

ASSEMBLY BILL

No. 1925

Introduced by Assembly Member Obernolte

January 14, 2020

An act to amend Section 2750.3 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1925, as introduced, Obernolte. Worker status: independent contractors: small businesses.

Existing law, as established in the case of *Dynamex Operations W. Inc. v. Superior Court* (2018) 4 Cal.5th 903 (*Dynamex*), creates a presumption that a worker who performs services for a hirer is an employee for purposes of claims for wages and benefits arising under wage orders issued by the Industrial Welfare Commission. Existing law requires a 3-part test, commonly known as the “ABC” test, to determine if workers are employees or independent contractors for purposes of specified wage orders.

Existing law establishes that, for purposes of the Labor Code, the Unemployment Insurance Code, and the wage orders of the Industrial Welfare Commission, a person providing labor or services for remuneration is considered an employee rather than an independent contractor unless the hiring entity demonstrates that the person is free from the control and direction of the hiring entity in connection with the performance of the work, the person performs work that is outside the usual course of the hiring entity’s business, and the person is customarily engaged in an independently established trade, occupation, or business. This test is commonly known as the “ABC” test. Existing

law charges the Labor Commissioner with the enforcement of labor laws, including worker classification.

Existing law exempts specified occupations and business relationships from the application of Dynamex and these provisions. Existing law instead provides that these exempt relationships are governed by the test adopted in *S. G. Borello & Sons, Inc. v. Department of Industrial Relations* (1989) 48 Cal.3d 341.

This bill would expand the above-described exemptions to also include small businesses, as defined.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2750.3 of the Labor Code, as amended
2 by Section 1 of Chapter 415 of the Statutes of 2019, is amended
3 to read:

4 2750.3. (a) (1) For purposes of ~~the provisions of~~ this code
5 and the Unemployment Insurance Code, and for the *purposes of*
6 wage orders of the Industrial Welfare Commission, a person
7 providing labor or services for remuneration shall be considered
8 an employee rather than an independent contractor unless the hiring
9 entity demonstrates that all of the following conditions are satisfied:

10 (A) The person is free from the control and direction of the
11 hiring entity in connection with the performance of the work, both
12 under the contract for the performance of the work and in fact.

13 (B) The person performs work that is outside the usual course
14 of the hiring entity’s business.

15 (C) The person is customarily engaged in an independently
16 established trade, occupation, or business of the same nature as
17 that involved in the work performed.

18 (2) Notwithstanding paragraph (1), any exceptions to the terms
19 “employee,” “employer,” “employ,” or “independent contractor,”
20 and any extensions of employer status or liability, that are expressly
21 made by a provision of this code, the Unemployment Insurance
22 Code, or in an applicable order of the Industrial Welfare
23 Commission, including, but not limited to, the definition of
24 “employee” in subdivision 2(E) of Wage Order No. 2, shall remain
25 in effect for the purposes set forth therein.

1 (3) If a court of law rules that the three-part test in paragraph
2 (1) cannot be applied to a particular context based on grounds other
3 than an express exception to employment status as provided under
4 paragraph (2), then the determination of employee or independent
5 contractor status in that context shall instead be governed by the
6 California Supreme Court's decision in *S. G. Borello & Sons, Inc.*
7 *v. Department of Industrial Relations* (1989) 48 Cal.3d 341
8 (*Borello*).

9 (b) Subdivision (a) and the holding in *Dynamex Operations*
10 ~~*West, W. Inc. v. Superior Court of Los Angeles*~~ (2018) 4 Cal.5th
11 ~~903~~ (~~*Dynamex*~~), (*Dynamex*) do not apply to the following
12 occupations as defined in the paragraphs below, and instead, the
13 determination of employee or independent contractor status for
14 individuals in those occupations shall be governed by *Borello*.

15 (1) A person or organization who is licensed by the Department
16 of Insurance pursuant to Chapter 5 (commencing with Section
17 1621), Chapter 6 (commencing with Section 1760), or Chapter 8
18 (commencing with Section 1831) of Part 2 of Division 1 of the
19 Insurance Code.

20 (2) A physician and surgeon, dentist, podiatrist, psychologist,
21 or veterinarian licensed by the State of California pursuant to
22 Division 2 (commencing with Section 500) of the Business and
23 Professions Code, performing professional or medical services
24 provided to or by a health care entity, including an entity organized
25 as a sole proprietorship, partnership, or professional corporation
26 as defined in Section 13401 of the Corporations Code. Nothing in
27 this subdivision shall apply to the employment settings currently
28 or potentially governed by collective bargaining agreements for
29 the licensees identified in this paragraph.

