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What do carriers think of AB5? They're less decided than you might think

California's AB5 has made for the kind of articles media outlets dream about.

As it's been litigated over the past couple of years, we've seen unions jostle with lobbyists, spirited protests slow commerce (see last month's blockade at the Port of Oakland) and a larger ideological showdown that pits ideals of workers' rights against the flexible labor that gig economy proponents say is a feature, not a bug.

Amid the rancor, a lot of uncertainty still surrounds AB5: uncertainty about what it means and to whom it applies as well as about how it will even be enforced.

Essentially, the bill requires that many companies using independent contractors reclassify those workers as employees, which in the trucking world could have industry-shifting implications.

In a recent survey, FreightWaves asked carriers what they thought about AB5.

We left the survey open from July 21 to Aug. 1, and 171 people completed it. Respondents were not asked to identify themselves or their company.

The survey found that some respondents view the bill as an existential threat to the current way American supply chains function. To others, it's a necessary legislative step to prevent companies from taking advantage of workers.

FreightWaves' National Transportation Index Dry Van Per Mile Line-haul Rates (NTI)

NTI.USA (Inc. Fuel)	\$2.70
NTIL.USA (Exc. Fuel)	\$1.91

FreightWaves' TRAC dry van spot rates

Los Angeles, CA to Dallas, TX	\$2.60
Atlanta, GA to Harrisburg, PA	\$3.07
Chicago, IL to Laredo, TX	\$1.94
Seattle, WA to Denver, CO	\$2.26

