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New Legislation a Hiccup for the Gig Economy?

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What do Uber drivers, hair dressers, Amazon delivery drivers and home healthcare workers all have in common? Most of them work as independent contractors, rather than full-time, permanent employees. And most are not covered under an employer's workers' compensation, liability or health insurance policies.

Welcome to the gig economy – a labor market characterized by short-term, independent contract work, instead of permanent jobs. A lot has been written about this emerging workforce in recent years as more and more people make a living by taking on short-term gigs.

But a new law in California is challenging the dynamics of this employer/employee relationship by placing restrictions on how employers can classify workers as independent contractors.

What's behind the gig workforce?

The number of people who are considered independent contractors has risen in the United States, although it's difficult to pinpoint by exactly how much. Some studies forecast that as much as 40 percent of the American workforce will be made up of independent contractors by 2020. Statistics from the Labor Department downplay the prevalence of freelancers. It estimates that 10 percent of the U.S. workforce is made up of independent contractors. Other surveys like NPR/Marist place that number at 20 percent by including the number of people who supplement permanent jobs with freelance work.

Companies use independent contractors because it costs them less and mitigates risk. Especially in cities that tend to have laws geared toward employee rights, businesses opt to pay higher hourly rates to independent contractors, rather than taking on the financial burden and risk of workers' compensation and employee liability.

In jobs with high rates of injury, such as transportation and warehouse operations, businesses must manage the risk paying large lost-wage and indemnity claims. In the gig economy, however, businesses can protect themselves by ensuring that they hire workers under independent contractor status

Whether the gig economy is beneficial to workers is up for debate. While they can charge higher rates for doing the same work, they lose out on critical benefits like workers' comp. If they're injured on the job, then their options are either to use their own health insurance to cover medical bills, or to file a lawsuit which is costly and time-consuming.

A new law might change all that

But new legislation passed this year in California is making it harder for companies to hire independent contractors across the state. The California Employment Law Update, passed in April 2018 limits the definition of an independent contractor. As a result, more workers will need to be classified as employees and will then need to be covered under workers' comp policies.

The new law will have a big impact on the transportation industry because most delivery drivers operate as self-employed owner/operators. Even companies like FedEx often use independent contractors in the "last mile" of delivery from warehouse to the final destination.

If these workers need to be hired as employees, the high cost of health insurance and workers' compensation could be passed along to consumers. Conversely, a larger, employer-based workforce could ultimately lead to better health and safety results as companies adopt measures to reduce accidents and improve the overall health of their workers.

As more states adopt tighter restrictions on independent contractor classification, businesses will face rising costs in insurance coverage. While this could cause prices to go up across the board, risk mitigation will have to factor into the changing work force.

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