

Protect gig workers: Don't override AB 5 in November

Daily Californian: University of California - Berkeley

August 28, 2020 Friday

University Wire

Copyright 2020 UWIRE via U-Wire All Rights Reserved

Section: OPINION; Pg. 1

Length: 873 words

Body

It is a common theme throughout U.S. history that the rich get richer, and the poor - people of the working class who help generate wealth for the rich - get poorer. This was true 200 years ago, and it remains true to this day.

Over the past decade, new technologies have created and enabled an increasingly exploitative gig economy, ride-hailing apps being a perfect example. At first, the ride-hailing business model showed great promise. It thoroughly succeeded in disrupting the taxi industry. Transportation became cheaper, and wait times lessened. Service even improved; some drivers would offer passengers snacks or bottles of water. As for drivers, they seemed to benefit too, from what seemed to be the ultimate flexibility: They could work whenever they wanted.

But there was a catch. By aggressively misrepresenting itself, the gig industry managed to classify its workers as independent contractors instead of employees. For years, wealthy gig corporations ostensibly ignored their obligations to their workers, obligations that all other employers fulfilled. That is, until 2018, when the California Supreme Court adopted a new, stringent, three-factor test to determine whether a worker should be classified as an independent contractor or an employee.

Under this test, ride-hailing app drivers in California are deemed employees.

But even today, two years after the landmark *Dynamex Operations West, Inc. v. Superior Court* case, gig workers still don't get basic labor protections, such as minimum wage and refund of work-related costs, nor health, disability or unemployment insurance. As a driver at Lyft myself, I feel like a lab rat in the company's maze - only most of the time, there is no prize waiting for me on the other side.

After expenses, drivers can end up getting paid less than minimum wage. That means we have no ability to save - no retirement, no money set aside for a rainy day, no safety net of any kind. Any unusual expenses that might be mere inconveniences to most people can bring us and our families to financial ruin and even homelessness. During the time I have been organizing gig workers to fight for better working conditions, I have met quite a few drivers who, over the course of their work, ended up living in their cars.

When I got sick in January, I had not yet earned enough money that month to pay my rent. Because Lyft does not provide sick days, I had to keep working until I earned enough money to pay the rent, putting myself and my passengers at risk. Eventually, I got so sick that I could not work even if I tried. Yet I could not afford to see a doctor, as Lyft does not provide any health insurance, and the cost of seeing a doctor is well beyond my means.

Luckily, I live in California, where workers' rights still seem to count. In 2019, Assemblymember Lorena Gonzalez introduced AB 5, which expands the purview of the three-step court test mentioned above. The law went into effect in January.

Protect gig workers: Don't override AB 5 in November

But what did these gig companies, worth billions of dollars, do in response? They disregarded it. Instead of using their money to support drivers, they financed their own ballot measure, which, if passed, would excuse them from the law. They invested more than \$110 million in Proposition **22**, a ballot measure written in what seems to be an extremely deceptive way.

Prop. 22's supporters, such as Uber CEO Dara Khosrowshahi, claim the proposition is an effort to protect drivers' flexibility. Yet there does not seem to be anything in current labor law that explicitly prevents gig companies from providing flexibility to workers while also treating them fairly.

Regardless, the much-touted work flexibility of the gig economy is not really an option when you are dependent on this work for existence. You simply must work during the high-demand hours, or you will not be able to pay your bills. In one Seattle study, most rides were found to be done by full-time drivers.

Secondly, **Prop. 22** claims to offer multiple benefits, including a guaranteed pay of 120% of minimum wage. But the small print in the proposition ties that pay to "engaged time," meaning only the time during rides or deliveries themselves, even though drivers can spend hours waiting for a ping to pick up a passenger. Under **Prop. 22**, gig workers would not get paid for this time. Worst of all, **Prop. 22** denies drivers the right to organize and negotiate collectively with our employers.

I fail to see how these measures are acceptable coming from gig company executives, many of whose annual salaries number in the millions. To me, they don't have the right to deny workers benefits simply because these benefits don't work well with the companies' business models.

Make no mistake, if **Prop. 22** passes, the gig work business model would spread like fire across industries. Almost any work can be dissected into small pieces and put on an app for the lowest bidder. This could very well wipe out many workers' rights that have been fought for and gained over the past hundred years.

A vote for **Prop. 22** is a vote for greed and worker exploitation, a reality similar to what existed during the Industrial Revolution. The only difference is that now, workers are expected to buy their own machines and bring them to work.

Load-Date: August 28, 2020