30 (3) An individual who holds an active license from the State of
31 California and is practicing one of the following recognized
32 professions: lawyer, architect, engineer, private investigator, or
33 accountant.

34 (4) A securities broker-dealer or investment adviser or their
35 agents and representatives that ~~are registered with~~ *are either of the*
36 *following*:

37 (A) *Registered with* the Securities and Exchange Commission
38 *or the Financial Industry Regulatory Authority* ~~or licensed by~~
39 *Authority*.

1 (B) *Licensed by* the State of California under Chapter 2
2 (commencing with Section 25210) or Chapter 3 (commencing with
3 Section 25230) of Division 1 of Part 3 of Title 4 of the
4 Corporations Code.

5 (5) A direct sales salesperson as described in Section 650 of the
6 Unemployment Insurance Code, so long as the conditions for
7 exclusion from employment under that section are met.

8 (6) A commercial fisherman working on an American vessel
9 as defined in subparagraph (A) below.

10 (A) For the purposes of this paragraph:

11 (i) “American vessel” has the same meaning as defined in
12 Section 125.5 of the Unemployment Insurance Code.

13 (ii) “Commercial fisherman” means a person who has a valid,
14 unrevoked commercial fishing license issued pursuant to Article
15 3 (commencing with Section 7850) of Chapter 1 of Part 3 of
16 Division 6 of the Fish and Game Code.

17 (iii) “Working on an American vessel” means the taking or the
18 attempt to take fish, shellfish, or other fishery resources of the state
19 by any means, and includes each individual aboard an American
20 vessel operated for fishing purposes who participates directly or
21 indirectly in the taking of these raw fishery products, including
22 maintaining the vessel or equipment used aboard the vessel.
23 However, “working on an American vessel” does not apply to
24 anyone aboard a licensed commercial fishing vessel as a visitor
25 or guest who does not directly or indirectly participate in the taking.

26 (B) For the purposes of this paragraph, a commercial fisherman
27 working on an American vessel is eligible for unemployment
28 insurance benefits if they meet the definition of “employment” in
29 Section 609 of the Unemployment Insurance Code and are
30 otherwise eligible for those benefits pursuant to the provisions of
31 the Unemployment Insurance Code.

32 (C) (i) On or before March 1, 2021, and each March 1
33 thereafter, the Employment Development Department shall issue
34 an annual report to the Legislature on the use of unemployment
35 insurance in the commercial fishing industry. This report shall
36 include, but not be limited to, ~~reporting~~ *all of the following*:

37 (I) *Reporting* the number of commercial fishermen who apply
38 for unemployment insurance ~~benefits~~, *the benefits*.

39 (II) *The* number of commercial fishermen who have their claims
40 ~~disputed~~, *the number disputed*.

1 (III) *The number of commercial fishermen who have their*
2 *claims denied, and the denied.*

3 (IV) *The number of commercial fishermen who receive*
4 *unemployment insurance benefits. The*

5 (ii) *The report required by this subparagraph shall be submitted*
6 *in compliance with Section 9795 of the Government Code.*

7 (D) This paragraph shall become inoperative on January 1, 2023,
8 unless extended by the Legislature.

9 (7) A newspaper distributor working under contract with a
10 newspaper publisher, as defined in subparagraph (A), and a
11 newspaper carrier working under contract either with a newspaper
12 publisher or a newspaper distributor.

13 (A) For purposes of this paragraph:

14 (i) “Newspaper” means a newspaper of general circulation, as
15 defined in Section 6000 of the Government Code, and any other
16 publication circulated to the community in general as an extension
17 of or substitute for that newspaper’s own publication, whether that
18 publication be designated a “shoppers’ guide,” as a zoned edition,
19 or otherwise.

20 (ii) “Publisher” means the natural or corporate person that
21 manages the newspaper’s business operations, including
22 circulation.

23 (iii) “Newspaper distributor” means a person or entity that
24 contracts with a publisher to distribute newspapers to the
25 community.

26 (iv) “Carrier” means a person who effects physical delivery of
27 the newspaper to the customer or reader.

28 (B) This paragraph shall become inoperative on January 1, 2021,
29 unless extended by the Legislature.

