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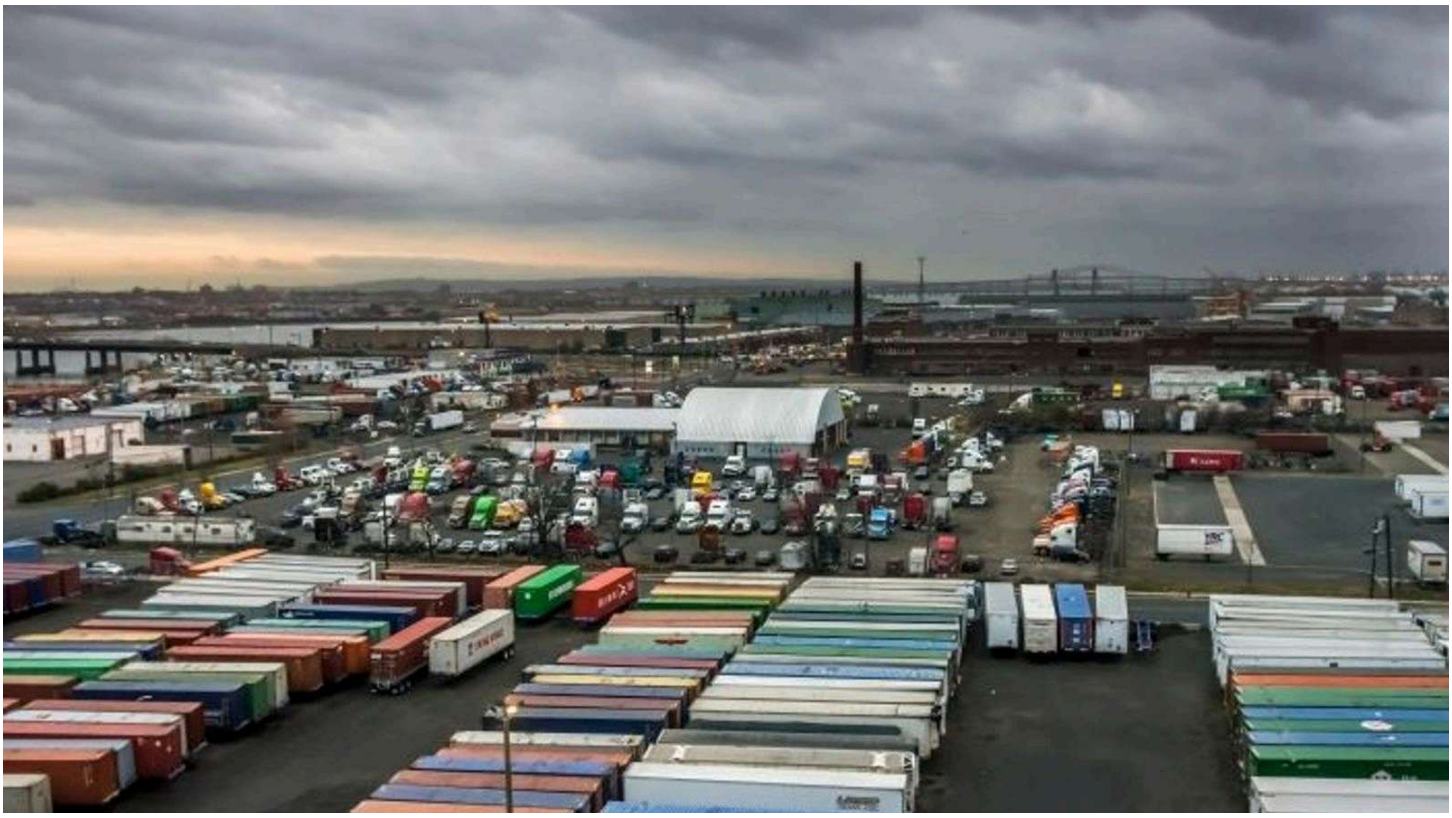
New Jersey's proposed worker classification rule hangs over port truckers



