

The California legislature has passed several significant laws in 2019 that will affect California employers beginning January 1, 2020. Employers in California should be aware of these new laws, understand how these laws may impact their business operations. Employers that have not prepared action plans for how they will manage compliance are encouraged to contact [MMC](#) to work with our team of HR professionals and experts for an effective rollout of how to comply with the law without disturbing work culture and/or creating other liabilities. One new area of changing labor and employment laws will cover worker classification. We summarize the changes below.

## Worker classification

### ABC Rule Urges California Employers to Examine Independent Contractor Classification

Governor Gavin Newsome has recently signed a bill that codifies the California Supreme Court's "ABC test," which in conjunction with the *Borello* Test and IRS factors aims to help clarify that employee classification is no easy feat. Effective January 1, 2020, AB 5 will impose the state's strict test to review of classification of independent contractors. This means that wage and hour practices, unemployment insurance, workers' compensation claims, and paid family leave requests must all contemplate whether the worker has been correctly classified as an independent contractor.

This bill is being hotly contested by a number of businesses in California which rely on "gig economy" workers, such as Uber and more. Nonetheless, at MMC we do think it is critical for private businesses to gear up for meeting the standards imposed by this test, as well as the other remaining reviewing processes to assure workplace compliance.

In summary, the ABC test presumptively considers all workers to be employees and forces a hiring employer to bear the burden of proving otherwise. Only when all three of the following conditions are met for proving workers have led the charge in performing work for others can they correctly be classified as meeting the strict standards of independent contractor status. These conditions are:

1. The worker is free from the control and direction of the hiring entity in connection with the performance of the work, both under contract and performance of the work; and
2. The worker performs work outside the usual course of the hiring entity's customary business; and
3. The worker is customarily engaged in an independently established trade, occupation, or business of the same nature as the work they are performing for the hiring entity.

### Exceptions

This law provides for a few exceptions, but application of the exceptions should be considered carefully and with an HR professional or Labor & Employment Law attorney.

## **Useful Guidance**

If your business relies upon independent contractors to help reduce operational costs, please know that you are strongly encouraged to look hard and fast at new laws. Unless your current independent contractor arrangements have been managed with a team of competent employment professionals, your business seriously runs the risk of having all workers reclassified as employees and afforded all the attendant rights and protections that could be applied to past and, most certainly, prospective business practices.