30 (8) (A) *A small business.*

31 (B) *For purposes of this paragraph, “small business” means a*
32 *business that meets all of the following:*

33 (i) *Is independently owned and operated.*

34 (ii) *Is not dominant in its field of operation.*

35 (iii) *Has fewer than 100 employees.*

36 (iv) *Has average gross receipts of fifteen million dollars*
37 *(\$15,000,000) or less over the previous three years.*

38 (c) (1) Subdivision (a) and the holding in Dynamex do not
39 apply to a contract for “professional services” as defined below,
40 and instead the determination of whether the individual is an

1 employee or independent contractor shall be governed by Borello
2 if the hiring entity demonstrates that all of the following factors
3 are satisfied:

4 (A) The individual maintains a business location, which may
5 include the individual’s residence, that is separate from the hiring
6 entity. Nothing in this subdivision prohibits an individual from
7 choosing to perform services at the location of the hiring entity.

8 (B) If work is performed more than six months after the effective
9 date of this section, the individual has a business license, in
10 addition to any required professional licenses or permits for the
11 individual to practice in their profession.

12 (C) The individual has the ability to set or negotiate their own
13 rates for the services performed.

14 (D) Outside of project completion dates and reasonable business
15 hours, the individual has the ability to set the individual’s own
16 hours.

17 (E) The individual is customarily engaged in the same type of
18 work performed under contract with another hiring entity or holds
19 themselves out to other potential customers as available to perform
20 the same type of work.

21 (F) The individual customarily and regularly exercises discretion
22 and independent judgment in the performance of the services.

23 (2) For purposes of this subdivision:

24 (A) An “individual” includes an individual providing services
25 through a sole proprietorship or other business entity.

26 (B) “Professional services” means services that meet any of the
27 following:

28 (i) Marketing, provided that the contracted work is original and
29 creative in character and the result of which depends primarily on
30 the invention, imagination, or talent of the employee or work that
31 is an essential part of or necessarily incident to any of the
32 contracted work.

33 (ii) Administrator of human resources, provided that the
34 contracted work is predominantly intellectual and varied in
35 character and is of such character that the output produced or the
36 result accomplished cannot be standardized in relation to a given
37 period of time.

38 (iii) Travel agent services provided by either of the following:
39 (f) a

1 (I) A person regulated by the Attorney General under Article
2 2.6 (commencing with Section 17550) of Chapter 1 of Part 3 of
3 Division 7 of the Business and Professions Code, or (II) an Code.

4 (II) An individual who is a seller of travel within the meaning
5 of subdivision (a) of Section 17550.1 of the Business and
6 Professions Code and who is exempt from the registration under
7 subdivision (g) of Section 17550.20 of the Business and Professions
8 Code.

9 (iv) Graphic design.

10 (v) Grant writer.

11 (vi) Fine artist.

12 (vii) Services provided by an enrolled agent who is licensed by
13 the United States Department of the Treasury to practice before
14 the Internal Revenue Service pursuant to Part 10 of Subtitle A of
15 Title 31 of the Code of Federal Regulations.

16 (viii) Payment processing agent through an independent sales
17 organization.

18 (ix) (I) Services provided by a still photographer or
19 photojournalist who ~~do~~ does not license content submissions to
20 the putative employer more than 35 times per year. This clause is
21 not applicable to an individual who works on motion pictures,
22 which includes, but is not limited to, projects produced for
23 theatrical, television, internet streaming for any device, commercial
24 productions, broadcast news, music videos, and live shows, whether
25 distributed live or recorded for later broadcast, regardless of the
26 distribution platform. ~~For~~

27 (II) For purposes of this ~~clause~~ clause, a “submission” is one
28 or more items or forms of content produced by a still photographer
29 or photojournalist ~~that: (I) pertains that meets all of the following:~~

30 (ia) ~~Pertains to a specific event or specific subject; (II) is~~
31 ~~subject.~~

32 (ib) ~~Is provided for in a contract that defines the scope of the~~
33 ~~work; and (III) is work.~~

34 (ic) ~~Is accepted by and licensed to the publication or stock~~
35 ~~photography company and published or posted. Nothing~~

36 (III) ~~Nothing~~ in this section shall prevent a photographer or
37 artist from displaying their work product for sale.

