

CALIFORNIA ASSEMBLY BILL NO. 5 - INDEPENDENT CONTRACTORS

With respect to workers' compensation, California Assembly Bill No. 5 (AB 5) goes into effect on **July 1, 2020** and applies to policies issued on or after **July 1, 2020**, as well as policies in force as of **July 1, 2020**.

AB 5 creates a presumption that an entity's workers are employees rather than independent contractors unless the hiring entity can show that the worker meets three conditions, known as the "ABC Test":

The "ABC" Test:

- (A) The person is free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact.
- (B) The person performs work that is outside the usual course of the hiring entity's business.
- (C) The person is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed.

Exemptions:

AB 5 provides an extensive list of occupations that are *conditionally* exempt from the application of Section 2750.3(a)(1). Occupations that are exempt from the "ABC" Test are instead governed by the 11-factor test found in the California Supreme Court's decision in *S.G. Borello & Sons, Inc. v. Department of Industrial Relations* (1989) 48 Cal.3d 341.

Resources:

- You can visit www.StateFundCA.com for comprehensive resources related to this important topic.
- The pertinent sections of the California Labor Code and Unemployment Insurance Code may be accessed at <https://leginfo.legislature.ca.gov>.
- You may access the California Labor & Workforce Development Agency webpage at <https://www.labor.ca.gov/employmentstatus/> for more information.

Policy/Premium Impact:

It is very important that employers determine the correct status of their workers. If we find workers who are regarded by you as independent contractors, but are actually considered by law to be "employees," we will include their compensation in the premium base of your policy.

Should you have any questions, please contact your broker or call us at **(888) 782-8338**.