on move target dates. Double check any deadlines for required paperwork, approvals and readiness. Staying on top of document signatures, approvals and deadlines will add to efficiency and a smoother move.



Authorise services and book vendors ASAP to provide movers and RMCs with the extended lead time they'll need to prioritise your move and make better use of limited labour.



Set clear and realistic expectations regarding both moving/relocating employees, being mindful of AB5's potential influence on timelines.

Finding the New Normal

We have every confidence that the market will adjust to the resulting demands and changes brought about by AB5. However, it will take some time to achieve optimal business models under the new law. In the interim, companies and RMCs will need to work together to minimise disruption and maximise resources. While this will be a challenge for all RMCs, SIRVA is committed to doing everything we can to meet these new challenges head on and provide our clients with skilled moving support and the best service available in our industry.



About SIRVA, Inc.

SIRVA Worldwide Relocation and Moving is a global leader in moving and relocation services, offering solutions for mobility programmes to companies of every size. With 75 owned locations and more than 1000 franchised and agent locations in 177 countries, we offer unmatched global breadth supported by localised attention and innovative technology that strikes the right balance of self service and human support. From relocation of household goods to commercial moving and storage, our portfolio of Brands (SIRVA, Team Relocations, Allied, northAmerican, Allied Pickfords and SMARTBOX) provides the only integrated moving/relocation solution in the industry. By leveraging our global network, we deliver a superior experience that only a 'one-stop' shop can provide.

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