



IA Testimony - NYS Senate Gig Economy Hearing

Good morning/afternoon and thank you to Chair Savino and members of the Senate Internet and Technology committee for allowing Internet Association to provide testimony on proposed legislation regarding the on-demand economy in New York State. My name is John Olsen, and I am the Director of State Government Affairs in the Northeast Region for IA.

IA's mission is to foster innovation, promote economic growth, and empower people through the free and open internet. The internet creates unprecedented benefits for society, and as the voice of the world's leading internet companies, we ensure stakeholders understand these benefits.

Recently industry has observed lawmakers in other states attempt to classify workers in one of two traditional categories, either as employees or independent contractors. In California, Governor Newsom signed into law a bill that creates a simple, but overly expansive, test through which companies must assess whether they are using employees or independent contractors. The so-called "ABC" test creates a standard that even California recognized is unworkable for vast sectors of the economy. There is a need to examine the whole diverse industry to avoid the push for dozens of exemptions that occurred in California before passage of the bill and to construct smart and balanced regulations informed by data, but reflective of these modern forms of work.

As we saw earlier this year, legislation was introduced to create a new definition in New York State Labor Law for "dependent worker." As defined, this provision:

- creates an entirely new category of worker classification, but one that has no precedent in US law;
- utilizes broad criteria to determine who may be included in this category;
- includes the language "collects payment from the consumer; pays the individual" that could capture other entities such as payment processors; and
- does not yet offer a study performed on the economic impact of this bill for New York, an impact which could have unintended consequences for the people who currently operate as independent contractors, benefit from the services they perform, or grow their small businesses in partnership with these contractors.

While this bill as drafted raised significant concerns, IA believes there are amendments to the bill that could make it a workable model for balancing worker flexibility with historic working benefits that increases the pool of protected workers in New York, all



while avoiding the pitfalls of legislation that codifies an ABC test. It is important to remember that New York State is diverse. State leaders should understand that New York City is different from the suburbs, which are different from cities like Syracuse and Albany, which are different from rural areas in western New York and the North country. The model that New York ultimately adopts for the gig economy needs to be adaptable enough to work throughout the state.

Thanks to technology and the internet, an increasing number of New Yorkers can find flexible, independent work opportunities. The flexibility and variety this new type of work affords is cited as the main reason workers choose to participate in the so called “gig” economy. From dog walking to driving, many residents of this state have chosen to supplement their income with side work they find through the internet. Others earn a living by performing their trade for an expanded customer base using internet platforms. Small businesses throughout the state are able to thrive in the digital era by partnering with technology platforms like those we represent, bringing greater economic activity to our cities and towns. In many ways, the gig economy has helped create more opportunities to generate income for a younger generation struggling to pay off debts or live independently in a challenging job market. At its foundation, the gig economy is about removing barriers and allowing individuals to more efficiently utilize their time, earn income from their passions and hobbies, and better utilize assets or liabilities as a source of income.

The range of platforms today makes it nearly impossible to concisely define the gig economy, which includes the sharing economy, freelancers, salon workers, delivery services, tradesman, etc. While workers on some platforms may stand to benefit from a more structured employment model, many choose the independent contractor model to fit their preferred work and life schedules. IA urges the legislature to consider the impacts of legislation requiring more workers to be classified as employees and how this removes the flexibility to work across multiple platforms, set their own hours, and decide when and if they want to perform a certain task.

New York State government will likely debate and decide how to classify gig workers in the upcoming legislative session, and there is an opportunity for New York to be the first state in the nation to plant a flag that allows gig workers to maintain the flexibility they value while also being guaranteed critical protections and benefits. New York can do better than California’s attempt.

New York has already taken major steps in the direction of providing increased benefits to gig workers through the Black Car Fund, which provides such benefits to black car, limousine, and transportation network company drivers. Drivers for Uber, Lyft, livery, and others can maintain their flexibility while also getting benefits like:



- Workers compensation
- Death benefits
- Vision benefits
- Prescription and telemedicine benefits
- Access to wellness programs

It is possible to broaden and strengthen this model to include more gig workers, not just TNC operators.

A third way for New York could take shape in a number of ways, and IA welcomes the opportunity to provide insight into crafting such a model that emphasizes the need to allow gig workers to retain their right to choice and flexibility while also ensuring that those workers get real benefits, earn a living wage, and have a voice in what their future looks like. New York State has an opportunity to do something groundbreaking and come up with a new path that serves as a model for other states or the nation. IA stands ready to help in any way it can to ensure New York provides thoughtful leadership on this important issue.