

DISRUPT INEQUALITY BY DEMANDING FULL RIGHTS AND PROTECTIONS FOR DIGITAL PLATFORM WORKERS

For too long, digital platform companies such as Uber and Lyft have been getting away with denying basic rights and protections to their employees. These rights and protections include the right to organize into a union, a minimum wage, overtime pay, unemployment insurance, workers' compensation, paid sick days, family and medical leave, employer contributions to Social Security and Medicare, and protection from discrimination. This is wrong, and it must stop.

The platform companies have gotten away with this exploitation by maintaining the fiction that their workers are running their own independent businesses. This is absurd.

A 2018 decision by the California Supreme Court offers an exciting path forward. In the *Dynamex* case, the court used a simple test for determining who is an "employee" that makes it much harder for businesses to misclassify their employees as independent contractors. The *Dynamex* test makes clear that most, if not all, digital platform workers are "employees" because they are not running their own independent businesses.

The *Dynamex* test is the gold standard and should serve as a model for other states. A majority of states already use this same test to prevent the misclassification of employees as independent contractors under state unemployment insurance laws, and some use it to prevent misclassification under state minimum wage and overtime laws. The Protecting the Right to Organize (PRO) Act (H.R. 2474/S. 1306) would use this test to prevent misclassification under the National Labor Relations Act.

However, Uber, Lyft and other platform companies have advocated for a "carve-out" from the *Dynamex* test, or for the creation of a new "third category" of worker, so they can continue denying working people some or all of the rights and protections of employees. The digital platform companies would like to codify such carve-outs under state law and then use them as a model to enact the same loopholes in other states or under federal law.

We cannot allow this to happen. In February 2016, the AFL-CIO Executive Council called for a crack down on misclassification by digital platform companies and for the rejection of various proposals to deem platform workers as independent contractors or to give platform companies "safe harbors" to misclassify. Today, we reaffirm our opposition to any special carve-outs or exemptions for platform companies to deny workers the rights and protections of employees.

We expect that platform companies will continue to promote state and federal legislation that allows them to deny their workers the rights and protections of employees. When these proposals arise, state federated bodies and central labor councils, working together with local

affiliates, draw support from the national AFL-CIO to ensure a coordinated and integrated approach to state and local legislative policy that furthers our positions at all levels of government.

We cannot allow technology to be used as an excuse to exploit workers. There is nothing new or innovative about businesses coming up with excuses to cheat working people out of the wages, tips and benefits we need and deserve. While platform workers are barely getting by, the CEOs of these companies are becoming billionaires. Now is the time to “disrupt inequality” by standing up for platform workers.

As we look forward to the future of work, the stakes could not be higher for working people and our economy. The way digital platform companies treat their workers will set an example for other companies, especially in new and emerging sectors. If we allow these companies to mistreat and misclassify their employees, others will follow their lead.

We are not condemned to a future of bad jobs with no rights or protections for workers. However, if we want a future of good jobs and rising living standards for all working people, we need to win the debate now. As we said in our 2016 Executive Council statement: “Making the right policy choices [for the future of work] begins with ensuring that the people who work for on-demand companies enjoy the rights and protections of employees.”

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