38 (x) (I) Services provided by a freelance writer, editor, or
39 newspaper cartoonist who does not provide content submissions
40 to the putative employer more than 35 times per year. Items of

1 content produced on a recurring basis related to a general topic
2 shall be considered separate submissions for purposes of calculating
3 the 35 times per year. ~~For~~

4 (II) For purposes of this clause, a “submission” is one or more
5 items or forms of content by a freelance journalist ~~that: (I) pertains~~
6 ~~that meets all of the following:~~

7 (ia) ~~Pertains to a specific event or topic; (II) is topic.~~

8 (ib) ~~Is provided for in a contract that defines the scope of the~~
9 ~~work; (III) is work.~~

10 (ic) ~~Is accepted by the publication or company and published~~
11 ~~or posted for sale.~~

12 (xi) Services provided by a licensed esthetician, licensed
13 electrologist, licensed manicurist, licensed barber, or licensed
14 cosmetologist provided that the individual:

15 (I) Sets their own rates, processes their own payments, and is
16 paid directly by clients.

17 (II) Sets their own hours of work and has sole discretion to
18 decide the number of clients and which clients for whom they will
19 provide services.

20 (III) Has their own book of business and schedules their own
21 appointments.

22 (IV) Maintains their own business license for the services
23 offered to clients.

24 (V) If the individual is performing services at the location of
25 the hiring entity, then the individual issues a Form 1099 to the
26 salon or business owner from which they rent their business space.

27 (VI) This subdivision shall become inoperative, with respect to
28 licensed manicurists, on January 1, 2022.

29 (d) Subdivision (a) and the holding in *Dynamex* do not apply
30 to the following, which are subject to the Business and Professions
31 Code:

32 (1) A real estate licensee licensed by the State of California
33 pursuant to Division 4 (commencing with Section 10000) of the
34 Business and Professions Code, for whom the determination of
35 employee or independent contractor status shall be governed by
36 subdivision (b) of Section 10032 of the Business and Professions
37 Code. If that section is not applicable, then this determination shall
38 be governed as follows: ~~(A) for~~

39 (A) For purposes of unemployment insurance by Section 650
40 of the Unemployment Insurance Code; ~~(B) for Code.~~

1 (B) For purposes of ~~workers~~ workers' compensation by Section
2 3200 et seq.; and (C) for seq.

3 (C) For all other purposes in the Labor Code by Borello. The
4 statutorily imposed duties of a responsible broker under Section
5 10015.1 of the Business and Professions Code are not factors to
6 be considered under the Borello test.

7 (2) A repossession agency licensed pursuant to Section 7500.2
8 of the Business and Professions Code, for whom the determination
9 of employee or independent contractor status shall be governed
10 by Section 7500.2 of the Business and Professions Code, if the
11 repossession agency is free from the control and direction of the
12 hiring person or entity in connection with the performance of the
13 work, both under the contract for the performance of the work and
14 in fact.

15 (e) Subdivision (a) and the holding in *Dynamex* do not apply
16 to a bona fide business-to-business contracting relationship, as
17 defined below, under the following conditions:

18 (1) If a business entity formed as a sole proprietorship,
19 partnership, limited liability company, limited liability partnership,
20 or corporation ("business service provider") contracts to provide
21 services to another such business ("contracting business"), the
22 determination of employee or independent contractor status of the
23 business services provider shall be governed by Borello, if the
24 contracting business demonstrates that all of the following criteria
25 are satisfied:

26 (A) The business service provider is free from the control and
27 direction of the contracting business entity in connection with the
28 performance of the work, both under the contract for the
29 performance of the work and in fact.

30 (B) The business service provider is providing services directly
31 to the contracting business rather than to customers of the
32 contracting business.

33 (C) The contract with the business service provider is in writing.

34 (D) If the work is performed in a jurisdiction that requires the
35 business service provider to have a business license or business
36 tax registration, the business service provider has the required
37 business license or business tax registration.

38 (E) The business service provider maintains a business location
39 that is separate from the business or work location of the
40 contracting business.

1 (F) The business service provider is customarily engaged in an
2 independently established business of the same nature as that
3 involved in the work performed.

4 (G) The business service provider actually contracts with other
5 businesses to provide the same or similar services and maintains
6 a clientele without restrictions from the hiring entity.

7 (H) The business service provider advertises and holds itself
8 out to the public as available to provide the same or similar
9 services.

10 (I) The business service provider provides its own tools,
11 vehicles, and equipment to perform the services.

12 (J) The business service provider can negotiate its own rates.

13 (K) Consistent with the nature of the work, the business service
14 provider can set its own hours and location of work.

15 (L) The business service provider is not performing the type of
16 work for which a license from the ~~Contractor's~~ *Contractors'* State
17 License Board is required, pursuant to Chapter 9 (commencing
18 with Section 7000) of Division 3 of the Business and Professions
19 Code.

