

CALIFORNIA

Court of Appeals Reverses AB 5 Injunction for Trucking Industry

On Apr. 28, 2021, the 9th Circuit Federal Court of Appeals (the Court) [held](#) that [California's employee classification law known as AB 5](#) is not preempted by the Federal Aviation Administration Authorization Act (FAAAA). As a result, the Court lifted the injunction that prevented applying AB 5 to the trucking industry.

Background

California adopted AB 5 in 2019. This law changed the process employers must follow to determine whether their workers should be classified as employees or independent contractors. This determination is crucial to assess eligibility for employment benefits and protections. The law became effective Jan. 1, 2020.

However, on Dec. 31, 2019, a federal court in San Diego issued a temporary injunction to prevent enforcement of this law for the trucking industry.

The Court's Decision

In reaching its decision, the Court held that the FAAAA does not preempt AB 5 as it only has "a tenuous, remote or peripheral connection" to rates, routes or services rather than a significant or even indirect effect.

The Court also added that AB 5 affects motor carriers solely in their capacity as employers without altering their relationship with consumers. In this issue, the Court was not persuaded by the California Trucking Association argument that a possible increase in prices—or consolidation and elimination of routes—would be a fundamental change in the way motor carriers do business.

Impact on Employers

Without the injunction in place, motor carriers in California will need to comply with AB 5's classification requirements. Even though an appeal to the U.S. Supreme Court is possible, motor carriers in the state should review their compliance options with knowledgeable counsel.

Important Dates

Dec. 31, 2019

Federal district court ordered a temporary injunction on AB 5 for the trucking industry

Jan. 1, 2020

California's AB 5 became effective

Apr. 28, 2021

Federal court of appeals lifted the AB 5 injunction for the trucking industry

The court of appeals found that AB 5 only has a tenuous, remote or peripheral connection to rates, routes or services.

Provided to you by **KCAL Insurance**