

Transport Cos. Prep for Impact of Calif.'s Dynamex Bill

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Transportation companies face new challenges as they prepare to comply with California Assembly Bill 5, which will extend “employee” status and the protections that come with it, including workers’ compensation, unemployment insurance, disability insurance, and paid sick or family leave. This follows the California Supreme Court’s April 2018 Dynamex decision, which adopted an ABC test that presumes workers are employees instead of independent contractors. Certain states, including New Jersey, already employ versions of the ABC test, but California’s overall influence remains uncertain.

“Just like there are red states and blue states, there are misclassification states and non-misclassification states,” said Ron Leibman, a partner in McCarter’s Transportation, Supply Chain & Logistics practice. “A state that is already open to this kind of thing, like New Jersey, may go that direction. But I doubt that a state like South Carolina, which has passed legislation to allow for owner operators, is suddenly going to change its mind. We’re in disparate systems across the country. This might be influential, but it’s not dispositive outside of California.”