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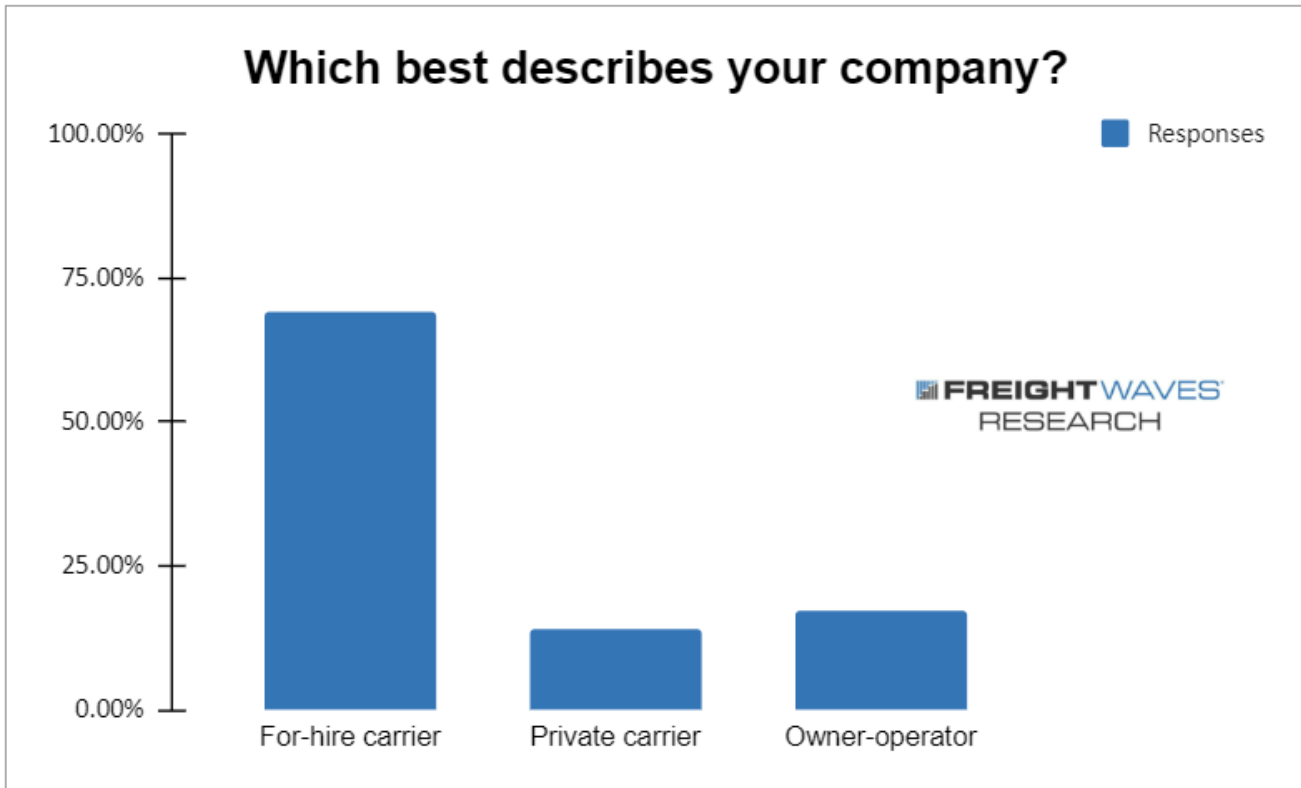
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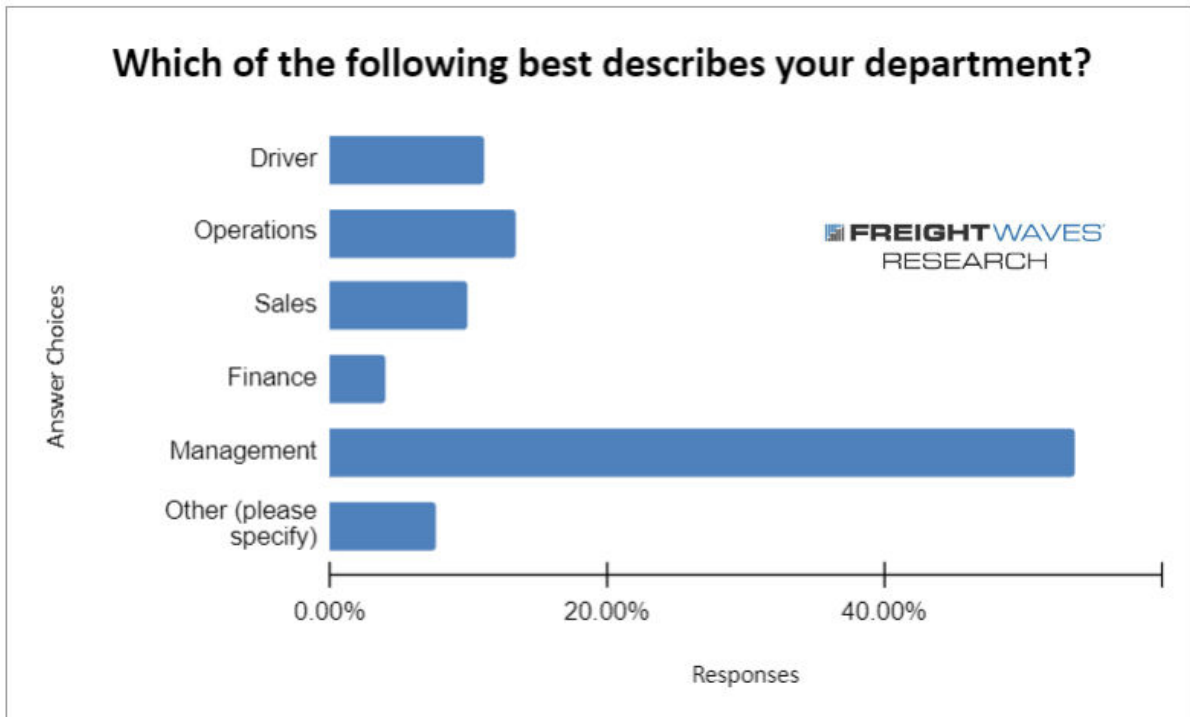
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Source: FreightWaves Research — August 2022.

