

AMENDED IN SENATE JUNE 10, 2020
AMENDED IN SENATE MARCH 26, 2020

SENATE BILL

No. 997

Introduced by Senator Borgeas

February 13, 2020

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

LEGISLATIVE COUNSEL'S DIGEST

SB 997, as amended, Borgeas. Worker status: *employees and independent contractors*.

~~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 the Labor Code, the Unemployment Insurance Code, and the wage orders of the Industrial Welfare Commission. Under the ABC test, 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. Existing law charges the Labor Commissioner with the enforcement of labor laws, including worker classification.~~

Existing law, as established in the case of Dynamex Operations W. 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

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 ~~the ABC test described above~~. ~~these provisions.~~ Existing ~~law, instead,~~ *law instead* provides that these exempt relationships are governed by the multifactor test ~~previously established in the case of~~ *adopted in* S. G. Borello & Sons, Inc. v. Department of Industrial Relations (1989) 48 Cal.3d 341.

Existing law provides that the addition of the ABC test to the Labor Code does not constitute a change in, but is declaratory of, existing law with regard to wage orders of the Industrial Welfare Commission and violations of the Labor Code relating to wage orders. Existing law also provides that insofar as the application of the above exemptions would relieve an employer from liability, those provisions apply retroactively to existing claims and actions to the maximum extent permitted by law. Existing law provides that, notwithstanding the above retroactivity language, other provisions of this law apply to work performed on or after January 1, 2020.

This bill would delete the above language providing that the addition of the ABC test to the Labor Code does not constitute a change in, but is declaratory of, existing law. The bill would also ~~revise the above operative language to provide that the bill's provisions apply only to work that was performed on or after the date the Dynamex decision was adopted, May 1, 2018; the holding in Dynamex does not apply to any work performed prior to April 30, 2018.~~

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 is amended to
2 read:

3 2750.3. (a) (1) For purposes of this code and the
4 Unemployment Insurance Code, and for the purposes of wage
5 orders of the Industrial Welfare Commission, a person providing
6 labor or services for remuneration shall be considered an employee
7 rather than an independent contractor unless the hiring entity
8 demonstrates that all of the following conditions are satisfied:

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

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

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

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

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

33 (b) Subdivision (a) and the holding in *Dynamex Operations W.*
34 *v. Superior Court* (2018) 4 Cal.5th 903 (Dynamex) do not apply
35 to the following occupations as defined in the paragraphs below,
36 and instead, the determination of employee or independent
37 contractor status for individuals in those occupations shall be
38 governed by Borello.

1 (1) A person or organization who is licensed by the Department
2 of Insurance pursuant to Chapter 5 (commencing with Section
3 1621), Chapter 6 (commencing with Section 1760), or Chapter 8
4 (commencing with Section 1831) of Part 2 of Division 1 of the
5 Insurance Code.

6 (2) A physician and surgeon, dentist, podiatrist, psychologist,
7 or veterinarian licensed by the State of California pursuant to
8 Division 2 (commencing with Section 500) of the Business and
9 Professions Code, performing professional or medical services
10 provided to or by a health care entity, including an entity organized
11 as a sole proprietorship, partnership, or professional corporation
12 as defined in Section 13401 of the Corporations Code. Nothing in
13 this subdivision shall apply to the employment settings currently
14 or potentially governed by collective bargaining agreements for
15 the licensees identified in this paragraph.

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

20 (4) A securities broker-dealer or investment adviser or their
21 agents and representatives that are either of the following:

22 (A) Registered with the Securities and Exchange Commission
23 or the Financial Industry Regulatory Authority.

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

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

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

33 (A) For the purposes of this paragraph:

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

36 (ii) “Commercial fisherman” means a person who has a valid,
37 unrevoked commercial fishing license issued pursuant to Article
38 3 (commencing with Section 7850) of Chapter 1 of Part 3 of
39 Division 6 of the Fish and Game Code.

1 (iii) “Working on an American vessel” means the taking or the
2 attempt to take fish, shellfish, or other fishery resources of the state
3 by any means, and includes each individual aboard an American
4 vessel operated for fishing purposes who participates directly or
5 indirectly in the taking of these raw fishery products, including
6 maintaining the vessel or equipment used aboard the vessel.
7 However, “working on an American vessel” does not apply to
8 anyone aboard a licensed commercial fishing vessel as a visitor
9 or guest who does not directly or indirectly participate in the taking.

