

NY DIRECT Coalition

Fighting for A Fair Play in Employment Act

Who are we?

The NY Do It Right Employment Classification Test (DIRECT) Coalition is a group of workers, consumers, organizers, advocates and lawyers fighting to pass a Fair Play in Employment Act for New York, a law that could help create a more clear process to determine workers' coverage under state wage and hour and workers compensation laws.

Most workers in our economy are and should be treated as “employees” entitled to the protection of core labor standards, but employers often abuse the independent contractor label to evade responsibility for their workforce. The current tests for determining worker status under New York Law, however, are easily manipulable by employers and inconsistently applied by courts and other decision-makers. The resulting rampant misclassification hurts New Yorkers in nearly every industry from bike messengers and for-hire drivers to app based workers, tutors, nail workers and night club workers. This long standing problem has only been exacerbated by the growth of app-based businesses that call their workers contractors. When employees are misclassified as independent contractors, they are robbed of basic labor standards, including wage and hour protections, health and safety standards, workers compensation, and unemployment insurance. Big companies are trying to carve their workers out of these benefits, making it easier for them to rake in massive profits – all at the expense of local communities, small businesses, publicly funded programs and creates unfair competition for small businesses that are playing by the rules.

This is a problem we know we can fix in New York, if we work together. In fact, New York already has a model that has proven successful for addressing misclassification in the construction and commercial transportation industries: the “ABC” test is a clear and objective test for determining workers' employment status. 26 states use “ABC tests” in unemployment insurance law, providing greater certainty for both workers and employers in those states. We've seen that the law works, now it's time to bring it to ALL New Yorkers!

We are the lead supporters behind a Fair Play in Employment Act for New York. We work to protect workers and increase enforcement through advancing pro-worker policies, engaging with key stakeholders, press and communications, and organizing and mobilization of directly impacted workers.

Coalition Members:



What is a Fair Play in Employment for All Act?

New York needs a more vigorous, preemptive approach to addressing the worker misclassification that's hurting our communities. A Fair Play in Employment for All Act would create a clear and predictable independent contractor test for businesses and workers. The “ABC test” would create a clear definition of an independent contractor as a worker who is:

- A: Free from control and direction in how they operate in their day to day job.
- B: Performing services that are outside an employer's usual course of business.
- C: Engaging in an independent trade, occupation, profession or business, or otherwise meet the factors to be a separate business entity.

Under the Act, only real independent contractors would be treated as such. Workers who don't pass this “ABC test” would be clearly defined as employees and afforded all the basic labor standards of that distinction – wage and hour protections, health and safety standards, workers compensation, and unemployment insurance.

A Fair Play in Employment for All Act would use an already proven model that New York has instituted for misclassification in construction and commercial transport industries. California, Massachusetts, New Jersey, Vermont all use this kind of “ABC” test for wage and hour laws and 26 states use the test in unemployment insurance law. We've seen that the law works, now it's time to bring it to ALL New Yorkers!