20 (2) This subdivision does not apply to an individual worker, as
21 opposed to a business entity, who performs labor or services for
22 a contracting business.

23 (3) The determination of whether an individual working for a
24 business service provider is an employee or independent contractor
25 of the business service provider is governed by paragraph (1) of
26 subdivision (a).

27 (4) This subdivision does not alter or supersede any existing
28 rights under Section 2810.3.

29 (f) Subdivision (a) and the holding in *Dynamex* do not apply to
30 the relationship between a contractor and an individual performing
31 work pursuant to a subcontract in the construction industry, and
32 instead the determination of whether the individual is an employee
33 of the contractor shall be governed by Section 2750.5 and by
34 *Borello*, if the contractor demonstrates that all the following criteria
35 are satisfied:

36 (1) The subcontract is in writing.

37 (2) The subcontractor is licensed by the ~~Contractors~~ *Contractors'*
38 State License Board and the work is within the scope of that
39 license.

1 (3) If the subcontractor is domiciled in a jurisdiction that requires
2 the subcontractor to have a business license or business tax
3 registration, the subcontractor has the required business license or
4 business tax registration.

5 (4) The subcontractor maintains a business location that is
6 separate from the business or work location of the contractor.

7 (5) The subcontractor has the authority to hire and to fire other
8 persons to provide or to assist in providing the services.

9 (6) The subcontractor assumes financial responsibility for errors
10 or omissions in labor or services as evidenced by insurance, legally
11 authorized indemnity obligations, performance bonds, or warranties
12 relating to the labor or services being provided.

13 (7) The subcontractor is customarily engaged in an
14 independently established business of the same nature as that
15 involved in the work performed.

16 (8) (A) Paragraph (2) shall not apply to a subcontractor
17 providing construction trucking services for which a contractor's
18 license is not required by Chapter 9 (commencing with Section
19 7000) of Division 3 of the Business and Professions Code, provided
20 that all of the following criteria are satisfied:

21 (i) The subcontractor is a business entity formed as a sole
22 proprietorship, partnership, limited liability company, limited
23 liability partnership, or corporation.

24 (ii) For work performed after January 1, 2020, the subcontractor
25 is registered with the Department of Industrial Relations as a public
26 works contractor pursuant to Section 1725.5, regardless of whether
27 the subcontract involves public work.

28 (iii) The subcontractor utilizes its own employees to perform
29 the construction trucking services, unless the subcontractor is a
30 sole proprietor who operates their own truck to perform the entire
31 subcontract and holds a valid motor carrier permit issued by the
32 Department of Motor Vehicles.

33 (iv) The subcontractor negotiates and contracts with, and is
34 compensated directly by, the licensed contractor.

35 (B) For work performed after January 1, 2020, any business
36 entity that provides construction trucking services to a licensed
37 contractor utilizing more than one truck shall be deemed the
38 employer for all drivers of those trucks.

39 (C) For purposes of this paragraph, "construction trucking
40 services" mean hauling and trucking services provided in the

1 construction industry pursuant to a contract with a licensed
2 contractor utilizing vehicles that require a commercial driver’s
3 license to operate or have a gross vehicle weight rating of 26,001
4 or more pounds.

5 (D) This paragraph shall only apply to work performed before
6 January 1, 2022.

7 (E) Nothing in this paragraph prohibits an individual who owns
8 their truck from working as an employee of a trucking company
9 and utilizing that truck in the scope of that employment. An
10 individual employee providing their own truck for use by an
11 employer trucking company shall be reimbursed by the trucking
12 company for the reasonable expense incurred for the use of the
13 ~~employee-owned~~ *employee-owned* truck.

14 (g) Subdivision (a) and the holding in *Dynamex* do not apply
15 to the relationship between a referral agency and a service provider,
16 as defined below, under the following conditions:

17 (1) If a business entity formed as a sole proprietor, partnership,
18 limited liability company, limited liability partnership, or
19 corporation (“service provider”) provides services to clients through
20 a referral agency, the determination *of* whether the service provider
21 is an employee of the referral agency shall be governed by *Borello*,
22 if the referral agency demonstrates that all of the following criteria
23 are satisfied:

24 (A) The service provider is free from the control and direction
25 of the referral agency in connection with the performance of the
26 work for the client, both as a matter of contract and in fact.

27 (B) If the work for the client is performed in a jurisdiction that
28 requires the service provider to have a business license or business
29 tax registration, the service provider has the required business
30 license or business tax registration.

