

## Matthew Costello in HR Magazine: Coronavirus Fuels Debate over California's Independent-Contractor Rule

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**PRACTICES** Employee Benefits and Executive Compensation

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Haynes Boone Associate [Matthew Costello](#) talked with *HR Magazine* about how coronavirus concerns have raised questions about California's strict independent-contractor test and whether it should be amended.

Here is an excerpt:

Although gig workers and other independent contractors have access to some federal emergency relief, they generally aren't entitled to unemployment compensation and other benefits provided to employees.

So far, the federal government has allocated about \$3 trillion in economic relief to businesses and workers as they struggle to make ends meet during the coronavirus pandemic.

California lawmakers passed AB 5 to provide workplace protections to more people by requiring businesses to reclassify many independent contractors as employees. Though AB 5 targets on-demand workers like drivers for ride-hailing and delivery services, other independent contractors such as freelance journalists and truck drivers are covered by the law. Several business and trade groups have filed lawsuits arguing that the law is too restrictive for workers who prefer to be independent.

Even before COVID-19 hit, legislators, union leaders, business groups and other key stakeholders were discussing potential amendments to AB 5.

"Now the calls for both amending AB 5 and for strictly enforcing its provisions against employers will echo even louder," said Matthew Costello, an attorney with Haynes Boone in Orange County, Calif. "In other words, both sides of the AB 5 debate are weaponizing COVID-19 as a reason justifying their respective stances."

An alliance led by the Music Artists Coalition recently announced that an agreement had been reached on a music-industry exemption to the law. This amendment ensures that the classification of musicians and other recording artists as employees will be controlled under the more flexible test rather than the stricter ABC test, Costello explained.

Several other industry groups, such as those representing freelancers and truck drivers, have challenged AB 5, and Costello expects this trend to continue as more businesses feel the pressure of AB 5's impact during the coronavirus crisis.

"However," he said, "whether the pandemic will have a long-term impact on worker classification issues depends on so many unknowns, such as how long the pandemic endures and the timing and strength of the economic rebound."

To read the full article, click [here](#).