

# California State Senate

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September 16, 2019

The Honorable Gavin Newsom  
Governor, State of California  
State Capitol, First Floor  
Sacramento, CA 95814

RE: Recommended Veto of AB 5 (Gonzalez)

Dear Governor Newsom:

I respectfully write to request your veto of AB 5, which codifies and applies retroactively the 2018 California Supreme Court's landmark decision in *Dynamex Operations W. v. Superior Court*, which prohibits independent contracting unless very restrictive conditions are met (i.e. the "ABC Test").

While the *Dynamex* decision was right as it relates to the Dynamex Company and its unfortunate and wrongheaded decision to misclassify couriers, it was wrong in its application to all industries in California. Moreover, it is wrong and extremely harmful for the business climate and economic growth in California to now codify this decision. To do so would significantly undermine the independent contracting business model, a model mutually beneficial to both employers and contractors. This not only threatens the livelihood of millions of contractors, but its retroactive application is an existential threat to any business that is not carved out of AB 5 but that operated legally under the pre-*Dynamex* rules. They are now going to face severe penalties and costly litigation for following the rules in place at the time. This is simply unfair.

Furthermore, AB 5 provides only for a limited number of exemptions to the *Dynamex* decision for specific businesses, occupations, professions and industries. While I don't fault those who were able to get themselves carved out, I do fault the fact that AB 5 represents the Legislature showing favoritism by picking winners and losers.

Instead of handpicking a few favored businesses, occupations, professions and industries to exempt, a more fair, comprehensive and holistic solution is needed, a solution that will essentially carve out all those negatively impacted by the bad *Dynamex* decision. (For a

legislative vehicle that does this, I urge you to consider my bill, SB 238, which conforms California law to the federal law for determining employment status.)

For these reasons, I respectfully request your veto.

Sincerely,

A handwritten signature in black ink, appearing to read "Shannon Grove". The signature is written in a cursive style with a large initial "S".

Shannon Grove  
Senate Republican Leader