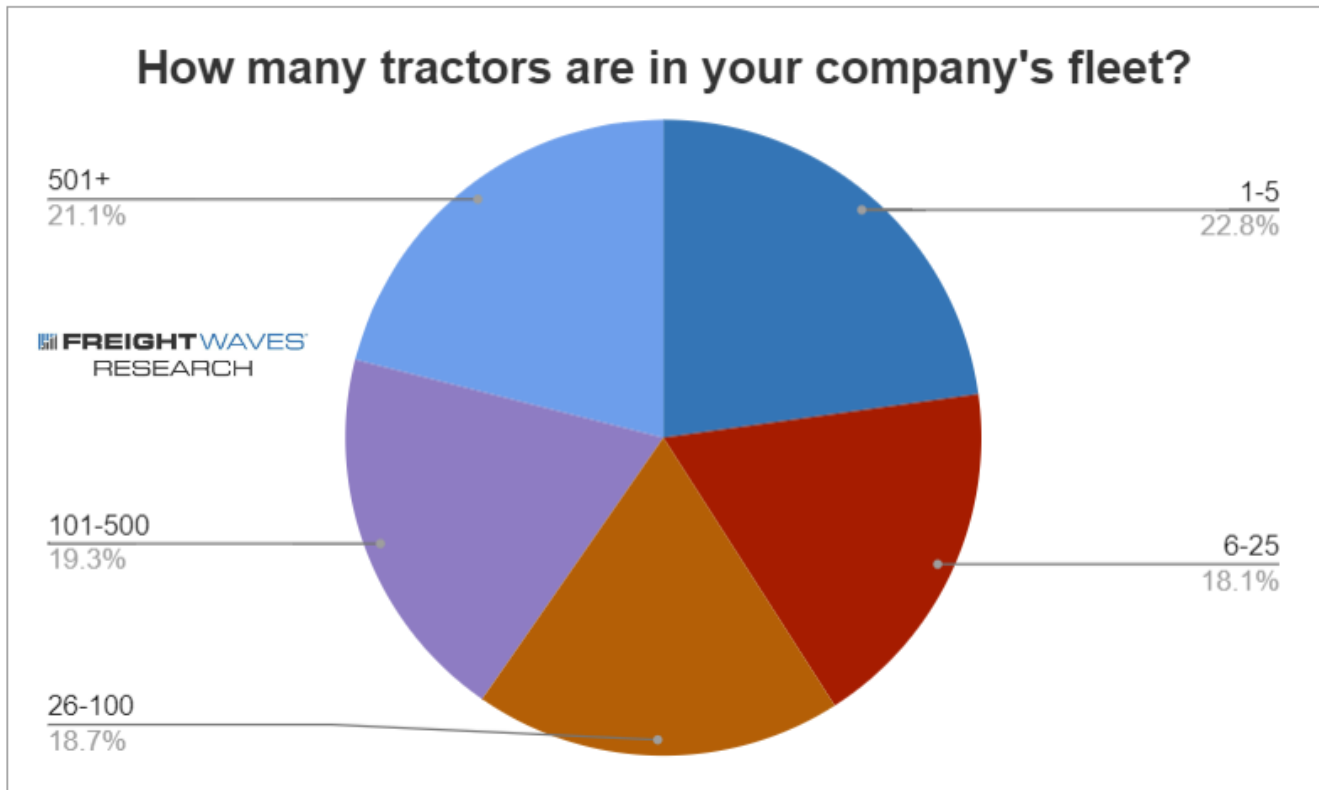
The majority of respondents (53.8%) said they were in management positions, while 11.11% identified as drivers.



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The majority of respondents (53.80%) said they were in management positions. 11.11% identified as drivers.



