



# New York Taxi Workers Alliance

*Union of NYC Taxi Drivers!*

*National TWA, AFL-CIO, Intl. Transport Workers' Federation*

31-10 37<sup>th</sup> Avenue, Suite 300 LIC, New York 11101

Phone: **718-70-NYTWA (718-706-9892)** E-mail: [nytwa1@aol.com](mailto:nytwa1@aol.com) / [www.nytwa.org](http://www.nytwa.org)

## **OPPOSE: A08343 and S06538**

### **Gig Workers Gain No Substantive Benefits**

- The bill does not win employee protections for gig workers such as minimum wage, workers compensation, Unemployment Insurance, protections against wage theft or from unlawful deductions.
- The bill only gives gig workers the right to join a union under the State Labor Relations Act, but without employment protections, workers' starting point for bargaining for higher wages would begin below minimum wage.
- The bill disadvantages collective bargaining by forcing workers to negotiate up from \$0.00 since they are not guaranteed any minimum wage, unlike any other workers who have the right to collectively bargain.
- If this bill passes, it will set a precedent for sectors of the economy to similarly undermine labor protections and disadvantage collective bargaining.

### **The Bill Undermines Landmark Gains Being Made by Gig Workers in NYS**

- While the bill does not give gig workers meaningful employment law protections, the bill could be used against workers when fighting for minimum wage, overtime, workers' compensation, unemployment, and wage theft in court.
- Companies will, at a bare minimum use such a statute, if this bill passes, as an indicator that the state legislature intends to preclude gig workers from employee right regardless of whether that's the bill authors' intent.
- NYS Department of Labor has already found [Uber drivers](#) to be employees for purposes of Unemployment Insurance. Any future decisions or appeals by the companies could be favored by the passage of this bill.

### **The Bill is Being Rushed Through to Undermine Potential Landmark Gains in California**

- The bill, made public on a Saturday, just four days before the session ends, if voted on, would be passed with zero public hearings and with no input from the workers the bill claims to benefit.
- The timing of the bill appears to be a cynical ploy to undermine efforts in California where workers and the California State Federation of Labor are leading a campaign for landmark employee protections for workers in the gig economy. AB5 (Lorena Gonzalez – D) passed the California Assembly and will be voted on at the Senate level. The bill codifies a California Supreme Court decision applied a simple, coherent, and remedial standard for employee status for purposes of wage and hour laws.
- Uber and Lyft even put their rivalry aside to co-author an OpEd against AB5, claiming that extending employee rights to drivers poses an existential threat to their business model. Of course, both companies made the same threat when NYC passed laws on a cap on vehicles and minimum wage standard.
- Gig economy companies already lobby for exemptions from industry-specific and local regulations, such as Uber and Lyft from taxi laws. They don't need to be further exempt, or provided cover, or aided in avoiding labor laws.

## **This Bill Undermines and Leaves Poor Some of the Most Vulnerable Workers in New York State**

- Poverty and despair among gig workers is rampant:
  - Uber drivers in Buffalo average \$9.74 per hour, before deducting for vehicle and fuel expenses.
  - A JP Morgan Chase [study](#) found Uber and Lyft drivers were earning in 2017 less than half of what they earned in 2013.
  - The [average monthly pay](#) for drivers in Los Angeles was as little as \$848.
  - The Economic Policy Institute reported drivers in more than 40 states earn below their state's minimum wage.
  - An [investigation by the Federal Trade Commission](#) concluded that less than 10% of drivers earned the rates Uber touted to attract drivers to the job and to vehicle financing deals with Uber-affiliated companies.
  - Drivers in many areas make so little they are forced to [sleep in their cars](#).
  - There have been nine driver suicides in New York City, including one Uber and one Lyft driver, and suicides by Uber drivers in India and South Africa.
- Gig workers like messengers for UberEats and Postmates don't even have Workers Compensation when injured on the job.
- Families of gig workers like UberEats delivery worker [Mohammed Abdullah](#), who was killed on the job, are left with no survivor benefits.
- In NYC, the Taxi and Limousine Commission regulates the minimum rates companies like Uber and Lyft must use to pay drivers per mile and minute per trip, and those rates are calculated to produce an hourly income of \$17.22 per hour after expenses. A recent study by the City of New York found drivers are averaging \$16 per hour, still under even Minimum Wage, as the regulation does not bind the companies to a hard minimum wage floor or pay for expenses. The only real sure proof protection for workers is binding labor law. This bill does nothing to give workers such protections and in fact could prejudice courts when workers seek those protections.
- This bill keeps some the most vulnerable workers in New York State poor and undermines their fight for employee protections.

### **Another Way is Possible**

- New York State must pass a bill that would extend labor protections to gig workers.
- Gig companies have all the control over workers that traditional employers do, but continue to misclassify workers in order to maximize their profits.
- NYS could pass a bill to require courts perform an "ABC test" that looks at the economic reality of workers – whether the worker is performing the core service that the company provides, regardless of flexibility in scheduling, like California's AB5.
- New York has already passed the ABC test for the trucking and construction industries. Those bills passed by wide margins in the Senate and Assembly with bipartisan support. There is no reason why all workers shouldn't share in the protections enjoyed by workers in those two sectors.
- Workers found to be employees under such a test would be entitled to ALL protections under New York State Labor Law, from minimum wage, overtime, unlawful deductions, workers compensation, to paid time off, and the right to collective bargaining under the State Labor Relations Act.

**For More Information, please email:**

**[BDesai@NYTWA.ORG](mailto:BDesai@NYTWA.ORG) or [MEDIA@NYTWA.ORG](mailto:MEDIA@NYTWA.ORG)**