10 (B) For the purposes of this paragraph, a commercial fisherman
11 working on an American vessel is eligible for unemployment
12 insurance benefits if they meet the definition of “employment” in
13 Section 609 of the Unemployment Insurance Code and are
14 otherwise eligible for those benefits pursuant to the provisions of
15 the Unemployment Insurance Code.

16 (C) (i) On or before March 1, 2021, and each March 1
17 thereafter, the Employment Development Department shall issue
18 an annual report to the Legislature on the use of unemployment
19 insurance in the commercial fishing industry. This report shall
20 include, but not be limited to, all of the following:

21 (I) Reporting the number of commercial fishermen who apply
22 for unemployment insurance benefits.

23 (II) The number of commercial fishermen who have their claims
24 disputed.

25 (III) The number of commercial fishermen who have their claims
26 denied.

27 (IV) The number of commercial fishermen who receive
28 unemployment insurance benefits.

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

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

33 (7) A newspaper distributor working under contract with a
34 newspaper publisher, as defined in subparagraph (A), and a
35 newspaper carrier working under contract either with a newspaper
36 publisher or newspaper distributor.

37 (A) For purposes of this paragraph:

38 (i) “Newspaper” means a newspaper of general circulation, as
39 defined in Section 6000 of the Government Code, and any other
40 publication circulated to the community in general as an extension

1 of or substitute for that newspaper’s own publication, whether that
2 publication be designated a “shoppers’ guide,” as a zoned edition,
3 or otherwise.

4 (ii) “Publisher” means the natural or corporate person that
5 manages the newspaper’s business operations, including
6 circulation.

7 (iii) “Newspaper distributor” means a person or entity that
8 contracts with a publisher to distribute newspapers to the
9 community.

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

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

14 (c) (1) Subdivision (a) and the holding in *Dynamex* do not
15 apply to a contract for “professional services” as defined below,
16 and instead the determination of whether the individual is an
17 employee or independent contractor shall be governed by *Borello*
18 if the hiring entity demonstrates that all of the following factors
19 are satisfied:

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

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

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

30 (D) Outside of project completion dates and reasonable business
31 hours, the individual has the ability to set the individual’s own
32 hours.

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

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

39 (2) For purposes of this subdivision:

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

3 (B) “Professional services” means services that meet any of the
4 following:

5 (i) Marketing, provided that the contracted work is original and
6 creative in character and the result of which depends primarily on
7 the invention, imagination, or talent of the employee or work that
8 is an essential part of or necessarily incident to any of the
9 contracted work.

10 (ii) Administrator of human resources, provided that the
11 contracted work is predominantly intellectual and varied in
12 character and is of such character that the output produced or the
13 result accomplished cannot be standardized in relation to a given
14 period of time.

15 (iii) Travel agent services provided by either of the following:

16 (I) A person regulated by the Attorney General under Article
17 2.6 (commencing with Section 17550) of Chapter 1 of Part 3 of
18 Division 7 of the Business and Professions Code.

19 (II) An individual who is a seller of travel within the meaning
20 of subdivision (a) of Section 17550.1 of the Business and
21 Professions Code and who is exempt from the registration under
22 subdivision (g) of Section 17550.20 of the Business and Professions
23 Code.

24 (iv) Graphic design.

25 (v) Grant writer.

26 (vi) Fine artist.

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

31 (viii) Payment processing agent through an independent sales
32 organization.

33 (ix) (I) Services provided by a still photographer or
34 photojournalist who does not license content submissions to the
35 putative employer more than 35 times per year. This clause is not
36 applicable to an individual who works on motion pictures, which
37 includes, but is not limited to, projects produced for theatrical,
38 television, internet streaming for any device, commercial
39 productions, broadcast news, music videos, and live shows, whether

1 distributed live or recorded for later broadcast, regardless of the
2 distribution platform.

3 (II) For purposes of this clause, a “submission” is one or more
4 items or forms of content produced by a still photographer or
5 photojournalist that meets all of the following:

6 (ia) Pertains to a specific event or specific subject.

7 (ib) Is provided for in a contract that defines the scope of the
8 work.

9 (ic) Is accepted by and licensed to the publication or stock
10 photography company and published or posted.

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

13 (x) (I) Services provided by a freelance writer, editor, or
14 newspaper cartoonist who does not provide content submissions
15 to the putative employer more than 35 times per year. Items of
16 content produced on a recurring basis related to a general topic
17 shall be considered separate submissions for purposes of calculating
18 the 35 times per year.

