

January 25, 2021

To: The Honorable Charles Schumer, Senate Majority Leader
The Honorable Mitch McConnell, Senate Republican Leader
The Honorable Patty Murray, Chair, Senate HELP Committee
The Honorable Richard Burr, Ranking Member, Senate HELP Committee
The Honorable Ron Wyden, Chair, Senate Finance Committee
The Honorable Charles Grassley, Ranking Member, Finance Committee
United States Senate
Washington, D.C. 20510

The Honorable Nancy Pelosi, Speaker of the House of Representatives
The Honorable Kevin McCarthy, House Republican Leader
The Honorable Robert “Bobby” Smith, Chair, Committee on Education and Labor
The Honorable Virginia Foxx, Ranking Member, Committee on Education and Labor
The Honorable Richard Neal, Chair, Committee on Ways and Means
The Honorable Kevin Brady, Ranking Member, Committee on Ways and Means
United States House of Representatives
Washington, D.C. 20515

Dear Members of Congress:

It is time to guarantee that people who work for a company through an app are just as entitled to a living wage and basic employment benefits as all others.

All people deserve protections at work. Our communities thrive when people have the financial stability of a livable wage, the flexibility to stay home when sick without risking financial ruin, and access to unemployment assistance for which their employer has paid its fair share. When people have few rights at work, they have little flexibility for the life they’d like to live.

Yet across the country, millions of workers hired and managed by companies via internet apps, such as Instacart and DoorDash delivery workers, Uber drivers, and Handy home service workers, are deprived of basic labor protections that many of us take for granted. Because their employers insist on unilaterally calling them “independent contractors,” these workers don’t get a minimum wage, overtime pay, workers’ compensation, unemployment, state disability insurance, or access to federal protections from discrimination, including sex harassment. Without these bedrock protections, app-based workers, [72 percent of whom work full time](#), struggle to cobble together a stable living while dealing with often unsafe working conditions in underpaying jobs.

This is not entrepreneurship. It is life on the precipice of devastation.

The “gig economy” is the deliberate destruction of our most basic labor standards—for now, targeting the delivery, transportation, and home care sectors—and it disproportionately impacts workers of color and immigrants. Combined, Black and Latino workers make up less than 29 percent of the nation’s total workforce, but they comprise almost [42 percent of workers](#) for app-based companies. They are underpaid, put in harm’s way on the job, and left to fend for themselves. Facing racist exclusions from stable work, app-based workers of color must endure punishing working conditions locked-in through forced arbitration agreements that forbid collective action—all under a pretense of individual enterprise.

Powerful app-based companies have created this crisis by destroying the lowest floor of acceptable work—even during a public health and economic crisis—and rewriting the rules to exempt themselves when they find the rules bothersome.

On November 3, 2020, after a \$200 million misinformation campaign, companies like Uber, Lyft, and Instacart got their wish: California voters passed Proposition 22, denying certain app-based workers the rights to a guaranteed minimum wage, paid family leave, paid sick leave, overtime pay, and state disability and unemployment insurance.

Already, Uber and Lyft have said they believe this approach—treating their workers as a new, third category of worker, carved out of century-old protections—[can be “replicated” and “scaled.”](#) The [chief executive of Uber](#) has said the company would “more loudly advocate for laws like Prop 22.”

But exclusionary models predicated on Proposition 22 are not the answer. Together, we must ensure that all workers have economic stability, a living wage, and benefits that provide real flexibility.

A “third way” classification for app-based workers cannot offer a solution because it gets the problem wrong. App-based companies are denying their workers the legal rights to which *they already are entitled as employees*. A new worker classification scheme—created by corporations behind some of the most egregious employer abuses in recent history—would be a boon for billionaire CEOs and investors and an outright insult to [workers who demand to be treated fairly](#).

Allowing “gig economy” corporations to carve up our federal laws would dramatically drag down the quality of work for more and more workers, leaving more people with fewer rights. A federal framework for fewer workplace protections would invite all industries to shift their work to an app-based or “gig” model, threatening the security and stability that work should provide all people. Already, we have seen some employers in [health care](#), [retail](#), and [hospitality](#) shift to managing their workers through a digital app, or outsourcing them through temp and staffing firms, to escape basic employer obligations. A new federal classification scheme would break open the dam, incentivizing entire industries to “gig out” jobs that once provided middle-class prosperity.

A proposal to supposedly provide limited benefits to some “independent workers” would threaten our most fundamental understanding of what work ought to provide. A federal “Proposition 22”-like scheme would shunt more and more workers to piecework labor, performing jobs here-and-there with neither individual security nor the possibility of collective action. It would create a new avenue for employers to escape liability for discrimination, which would especially hurt groups who have historically suffered on-the-job discrimination and harassment. Disproportionately, women, Black, Latino, Asian, indigenous, and immigrant workers would be left to fight for the scraps.

The solution is to *expand access to our federal employment protections*, not to create arbitrary partitions that exclude people who work for large corporations through a digital app.

We, the undersigned organizations, call on Congress to ensure that *all* people, whether they work at an office or through an app, may have dignity and safety at work. Rather than inventing an industry-defined category of substandard rights, we need to ensure that all workers can access the benefits and protections of our labor and employment laws.

Together, we must ensure that all workers can live and prosper in a just economy.

Sincerely,

National Employment Law Project
9to5
A Better Balance
AFL-CIO
American Federation of State, County and Municipal Employees
Asian Pacific American Labor Alliance, AFL-CIO
Bend the Arc Jewish Action
Bet Tzedek Legal Services
BlueGreen Alliance
California Immigrant Policy Center
California Rural Legal Assistance Foundation
Center for Popular Democracy
Center for Workers’ Rights
Coalition on Human Needs
Color Of Change
Common Good Iowa
Council on American-Islamic Relations
Demos
Economic Policy Institute
Equal Justice Center
Equal Rights Advocates
Freelancers Union
Future of Work Illinois

Gig Workers Collective
Gig Workers Rising
Indivisible
Interfaith Justice of East Tennessee
International Brotherhood of Teamsters
International, Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW)
Jobs With Justice
Justice at Work (PA)
Kentucky Equal Justice Center
Legal Aid at Work
Legal Aid Justice Center
Legal Aid of Marin
Make the Road New York
Metrowest Worker Center
Michigan Immigrant Rights Center
Mobile Workers Alliance
MomsRising
NAACP
National Employment Lawyers Association
National Equality Action Team (NEAT)
National Immigration Law Center
National Organization for Women
National Partnership for Women & Families
National Women's Law Center
National Writers Union
Nebraska Appleseed Center for Law in the Public Interest
NETWORK Lobby for Catholic Social Justice
New York Taxi Workers Alliance
North Carolina Justice Center
Northwest Workers' Justice Project
Partnership for Working Families
Patriotic Millionaires
People's Parity Project
Philadelphia Drivers Union
Public Citizen
Public Justice Center
Public Rights Project
Rideshare Drivers United
Shriver Center on Poverty Law
South Florida Interfaith Worker Justice
Tech Workers Coalition – NYC
Temp Worker Justice
The Employee Rights Advocacy Institute for Law & Policy
The Legal Aid Society
The People's Lobby

Transport Workers Union of America

UNITE HERE

United Brotherhood of Carpenters & Joiners of America

United Food and Commercial Workers International Union (UFCW)

William E. Morris Institute for Justice (Arizona)

Women Employed

Women's Law Project

Workplace Fairness

Workplace Justice Project at Loyola Law Clinic

Worksafe