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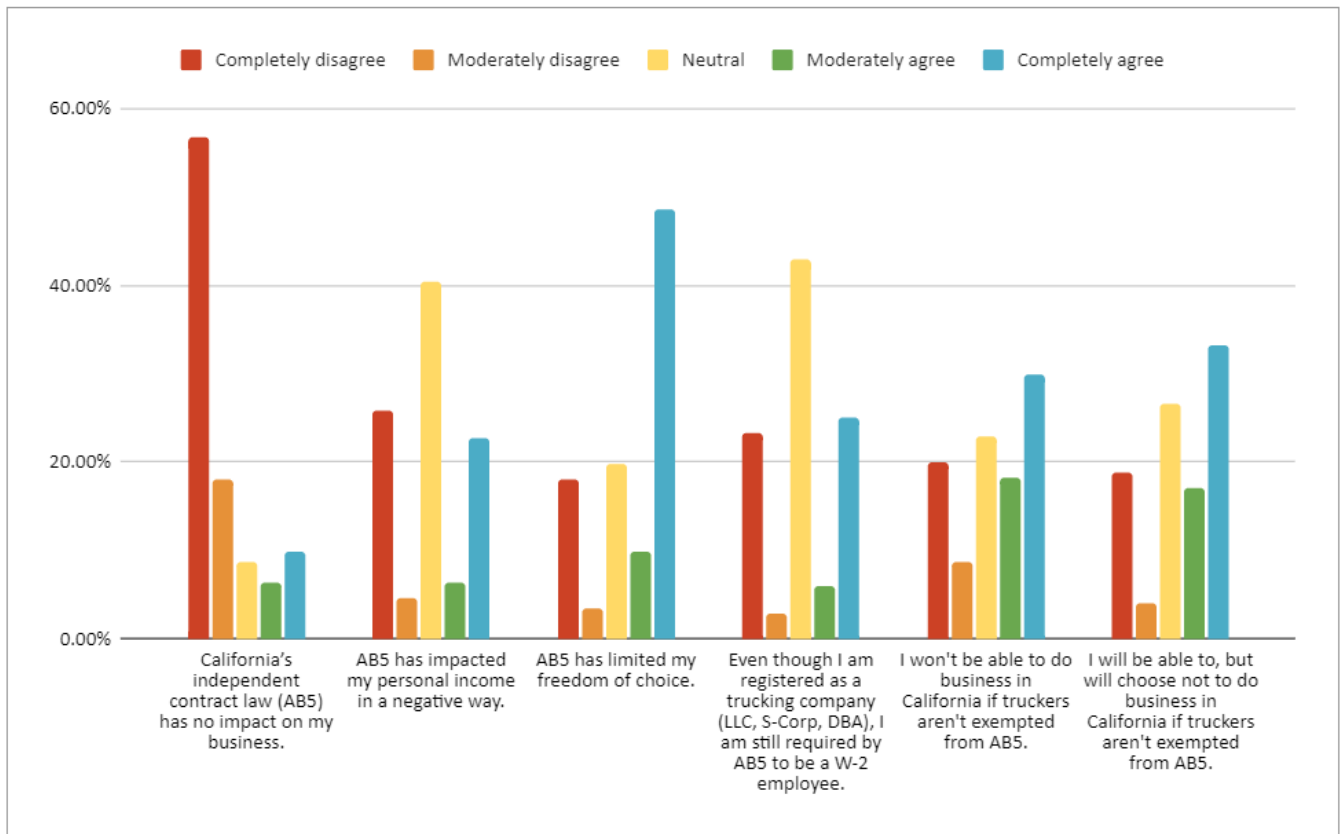
Please indicate how much you agree or disagree with the following statements, if at all. (Where a score of 1 indicates complete disagreement; 5 complete agreement.)

California's independent contract law (AB5) has no impact on my business.	1.95
AB5 has impacted my personal income in a negative way.	2.96
AB5 has limited my freedom of choice.	3.67
Even though I am registered as a trucking company (LLC, S-Corp, DBA), I am still required by AB5 to be a W-2 employee.	3.07
I won't be able to do business in California if truckers aren't exempted from AB5.	3.29
I will be able to, but will choose not to do business in California if truckers aren't exempted from AB5.	3.41

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There's substantial disagreement with the statement, "California's independent contract law (AB5) has no impact on my business." It scored the lowest weighted average of the bunch — 1.95 or, in effect, "moderately disagree." A full 56.73% of respondents selected 1, however, which equals "completely disagree."

But the rest of the statements are more split. The only other one that enjoyed fairly significant agreement is "AB5 has limited my freedom of choice," which scored a 3.67, indicating moderate agreement.

The survey asked the open-ended question, "What do you think about AB5?" [Note: This is a small selection of the responses received, and some have been lightly edited.]

"It is a blatant attempt to subvert the choices made by individuals in their livelihoods. Most of the problems that stem from the complaints about being 'misclassified' are the fault of the people complaining as they did not take the time to understand exactly what they were getting into. Yes, truck lease-purchase programs are very predatory, but the documents you must sign lay everything out clearly. Most people I know of never bothered to read them, much less get a lawyer to read them, before they signed. And now the government is stepping up to take away our individual right to choose how we work in an effort to create fairness and equality as the outcome rather than the foundation for our life."

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“It will hurt the California economy and therefore the U.S. economy. With the Ports of L.A. and Long Beach being the largest import berths in the U.S., this will only further increase the supply chain issues.”

TEUs 2,719,579 Shipments 801,401	U.S. Port	TEUs	% of TEUs	Shipments	% of Shipments
	LONG BEACH, CA	431,819	15.9%	121,257	15.1%
	LOS ANGELES, CA	378,580	13.9%	113,766	14.2%
	NEWARK, NJ	322,731	11.9%	105,447	13.2%
	SAVANNAH, GA	278,360	10.2%	78,589	9.8%
	HOUSTON, TX	181,897	6.7%	53,819	6.7%
	SEATTLE, WA	171,289	6.3%	44,400	5.5%
	NORFOLK-NEWPORT NEWS, VA	139,557	5.1%	45,304	5.7%
	NEW YORK, NY	125,767	4.6%	44,182	5.5%
	CHARLESTON, SC	105,644	3.9%	27,950	3.5%
	TACOMA, WA	104,984	3.9%	28,834	3.6%
OAKLAND, CA	76,847	2.8%	23,457	2.9%	

SONAR: Container Atlas - Altogether, the Ports of Long Beach and Los Angeles processed 810,399 imported TEUs from July 13 to Aug. 11.