19 (II) For purposes of this clause, a “submission” is one or more
20 items or forms of content by a freelance journalist that meets all
21 of the following:

22 (ia) Pertains to a specific event or topic.

23 (ib) Is provided for in a contract that defines the scope of the
24 work.

25 (ic) Is accepted by the publication or company and published
26 or posted for sale.

27 (xi) Services provided by a licensed esthetician, licensed
28 electrologist, licensed manicurist, licensed barber, or licensed
29 cosmetologist provided that the individual:

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

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

35 (III) Has their own book of business and schedules their own
36 appointments.

37 (IV) Maintains their own business license for the services
38 offered to clients.

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

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

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

9 (1) A real estate licensee licensed by the State of California
10 pursuant to Division 4 (commencing with Section 10000) of the
11 Business and Professions Code, for whom the determination of
12 employee or independent contractor status shall be governed by
13 subdivision (b) of Section 10032 of the Business and Professions
14 Code. If that section is not applicable, then this determination shall
15 be governed as follows:

16 (A) For purposes of unemployment insurance by Section 650
17 of the Unemployment Insurance Code.

18 (B) For purposes of workers' compensation by Section 3200 et
19 seq.

20 (C) For all other purposes in the Labor Code by Borello. The
21 statutorily imposed duties of a responsible broker under Section
22 10015.1 of the Business and Professions Code are not factors to
23 be considered under the Borello test.

24 (2) A repossession agency licensed pursuant to Section 7500.2
25 of the Business and Professions Code, for whom the determination
26 of employee or independent contractor status shall be governed
27 by Section 7500.2 of the Business and Professions Code, if the
28 repossession agency is free from the control and direction of the
29 hiring person or entity in connection with the performance of the
30 work, both under the contract for the performance of the work and
31 in fact.

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

35 (1) If a business entity formed as a sole proprietorship,
36 partnership, limited liability company, limited liability partnership,
37 or corporation ("business service provider") contracts to provide
38 services to another such business ("contracting business"), the
39 determination of employee or independent contractor status of the
40 business services provider shall be governed by Borello, if the

1 contracting business demonstrates that all of the following criteria
2 are satisfied:

3 (A) The business service provider is free from the control and
4 direction of the contracting business entity in connection with the
5 performance of the work, both under the contract for the
6 performance of the work and in fact.

7 (B) The business service provider is providing services directly
8 to the contracting business rather than to customers of the
9 contracting business.

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

11 (D) If the work is performed in a jurisdiction that requires the
12 business service provider to have a business license or business
13 tax registration, the business service provider has the required
14 business license or business tax registration.

15 (E) The business service provider maintains a business location
16 that is separate from the business or work location of the
17 contracting business.

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

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

24 (H) The business service provider advertises and holds itself
25 out to the public as available to provide the same or similar
26 services.

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

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

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

32 (L) The business service provider is not performing the type of
33 work for which a license from the Contractors' State License Board
34 is required, pursuant to Chapter 9 (commencing with Section 7000)
35 of Division 3 of the Business and Professions Code.

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

39 (3) The determination of whether an individual working for a
40 business service provider is an employee or independent contractor

1 of the business service provider is governed by paragraph (1) of
2 subdivision (a).

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

5 (f) Subdivision (a) and the holding in *Dynamex* do not apply to
6 the relationship between a contractor and an individual performing
7 work pursuant to a subcontract in the construction industry, and
8 instead the determination of whether the individual is an employee
9 of the contractor shall be governed by Section 2750.5 and by
10 *Borello*, if the contractor demonstrates that all the following criteria
11 are satisfied:

12 (1) The subcontract is in writing.

13 (2) The subcontractor is licensed by the Contractors' State
14 License Board and the work is within the scope of that license.

15 (3) If the subcontractor is domiciled in a jurisdiction that requires
16 the subcontractor to have a business license or business tax
17 registration, the subcontractor has the required business license or
18 business tax registration.

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

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

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

27 (7) The subcontractor is customarily engaged in an
28 independently established business of the same nature as that
29 involved in the work performed.

30 (8) (A) Paragraph (2) shall not apply to a subcontractor
31 providing construction trucking services for which a contractor's
32 license is not required by Chapter 9 (commencing with Section
33 7000) of Division 3 of the Business and Professions Code, provided
34 that all of the following criteria are satisfied:

35 (i) The subcontractor is a business entity formed as a sole
36 proprietorship, partnership, limited liability company, limited
37 liability partnership, or corporation.