31 (C) If the work for the client requires the service provider to
32 hold a state contractor’s license pursuant to Chapter 9 (commencing
33 with Section 7000) of Division 3 of the Business and Professions
34 Code, the service provider has the required contractor’s license.

35 (D) The service provider delivers services to the client under
36 *the* service provider’s name, rather than under the name of the
37 referral agency.

38 (E) The service provider provides its own tools and supplies to
39 perform the services.

1 (F) The service provider is customarily engaged in an
2 independently established business of the same nature as that
3 involved in the work performed for the client.

4 (G) The service provider maintains a clientele without any
5 restrictions from the referral agency and the service provider is
6 free to seek work elsewhere, including through a competing agency.

7 (H) The service provider sets its own hours and terms of work
8 and is free to accept or reject clients and contracts.

9 (I) The service provider sets its own rates for services performed,
10 without deduction by the referral agency.

11 (J) The service provider is not penalized in any form for
12 rejecting clients or contracts. This subparagraph does not apply if
13 the service provider accepts a client or contract and then fails to
14 fulfill any of its contractual obligations.

15 (2) For purposes of this subdivision, the following definitions
16 apply:

17 (A) “Animal services” means services related to daytime and
18 nighttime pet care including pet boarding under Section 122380
19 of the Health and Safety Code.

20 (B) “Client” means a person or business that engages a service
21 contractor through a referral agency.

22 (C) “Referral agency” is a business that connects clients with
23 service providers that provide graphic design, photography,
24 tutoring, event planning, minor home repair, moving, home
25 cleaning, errands, furniture assembly, animal services, dog walking,
26 dog grooming, web design, picture hanging, pool cleaning, or yard
27 cleanup.

28 (D) “Referral agency contract” is the agency’s contract with
29 clients and service contractors governing the use of its intermediary
30 services described in subparagraph (C).

31 (E) “Service provider” means a person or business who agrees
32 to the referral agency’s contract and uses the referral agency to
33 connect with clients.

34 (F) “Tutor” means a person who develops and teaches their own
35 curriculum. A “tutor” does not include a person who teaches a
36 curriculum created by a public school or who contracts with a
37 public school through a referral company for purposes of teaching
38 students of a public school.

39 (3) This subdivision does not apply to an individual worker, as
40 opposed to a business entity, who performs services for a client

1 through a referral agency. The determination *of* whether such an
 2 individual is an employee of a referral agency is governed by
 3 subdivision (a).

4 (h) Subdivision (a) and the holding in *Dynamex* do not apply
 5 to the relationship between a motor club holding a certificate of
 6 authority issued pursuant to Chapter 2 (commencing with Section
 7 12160) of Part 5 of Division 2 of the Insurance Code and an
 8 individual performing services pursuant to a contract between the
 9 motor club and a third party to provide motor club services utilizing
 10 the employees and vehicles of the third party and, instead, the
 11 determination *of* whether such an individual is an employee of the
 12 motor club shall be governed by *Borello*, if the motor club
 13 demonstrates that the third party is a separate and independent
 14 business from the motor club.

15 (i) ~~(1) The addition of subdivision (a) to this section of the~~
 16 ~~Labor Code by this act~~ *Subdivision (a)* does not constitute a change
 17 in, but is declaratory of, existing law with regard to wage orders
 18 of the Industrial Welfare Commission and violations of ~~the Labor~~
 19 ~~Code~~ *this code* relating to wage orders.

20 (2) Insofar as the application of subdivisions (b), (c), (d), (e),
 21 (f), (g), and (h) ~~of this section~~ would relieve an employer from
 22 liability, those subdivisions shall apply retroactively to existing
 23 claims and actions to the maximum extent permitted by law.

24 (3) Except as provided in paragraphs (1) and ~~(2) of this~~
 25 ~~subdivision, the provisions of (2), this section of the Labor Code~~
 26 shall apply to work performed on or after January 1, 2020.

27 (j) In addition to any other remedies available, an action for
 28 injunctive relief to prevent the continued misclassification of
 29 employees as independent contractors may be prosecuted against
 30 the putative employer in a court of competent jurisdiction by the
 31 Attorney General or by a city attorney of a city having a population
 32 in excess of 750,000, or by a city attorney in a city and county or,
 33 with the consent of the district attorney, by a city prosecutor in a
 34 city having a full-time city prosecutor in the name of the people
 35 of the State of California upon their own complaint or upon the
 36 complaint of a board, officer, person, corporation, or association.