“It is government deciding what is best for people vs. allowing them to choose their path. There are enough 'employee' driving jobs available if a driver wants them. They choose to be independent as part of building their American dream.”

“Terrible law. We had 35 drivers in our fleet — 22 company drivers and 13 owner-operators. We lost all of our owner operators so we are limited in how fast we can grow, since we can't go buy 13 tractors to replace the owner-operators we lost.”

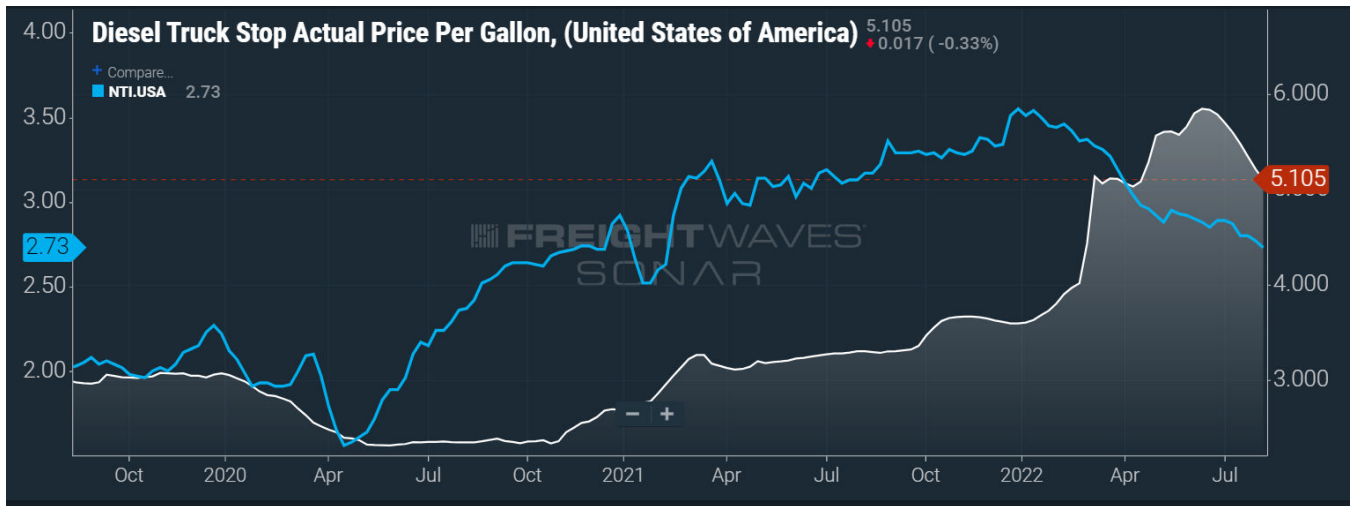
“We stopped contracting owner operators that reside in California in response to AB5.”

“This is a good move by the government, and it needs to be adopted across the nation. Too many companies are taking advantage of the owner-operators and they need to get all of the benefits that are due to them. Many owner-operators do not understand this law and think that it was intended to hurt them, while it will actually help them in the long run. Many companies are intentionally offering high-mileage old trucks to drivers so that they can keep them off of their company roster and avoid the taxes and benefits that they would otherwise have to provide. Because of this third-party relationship with the shippers, many owner-operators are finding that the carriers are baking the books to take money off of the drivers' rates. It all needs to stop. All truck drivers should get paid fairly. This model is a smoking mirror, making owner-operators think that they are in control when they actually are not, but instead are getting taken advantage of.”

“Ethically, I think AB5 is probably the right thing to do, but it will force some intra- carriers to close their doors and hinder competition overall.”

“It's wrong and will devastate contractor businesses and brokerages as well as logistics as a whole. Logistics will have to be completely restructured and eliminate tens of thousands of small business opportunities. Totally against it.”

