

California sues Uber and Lyft for misclassifying drivers as contractors

Attorney general says the state will make the companies 'play by the rules' and adhere to the worker rights and protections law



A driver joins a protest calling for California to enforce the AB5 gig law against Uber and Lyft. Photograph: Mario Tama/Getty Images

Julia Carrie Wong in Oakland

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California is suing Uber and Lyft, alleging they misclassified their drivers as independent contractors under the state's new labor law, in the most significant challenge to the ride-hailing companies' employment model to date.

Xavier Becerra, the state's attorney general, announced the lawsuit Tuesday during a news conference. The labor law, known as AB5 and considered the nation's strictest test, took effect on 1 January and makes it harder for companies to classify workers as independent contractors instead of employees who are entitled to minimum wage and benefits such as workers compensation and unemployment benefits - a key exclusion that has come to the fore during the coronavirus pandemic.

"Uber and Lyft claim their drivers aren't engaged in the companies' core mission and cannot qualify for benefits," said Becerra. "These companies will take the workers' labor, but they won't accept the worker protections. California has ground rules with rights and protections for workers and their employers. We intend to make sure that Uber and Lyft play by the rules."

The dispute over the employment status of Uber and Lyft drivers is as old as the companies themselves. Over the years, gig economy companies have attracted - and largely fought off or settled - a host of class-action lawsuits over employee classification. But an enforcement lawsuit by the state, which will not have the same incentive to settle as a private plaintiff's attorney, represents an "unprecedented" escalation that is much more likely to bring about meaningful change, said Veena Dubal, a law professor at the University of California Hastings who researches the gig economy.

"These companies should have never been allowed to proliferate using the business model they were using, and it was the state of California that first legalized and allowed this, so that it's the state of California that is finally stepping in and saying that these are employees is so gratifying," Dubal said in an interview.

California represents Uber and Lyft's largest source of revenue. The companies, as well as Doordash, have invested \$30m apiece in a ballot initiative campaign to exclude their drivers from the law while giving new benefits such as health care coverage. The initiative is likely to qualify for the November ballot.

The ballot initiative campaign was the subject of a scathing reference in the legal complaint filed by the state, which lambasted the companies for launching "an aggressive public relations campaign in the hopes of enshrining their ability to mistreat their workers" in the middle of "a once-in-a-

century pandemic”.

A federal judge in February denied Uber and Postmates’ request for a preliminary injunction that would have exempted them from the law. But separately, a federal judge in January indefinitely blocked the law from applying to more than 70,000 independent truckers, deciding that it is preempted by federal rules on interstate commerce.

The state legislature is also considering amending the law, though lawmakers are split whether to broaden or narrow it as other groups - such as freelance writers and photographers - contend they have been hurt by it through unintended consequences.

The state’s lawsuit alleges that Uber and Lyft haven’t paid enough payroll taxes as a result of the misclassification. The suit seeks restitution for unpaid wages owed to drivers, civil penalties and a permanent ruling that would prohibit the companies from misclassifying drivers in the future.

“We are looking forward to working with the attorney general and mayors across the state to bring all the benefits of California’s innovation economy to as many workers as possible, especially during this time when the creation of good jobs with access to affordable healthcare and other benefits is more important than ever,” Lyft said in a statement.

“At a time when California’s economy is in crisis with four million people out of work, we need to make it easier, not harder, for people to quickly start earning,” a spokesman for Uber said in a statement. “We will contest this action in court, while at the same time pushing to raise the standard of independent work for drivers in California, including with guaranteed minimum earnings and new benefits.”

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