

Prop 22 explained: how California voters could upend the gig economy

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Highlight: Voters in the state will decide whether Uber, Lyft and other companies should classify gig workers as employees
She was a farmworker. Her grandson is a Lyft driver. A fight for workers' rights unites them

Body

It's not often that the fate of an industry hangs in the balance during an election, but that is exactly what's happening in California this November.

Proposition **22**, a proposal on the state ballot, is the result of a years-long battle between gig economy heavyweights like Uber, Lyft and Instacart, and their workers, who are fighting for better benefits and protections.

It's also become the most expensive ballot-measure campaign in state history, as the Silicon Valley companies that built their businesses around gig labor seek to avoid having to reclassify their workers as full-time employees.

The high-stakes face-off could upend the gig economy as we know it and has been called a called "a bellwether" for worker rights. But who is behind it, and what would the proposition do? Here's what you need to know.

What is Proposition **22**?

Proposition **22** is a ballot measure that would exempt gig companies from AB5, a landmark labor law passed in 2019 that extended employee protections to gig workers. In other words, **Prop 22** would allow these companies not to treat gig workers like employees.

The official name of the ballot measure is the "Protect App-Based Drivers and Services Act". The measure, if passed by the majority of voters on 3 November, would apply to app-based drivers, including those who work for Uber, Lyft and DoorDash.

What is AB5?

Proposition **22** comes in response to California assembly bill 5, known as AB5, a law that changes the way workers in the state are classified.

AB5 sets out specific requirements for workers to be classified as contractors, which are: 1) they are free from the company's control; 2) they are doing work that isn't central to the company's business; and 3) they have an independent business in that industry.

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If the worker does not meet all three of the standards, they will be classified as an employee and thus entitled to the legal protections and benefits that come with employment in California. This includes minimum wage, overtime, expenses reimbursed, paid sick days, paid family leave, unemployment insurance and an employer healthcare option.

Uber and Lyft maintain that drivers are properly classified as independent contractors, but in August a California court ruled that both companies were violating AB5 in not reclassifying drivers as employees. That ruling appears to be stayed while Uber and Lyft argue their case before the judge.

What is the case against **Prop 22**?

Drivers and labor groups oppose **Prop 22**, saying it allows companies to sidestep their obligations to provide benefits and standard minimum wages to their workers. The official No on **Prop 22** campaign claims gig economy companies "have made billions by exploiting their drivers for years" and now are spending millions to push **Prop 22** "so they can permanently deny fair wages and benefits for drivers".

The companies behind **Prop 22** have indeed made billions on the contractor-based business model. When Lyft went public in 2019, it was valued at \$22bn and had 1.9 million drivers working through its app. Uber was valued at \$82bn ahead of its initial public offering in May 2019 and had 3.9 million drivers.

Many drivers say they have created a lot of the value for these companies but have seen very little of the profit. "Uber is paying drivers poverty wages and continues to slash wages while executives make millions," one driver told the Guardian at a protest tied to the Uber IPO.

The Covid-19 pandemic has further underscored how the contractor system leaves workers in precarious positions, the campaign against **Prop 22** says.

The passage of **Prop 22** would be difficult to overturn, positioning gig workers as permanent contractors and posing a major blow to workers' rights. California is the birthplace of the gig economy, and how it is regulated in its home state may have effects on how regulation plays out in the rest of the country, and the world.

What benefits does Proposition **22** offer?

While Proposition **22** would exempt workers from employee benefits gleaned through AB5, proponents of the ballot measure maintain that it would "ensure driver flexibility" by maintaining contractor status of workers "while providing new earning guarantees and benefits".

Advocates of Proposition **22** say it would provide drivers with occupational accident insurance to cover injuries and illnesses on the job and "funding for new health benefits" that apply to drivers who work at least 15 hours a week. This means drivers who work at least 15 hours would be provided with stipends towards private health insurance, rather than be provided health insurance through an employer healthcare option. Workers who drive more than 25 hours would get a higher stipend to use towards health insurance.

Prop 22 also promises "guaranteed minimum earnings" equal to 120% of California minimum wage. Those minimums, however, only apply to "engaged time" on the app, which is the 28-33% of workers' shifts when there is a passenger in the car. A study funded by the Yes on Proposition **22** coalition estimated workers would make \$25-27 per hour. Another study from University of California, Berkeley, said earnings could still be well below the minimum wage, at \$5.64 per hour. California's minimum wage will be \$15.60 in 2021.

Who supports Proposition **22**?

A coalition of gig economy firms, including Instacart, DoorDash, Lyft, Uber and Postmates (a delivery service now owned by Uber) has spent more than \$184m on campaigns promoting Proposition **22**. The Yes on Proposition **22** campaign claims the majority of rideshare drivers support flexibility in work.

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A number of workers outside of the ride-hailing platforms have also spoken out against AB5 and its effects. The bill was amended after freelance journalists complained of a measure in the bill that would prevent them from submitting more than 35 stories per year. Truckers and musicians have also spoken out against the bill and its effects on their work.

The California Chamber of Commerce, California Police Chiefs Association, and the California NAACP also support **Prop 22**. A recent online poll cited by the Yes on **22** campaign found more than 60% of app-based drivers supported **Prop 22**. The group maintains that most drivers want to remain contractors.

"Drivers prefer independence because it provides the flexibility to choose when, where and how long they want to work," Geoff Vetter, spokesman for the Yes on **22** campaign, said.

Tactics used to promote Proposition **22** have been aggressive and persistent: Uber and Lyft both sent out a number of emails and push notifications within their apps encouraging riders to vote yes. Instacart has encouraged workers to advertise the ballot measure with stickers.

Who is against Proposition **22**?

A number of workers and worker groups have publicly organized against Proposition **22**. The official "No On **Prop 22** Coalition" is made up of four driver groups: Gig Workers Rising, We Drive Progress, Mobile Workers United and Rideshare Drivers United. Cumulatively these groups represent more than 55,000 workers in California.

Editorial boards at the Los Angeles Times, the New York Times and a number of California papers including the Sacramento Bee, the Fresno Bee, the Modesto Bee, Merced Sun Star and San Luis Obispo Tribune have called on voters to reject **Prop 22**.

Kamala Harris and Joe Biden have spoken also against it, while Bernie Sanders has also condemned the ballot measure, tweeting: "I'm opposed to **Prop 22** because people working full time deserve decent wages and good benefits." The Service Employees International Union also joined the fight against **Prop 22**.

What happens if Proposition **22** passes?

If Proposition **22** passes, workers will retain their status as independent contractors. They will not be provided health insurance through Lyft or Uber but will get stipends towards insurance. It will also be difficult to change or overturn in the future, because that would require a 7/8 supermajority - difficult to attain in the California legislature.

What happens if Proposition **22** doesn't pass?

In theory, companies will not be exempt from AB5 and drivers would then be entitled to healthcare, minimum wage and other employee benefits. However, Uber and Lyft have threatened to pull out of California if the bill is passed - so it's possible we will no longer have rideshare as we know it. Uber has also forecasted that fares would increase 25%-111% if it were to comply with AB5.

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