



Association of
BI-STATE
MOTOR CARRIERS

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Key Points for Commentary on Proposed New Rules N.J.A.C. 12:11, Proposal Number PRN 2025-051

- **The ABC test is a job-killer that hurts *all* workers.** Current studies prove that using a narrow application of the ABC test to determine worker classification has a negative impact on employment across the board. According to a 2024 report by the non-profit, non-partisan [Mercatus Center](#), the implementation of California's AB5 law led to a 10.5% decrease in self-employment, and a 4.4% decrease in overall employment.
- **The proposal will not protect Independent Contractors—it will *eliminate* them.** The NJDOL's approach to independent contractors is out-of-touch with the modern-day workforce, and is designed to forcibly misclassify self-employed workers as employees. According to [labor law experts](#), the current proposal would "lead to the elimination of all ICs in New Jersey."
- **The proposal will cause irrevocable harm to the Supply Chain.** Up to 77% of the drivers who move freight at the Port of NY & NJ choose to work as independent owner operators, even though full-time work as a company driver is readily available. If these drivers are unable to retain their independence as self-employed workers in NJ, most will choose to leave and work at ports in nearby states that do not have such restrictions on IC work, severely reducing trucking capacity.
- **The NJDOL proposal will *not* create jobs, it will destroy them.** The NJDOL claims "the proposed new rules would have no impact on either the generation or loss of jobs." [57 NJR 897] This assertion directly contradicts current data on the impact of similar policies in California, which have resulted in significant job losses and have not yielded job gains.
- **The proposal would have a negative Economic impact.** The NJDOL claims that the proposed new rules would have "a positive economic impact", failing to acknowledge the severe impacts the restrictions would have on the intermodal trucking industry, where the vast majority of the driver workforce are independent contractors. The reduction in trucking capacity would be a devastating blow to the supply chain, substantially hindering operations at The Port of NY & NJ. The port industry is the largest economic driver in New Jersey, contributing nearly 500,000 jobs, over \$38 billion in personal income, nearly \$108 billion in business activity, and nearly \$13 billion in federal, state and local tax revenues according to the Shipping Association's economic impact report released in June 2023. *(Note: our port has continued its significant growth year-over-year, and the negative economic impact of this proposal will be even higher than these numbers indicate.)*
- **The NJDOL proposal is dangerous and unreasonable.** The proposal stipulates that when considering prong A, directing a worker to comply with "a law or rule" shall be considered indicative of an employer/employee relationship. This would disincentivize compliance with standard laws and regulations that serve the common good, including safety regulations that are enacted and enforced to save lives, endangering both the worker and the community at large.

- **The proposal is based on old data and misinterpreted research.** The rules and regulations put forth by the NJDOL are largely based on the 2019 report issued by the NJ Misclassification Task Force, which contains recommendations created from [outdated and misconstrued data](#) that is culled from research conducted over 40 years ago. The NJDOL needs to look at more current research, which clearly demonstrates a shift towards Independent Contractor work and the need to protect this form of employment rather than eliminate it.
- **The proposal lacks clarity and will increase confusion.** Contradictory to what the NJDOL claims, the proposed new rules would have a negative social impact that will *increase* confusion among employers and employees, due to the department's willfully subjective and open-ended application of the ABC test. The NJDOL admits in the proposal [57 NJR898] that "there is no set number of factors that will, in every instance, result in a finding that the putative employer either has or has not met its burden." This lack of certainty and clarity will only serve to *increase* confusion surrounding the determination of an employer/employee relationship.
- **More Time and Input Are Needed.** A 90-day comment period is not enough time to receive sufficient feedback for such a sweeping set of rules. The one Public Hearing that has been scheduled for June 23rd was announced with less than a month's notice. The DOL needs to allow independent contractors and businesses in a variety of affected industries sufficient time and opportunity to provide information on how this new rule will impact their ability to remain self-employed and earn a living. At least three public hearings should be held at locations across the state to obtain sufficient feedback.
- **The NJDOL proposal ignores Federal policy changes and pending Federal legislation.** The proposal claims that the proposed new rules do not exceed standards or requirements imposed by Federal law [57 NJR 897]. This statement fails to acknowledge Executive Branch directives to the USDOL regarding enforcement of labor policies enacted by the previous Administration, and pending legislation such as the Modern Worker Empowerment Act, which would codify a Federal standard that differs significantly from the NJDOL proposal. These developments clearly demonstrate that a Federal standards analysis is required before any state-level proposal can move forward.
- **Rules that restrict Independent Contractor work hurt women, seniors, and minorities** Those who seek out Independent Contractor work do so in part to escape discrimination in the workplace. According to the U.S. Census Bureau, women own more than 41% of the nation's nonemployer businesses, and minorities own 36.7%. According to an AARP study, 27% of seniors are engaged in freelance or independent contractor work. Disadvantaged groups will be harmed the most by the NJDOL proposal.
- **The NJDOL proposal goes too far and will hurt workers and business owners alike.** The proposal to expand the definition of "places of business" to include private residences and customer-owned locations to be designated as an extension of the putative employer's business has far-reaching liability implications, especially when existing misclassification laws that allow the NJDOL to shut down all places of business for putative employers are taken into account. The NJDOL proposal is so extreme, it goes even further than California's disastrous AB5 law.

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The Association of Bi-State Motor Carriers is a non-profit membership organization representing the intermodal trucking industry at the Port of NY & NJ. We represent more than 200 trucking and transportation industry companies throughout the NY/NJ metro area. Bi-State members are responsible for transporting a majority portion of all port and container traffic at the Port of NY-NY, one of the largest and busiest ports in the nation.

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