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Assembly member supports extended AB 5 waiver for newspaper carriers

By Sora O'Doherty

Assembly Bill 5 was enacted Sept. 18, 2019 by the state legislature in an attempt to protect workers in the "gig economy," such as Lyft and Uber drivers. However, the broad wording of the legislation caught up many other professions, including artists, journalists, and newspaper carriers. As a result of an outcry from many of those professionals, they were temporarily exempted from AB 5, but that exemption is scheduled to expire at the end of 2020.

The publisher of the Lamorinda Weekly, Andy Scheck, appealed to Assembly member Rebecca Bauer-Kahan during her July 31 "Breakfast with your Assemblymember" online event in Lafayette to exempt newspaper carriers from the provisions of AB 5, which regulates independent contractors. The bill's sponsor, Lorena Gonzales, has introduced a cleanup bill, AB 1850, to exempt many of the disputed categories, including writers and editors. However, newspaper carriers have not been included in the bill.

Bauer-Kahan said that she supported extending the exemption for newspaper carriers. She explained that both bills, AB 5 and AB 1850, are responsive to actions of the court and that a recent California Court of Appeals decision, *Martel v. Hearst Communications*, affirmed that newspaper carriers are employees and not independent contractors.

The complex litigation turns on legal matters such as who controls the worker. The *Martel* case was about the *San Francisco Chronicle*, however there are a variety of delivery methods in the industry, according to Scheck. The Lamorinda Weekly is delivered by a business that delivers other newspapers as well. Delivery of the Lamorinda Weekly occurs once a fortnight, so cannot be made into permanent, full-time employment. While much of the newspaper industry is turning to digital, online publication, Scheck believes that many of his readers enjoy receiving the printed paper. Additionally, while revenues may support the digital production of daily papers, such revenues are not available to newspapers that publish less frequently. The California Newspaper Publishers Association has written to Gov. Gavin Newsom seeking at least short-term relief, including extending the existing exemption that allows newspaper carriers to be classified as independent contractors, not employees. In its letter to the governor, the CNPA explained that the current COVID-19 pandemic has hit the newspaper industry hard, and that these economic effects, combined with the increased costs for newspaper delivery will wreak havoc on the industry. Newspapers face an average increase of up to 85% in distribution costs if the legislature does not extend the exemption. This will cripple the news industry and result in the closure of many more papers.

According to Scheck, the decline in newspapers will translate into a decline in the community. "We report on local news and events, information that cannot be found elsewhere. If we are not supported, those services will decline or cease to exist altogether." He agreed with the CNPA position that extending the exemption for newspaper carriers will help newspapers weather the immediate storm of the drop in advertising caused by COVID-19.

CNPA has also suggested that prioritizing California news outlets for state advertising (outreach and education campaigns) will help the industry recover from devastating revenue losses due to COVID-19, further stabilizing the news industry. Newspapers throughout the state have been fighting the inclusion of newspaper carriers within the scope of AB 5.

For information regarding AB 5 and the carrier exemption, visit www.savemypaper.com.

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