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SONAR: DTS.USA, NTI.USA - Trucking industry opponents of AB5 often peg the bill as anti-business. That refrain has picked up momentum over the last few months, as rates have fallen amid historically high fuel costs.

“It’s a crock. The government is on a power trip and they need to work with the truckers, not dictate how it’s going to be. It seems the government has this idea that they are the ones doing all the work, so they have the right to tell the people what to do. Well, it should be the other way around. How is it that all of a sudden now things like this are an issue when it has worked in the past. Hence the power trip on the government’s part — they want to run the show and they don’t care who it affects. Very poor leadership in the world today!”

“Independent truckers are the ones that move over 90% of the containers out of the port. This will kill the supply chain and grind the ports to a halt. The only good news would be companies would have to onshore manufacturing to keep in business. Too bad it will take years before that happens. Exemption should be given like real estate agents, teachers and lawyers. But politics are getting in the way for the teamsters. Nothing like greasing the palms of politicians to get your way in California. Unions run the state.”

“I think the AB5 law is necessary nationwide and resets the industry by weeding out people who are using the business as a hustle instead of a profession. If you are an independent contractor then you should be independent like the rest of us.”

“This rule adversely affects the trucking industry with the worst impact on small business entrepreneurs (owner-operators with more than one truck/driver). Subsequently, these adverse effects will decrease overall capacity and lead to higher rates, resulting in increased cost of everything that is hauled by a truck.”

“We have two owner-operators that this would affect if this gets pushed through to other states. Both were more highly motivated employees that worked here for several years before wanting to be more of their own bosses and more in control of their income and work style. However, both also need our backing to handle setting up jobs, paperwork on the backend, and support that they would not have completely on their own. It has been a great relationship for us both. They get to make their own decisions about how to operate their business and we also get to keep great people within our company’s network. We work in both the general freight industry and the household

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goods industry. In household goods many companies work as agents for larger van lines. I am interested to know how that is any different as an agent versus an owner-operator. Both work in the same industry, which seems to violate the AB5 requirements. I think this ruling could have a much larger impact than just the one- or two-truck owner-operator operations where they are cracking down.”

“It is not fair after all these years being an independent contractor that now I am required to be considered a W-9 employee. I chose to be an owner-operator for the very reason of not being a driver and that has now been taken. All of the work it has taken to get to own and run my own truck to now being told I have to be an employee of the company. The truckers were not the ones complaining, it was the ride share companies that started this issue. Truckers have always been owner-operators and it should continue to be that way.”

“Due to uncertainty and the anti-business climate, we have decided not to utilize owner-operators in California and limit overall business into or out of the state.”

“AB5 has taken away the ability for drivers to develop into fleet owners. If you take away the ability for a company driver to become an owner operator and some day a fleet owner, they won't work for our industry. AB5 sends young people away from our industry.”

“It's completely stupid. Truckers are having a hard time as it is. First the CARB law, now ELD, now this. Being a trucker is not easy work, though it can be when you're rolling. Let drivers decide their own fate. AB5 will throttle the entire business. For those truckers who break the law and cause accidents, the rules should be swift and severe. But don't penalize the entire industry. Give the truck driver some autonomy to choose their own path.”

“Misplaced legislation. The leased operator (not lease-purchased) is a great model but unfortunately is often abused by companies against unsuspecting new entrants.”

“I am based in California. This is impacting the freedoms our truckers used to enjoy. This is just about creating more taxes paid to California. This puts the responsibility on the carrier to ensure our owner operators have proper tax setups. The work around is everyone gets to be a business. This forces everyone to pay \$800 to California. There is no clear direction from California and making it retroactive to 2020 is setting all California trucking businesses up for failure, and for the EDD to collect undue money.”

“We are a Midwest carrier that provides services all over the U.S. However, we do not currently have agreements with any owner-operators in California that will affect our business at this time. We do not agree with this ruling and hope this does not make its way our direction. Then we'll be involved and it could affect us. But we are primarily an W-2 asset company, we have less than a dozen owner-operators signed on currently. But watching this and any changes closely.”

“It is a horribly written law drafted mainly by the Teamsters. The state has given no direction on how to comply with the law other than to bring drivers on as employees which will increase costs between 25 to 30 percent, which in turn will increase our rates to our customers. All of our drivers are immigrants who have invested in equipment to start their own business as an owner-operator. The state is telling these immigrants that their livelihoods don't matter and they need to give up their dreams to comply with the Unions' demands of becoming an employee and unionizing.”