The latest attempt at limiting the use of independent contractors is drawing opposition from New Jersey Democrats who have traditionally aligned with unions. Photo credit: Andrew F. Kazmierski / Shutterstock.com

Michael Angell, Senior Editor, East Coast Ports | Aug 7, 2025, 4:33 PM EDT

A second attempt at requiring New Jersey employers to test whether their workers are employees or independent contractors is again raising concerns about the impact on port truckers. This time, though, legislators are readily joining with drayage carriers to question potential economic harm under the proposal.

The New Jersey Department of Labor and Workforce Development finished a 90-day comment period on Wednesday over a proposed rule that would require use of the so-called "ABC" test for determining whether a worker is a full-time employee or an independent contractor.

The ABC test, which looks at factors such as the kind of work, how it's done and who supervises it, undergirds California's AB5 law passed in 2019. AB5 imposed a higher hurdle on the state's trucking industry for using independent owner-operators as drivers.

That same year, New Jersey's legislature failed to pass a similar law codifying use of the ABC test. However, the state Labor Department proposed in May adding a rule that would require using the ABC test, saying the rule was necessary due to recent court cases of misclassification.

The Labor Department did not say how many comments it received about the rule. But one group – Save Independent Work – said it received 18,000 comments for submission opposing the rule. New Jersey has about 1.7 million independent contractors.

As with the earlier attempted legislation, the Labor Department's proposed rule drew opposition from the state's drayage carriers, which rely on about 8,300 independent contractor drivers at the Port of New York and New Jersey. Lisa Yakomin, president of the Association of Bi-State Motor Carriers, said during public testimony in Trenton in June the rule would "paralyze the regional supply chain."

"Previous attempts to enshrine the Labor Department's narrow application of the ABC test have been soundly rejected by the state legislature," Yakomin said during her testimony. "This new rulemaking ignores that opposition and bypasses the authority of our state's elected legislative representatives."

Other port stakeholders joined to oppose the new rule, including the Shipping Association of New York and New Jersey and the Maritime Association of the Port of New York and New Jersey (MAPONYNJ), which said disrupting the business model for port truckers would hurt supply chains.

"Rather than protecting independent contractors, the proposal would effectively eliminate their ability to operate," MAPONYNJ said in its comments.

The proposed rule did draw support from the groups aligned with labor unions, such as the Economic Policy Institute and Human Rights Watch, which highlighted how delivery and rideshare drivers in Texas only earn about $5 per hour due to being classified as independent contractors.

No timeline for decision

The decision to adopt the rule rests largely with Robert Asaro-Angelo, the state's labor commissioner and an appointee of New Jersey Gov. Phil Murphy, a Democrat.

There is no timeline for when Asaro-Angelo must decide on whether to implement the rule. Bi-State's Yakomin told the *Journal of Commerce* a decision on the rule is an overhang for port truckers as the outgoing Murphy administration may try to push it through during a lame duck session

"If Asaro-Angelo wants to move forward, there's nothing we can do," Yakomin said. "It would take some legislation to roll back some of the test."

However, Yakomin said that this second attempt at implementing the ABC test has drawn more opposition from other New Jersey legislators, especially Democratic legislators who have typically been more friendly to unions and other labor groups.

State Sen. Angela McKnight, a Democrat representing the area around the marine terminal in Bayonne, said in a letter to the Labor Department this month the proposed rule "could have serious unintended economic consequences" at the NY-NJ port and could "push drivers to relocate to less restrictive states."

Democratic State Sen. John Burzichelli, who took over the seat vacated by the senator who sponsored the original ABC legislation in 2019, also said in comments about the rule that he's heard from constituents that the rule would be "detrimental."

"It's great to see how many legislators have expressed concerns about the rule," Yakomin said.

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