38 (ii) For work performed after January 1, 2020, the subcontractor
39 is registered with the Department of Industrial Relations as a public

1 works contractor pursuant to Section 1725.5, regardless of whether
2 the subcontract involves public work.

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

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

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

14 (C) For purposes of this paragraph, “construction trucking
15 services” mean hauling and trucking services provided in the
16 construction industry pursuant to a contract with a licensed
17 contractor utilizing vehicles that require a commercial driver’s
18 license to operate or have a gross vehicle weight rating of 26,001
19 or more pounds.

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

22 (E) Nothing in this paragraph prohibits an individual who owns
23 their truck from working as an employee of a trucking company
24 and utilizing that truck in the scope of that employment. An
25 individual employee providing their own truck for use by an
26 employer trucking company shall be reimbursed by the trucking
27 company for the reasonable expense incurred for the use of the
28 employee-owned truck.

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

32 (1) If a business entity formed as a sole proprietor, partnership,
33 limited liability company, limited liability partnership, or
34 corporation (“service provider”) provides services to clients through
35 a referral agency, the determination of whether the service provider
36 is an employee of the referral agency shall be governed by *Borello*,
37 if the referral agency demonstrates that all of the following criteria
38 are satisfied:

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

4 (B) If the work for the client is performed in a jurisdiction that
5 requires the service provider to have a business license or business
6 tax registration, the service provider has the required business
7 license or business tax registration.

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

12 (D) The service provider delivers services to the client under
13 the service provider’s name, rather than under the name of the
14 referral agency.

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

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

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

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

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

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

31 (2) For purposes of this subdivision, the following definitions
32 apply:

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

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

38 (C) “Referral agency” is a business that connects clients with
39 service providers that provide graphic design, photography,
40 tutoring, event planning, minor home repair, moving, home

1 cleaning, errands, furniture assembly, animal services, dog walking,
2 dog grooming, web design, picture hanging, pool cleaning, or yard
3 cleanup.

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

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

10 (F) “Tutor” means a person who develops and teaches their own
11 curriculum. A “tutor” does not include a person who teaches a
12 curriculum created by a public school or who contracts with a
13 public school through a referral company for purposes of teaching
14 students of a public school.

15 (3) This subdivision does not apply to an individual worker, as
16 opposed to a business entity, who performs services for a client
17 through a referral agency. The determination of whether such an
18 individual is an employee of a referral agency is governed by
19 subdivision (a).

20 (h) Subdivision (a) and the holding in *Dynamex* do not apply
21 to the relationship between a motor club holding a certificate of
22 authority issued pursuant to Chapter 2 (commencing with Section
23 12160) of Part 5 of Division 2 of the Insurance Code and an
24 individual performing services pursuant to a contract between the
25 motor club and a third party to provide motor club services utilizing
26 the employees and vehicles of the third party and, instead, the
27 determination of whether such an individual is an employee of the
28 motor club shall be governed by *Borello*, if the motor club
29 demonstrates that the third party is a separate and independent
30 business from the motor club.

31 ~~(i) (1) The provisions of this section shall apply only to work
32 that was performed on or after the *Dynamex* decision was adopted
33 on May 1, 2018.~~

34 ~~(2)~~

35 (i) (1) Insofar as the application of subdivisions (b), (c), (d),
36 (e), (f), (g), and (h) would relieve an employer from liability, those
37 subdivisions shall apply retroactively to existing claims and actions
38 to the maximum extent permitted by law.

39 (2) *Except as provided in paragraph (1), this section shall only*
40 *apply to work performed on or after January 1, 2020.*

1 (j) *The holding in Dynamex does not apply to any work*
2 *performed prior to April 30, 2018.*

3 (j)

4 (k) In addition to any other remedies available, an action for
5 injunctive relief to prevent the continued misclassification of
6 employees as independent contractors may be prosecuted against
7 the putative employer in a court of competent jurisdiction by the
8 Attorney General or by a city attorney of a city having a population
9 in excess of 750,000, or by a city attorney in a city and county or,
10 with the consent of the district attorney, by a city prosecutor in a
11 city having a full-time city prosecutor in the name of the people
12 of the State of California upon their own complaint or upon the
13 complaint of a board, officer, person, corporation, or association.

O