



An Open Letter to Democratic National Committee Chairman Tom Perez

We, the entrepreneurs of California, New Jersey and New York, need your expertise to save our careers from well-intentioned, but misguided Democrats

January 7, 2020

Dear Chairman Perez,

America owes you a debt. You did a lot of good for workers as head of the U.S. Department of Labor under President Obama. Thanks to your leadership, Wage and Hour Administrator David Weil issued new [guidelines for businesses](#), giving bad-actor companies a stern warning that worker misclassification—calling workers independent contractors and denying them protections when they should be full-time employees with benefits—would no longer be tolerated. Your department then [collected \\$250 million in back pay](#) in a single year, compared to the \$173 million collected a few years earlier.

Then, times changed. In July 2017, the misclassification guidelines [were retracted](#), signaling the department's intent to let bad-actor companies resume past practices.

Democrats decided to push back. From the presidential campaign trail to legislatures in America's bluest states, they wanted American workers to know that they were still working on the worker misclassification problem.

Unfortunately, that admirable goal has now become a nightmare of poorly written legislation with catastrophic, unintended consequences. Democrats are sponsoring and strongly backing legislation (California's AB5, New Jersey's S4204/A5936, New York's S6699A, and the federal HR2474 and S1306) that doesn't simply ramp up enforcement against bad actors; it redefines who is an independent contractor, and makes remaining

one impossible for people like us who prefer to work that way. The change is so drastic that multiple federal lawsuits are now pending against the State of California, citing violations of not one or two, but four separate parts of the U.S. Constitution.

The Internal Revenue Service [already has guidelines](#) for determining who is an independent contractor. Its test is strong, but fair, allowing for consideration of a worker's entire relationship with a company, and ensuring that no single factor outweighs any other. People like us can pass that test and continue to thrive in our chosen careers as independent contractors, while government agencies—as you showed so very well—can prosecute bad-actor companies that misclassify workers.

Legislation like California's, New Jersey's, New York's and the federal bills take a different, and disastrous, approach in attempting to solve the worker misclassification problem. They redefine who is an independent contractor by codifying a stringent, three-part "ABC test" that was written in the 1930s, and whose 20th-century language does not make sense for the way many of us are able to work in the 21st century. As one writer put it [in the Orange County Register](#), these types of laws are "like firing a cannon to eliminate cockroaches," causing mass collateral damage.

[Careers are already being destroyed](#). And that fallout is happening in the bluest states. Hard-working men and, [especially, women](#) (according to a [July 2019 U.S. Treasury report](#)) are seeing their chosen way of life attacked and their income slashed or eliminated by the misguided actions of Democrats in an election year.

Your role as head of the Democratic National Committee and your expertise on misclassification put you in a unique position to correct this ill-conceived agenda. Please, help your fellow Democrats see how to address worker misclassification without redefining who is, and is not, an independent contractor through the old-fashioned ABC test. Fix the AB5 law in California, and kill the New Jersey, New York and federal bills.

There is no need to destroy the careers of the [1 in 10 Americans](#) who work as independent contractors. According to the [Bureau of Labor Statistics](#), nearly 80 percent of us are happy. We are not being exploited. We need a rational, national conversation about the definition of an independent contractor in the Age of the Gig Economy—and we need lawmakers to stand up for *all* kinds of hard-working Americans, including us.

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