



Owner-Operator Independent Drivers Association, Inc.

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There continues to be much speculation and misinformation regarding OOIDA's position on AB5, which is California's new law intended to address worker misclassification. While the law applies broadly to dozens of industries in California, in trucking many people believe that AB 5 could potentially end the leased owner-operator model as we know it. It should go without saying that we're concerned about it and ready to take action to fight any negative impact the law might have on our members and the entire trucking industry. We feel it's important to set the record straight regarding our position and related efforts regarding AB 5.

OOIDA does not support AB 5. Contrary to what others might say, we've never told California lawmakers, our members, or anyone else in trucking that we support AB 5.

In 2018, we were proud to support legislation (SB 1402) in California intended to end the practice of lease-purchase agreements in the ports, but we also made it clear that the law shouldn't jeopardize legitimate business arrangements between motor carriers and leased owner-operators. While we were happy to see SB 1402 become public law, clearly state lawmakers didn't get the underlying message. AB 5 is proof of that. While we have considerable influence in Washington, D.C., and various state capitals across the country, California lawmakers have a demonstrated track record of enacting legislation regardless of what others think or what impact their policies will have on businesses.

AB 5 will likely be litigated for years to come, perhaps eventually reaching the U.S. Supreme Court. To the best of our knowledge, California officials have not publicly released any information that provides clarity on how businesses can comply with the law. We've requested clarification from the state, but they can't provide something they apparently don't have – and as we all know, there's usually a significant difference between what a law dictates and how the courts interpret it. This is especially problematic in trucking because of the diverse nature of our industry, and the short window for California businesses to comply with a complicated and controversial law by January 2020.

In the interest of clarity, we want to outline a few guiding principles, which should hopefully address many of the questions we have received:

Q: Does OOIDA support AB 5?

A: No.

Q: Is OOIDA concerned AB 5 will negatively impact leased owner-operators?

A: Yes.

Q: Is OOIDA prepared to pursue legal action against California if the law goes too far?

A: Yes.

Q: Would OOIDA support a legislative exemption for owner-operators with their own authority?

A: Yes. In fact, we're closely examining whether the existing "business to business" exemption in AB 5 has the potential to cover these situations.

Q: Would OOIDA support a legislative exemption for leased owner-operators that own their truck/trailer and have a Title 49 compliant lease agreement with a California-based carrier?

A: Yes.

Q: Would OOIDA support a broad legislative exemption for the entire trucking industry?

A: Yes, but only if the state enacted another law to outlaw lease-purchase agreements statewide.

There is also a lot of uncertainty about the reach of this law. It's unclear if the law applies to an owner-operator who resides outside of California but is leased to a California-based carrier, or an owner-operator who resides in California but is leased to a carrier based outside of California, or even whether or not the law might apply to certain owner-operators with their own authority. In many of these situations we certainly don't see how the law could apply, nor do we think it should. At this time, we, nor anyone else, has the answers to these questions.

We've been fighting for the rights of truckers since 1973 and that will never change. But we also have to be pragmatic in our approach and channel our efforts and resources in a way that will have the most effective impact. Regarding AB 5, at least at present time, that will be in the courts. If California lawmakers don't address our concerns or provide targeted relief, we'll take them to court.

Hopefully this clarifies our position on AB 5. If you have any questions or comments, please contact Mike Matousek, Manager of Government Affairs, at mike_matousek@ooida.com. As always, thank you for your time and support of OOIDA.

Sincerely,

Todd Spencer
President and CEO
OOIDA