

BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

May 22, 2020

The Honorable Xavier Becerra  
California Attorney General  
P.O. Box 944255  
Sacramento, CA 94244-2550

Re: Board of Supervisors Resolution No. 146-20

Dear Attorney General Becerra:

On March 31, 2020, the Board of Supervisors of the City and County of San Francisco adopted Resolution No. 146-20 (Urging Enforcement Action and Injunctive Relief for the Misclassification of San Francisco Workers), which was enacted on April 10, 2020.

The Board of Supervisors directs the Clerk of the Board to forward the following document to your attention, and requests that your office take all action necessary to achieve the objectives of the Resolution:

- One certified copy of Resolution No. 146-20 (File No. 200323)

If you have any questions or require additional information, please contact the Office of the Clerk of the Board at (415) 554-5184, or by e-mail: [board.of.supervisors@sfgov.org](mailto:board.of.supervisors@sfgov.org).

Sincerely,

  
Angela Calvillo  
Clerk of the Board

- c. Member of the Board of Supervisors, Supervisors Gordon Mar, Matt Haney, Hillary Ronen, Shamann Walton, Ahsha Safai, Dean Preston, Aaron Peskin  
Sophia Kittler, Mayor's Liaison to the Board of Supervisors  
Eddie McCaffrey, Mayor's Manager of State and Federal Legislative Affairs  
Andres Power, Mayor's Policy Director  
Rebecca Peacock, Mayor's Office

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May 22, 2020

Julie Su  
California Labor and Workforce Development Agency  
800 Capitol Mall, Suite 5000 (MIC-55)  
Sacramento, CA 95814

Re: Board of Supervisors Resolution No. 146-20

Dear Secretary Su:

On March 31, 2020, the Board of Supervisors of the City and County of San Francisco adopted Resolution No. 146-20 (Urging Enforcement Action and Injunctive Relief for the Misclassification of San Francisco Workers), which was enacted on April 10, 2020.

The Board of Supervisors directs the Clerk of the Board to forward the following document to your attention, and requests that your office take all action necessary to achieve the objectives of the Resolution:

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MEMORANDUM

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Date: May 6, 2020

To: Patrick Mulligan, Director, Office of Labor Standards Enforcement  
Dr. Grant Colfax, Director, Department of Public Health  
Dennis Herrera, City Attorney  
Chesa Boudin, District Attorney

From: *ACC* Angela Calvillo, Clerk of the Board of Supervisors

Subject: Urging Enforcement Action and Injunctive Relief for the Misclassification  
of San Francisco Workers (File No. 200323)

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On March 31, 2020, the Board of Supervisors adopted Resolution No. 146-20, sponsored by Supervisor Gordon Mar (File No. 200323, Urging Enforcement Action and Injunctive Relief for the Misclassification of San Francisco Workers); enacted on April 10, 2020.

Attached please find a copy of the Resolution for your Department's information and consideration, which is being sent as directed by the Resolution.

If you have any questions or concerns, please contact the Office of the Clerk of the Board at (415) 554-5184.

c: Members of the Board of Supervisors; Supervisors Gordon Mar, Matt Haney, Hillary Ronen, Shamann Walton, Ahsha Safai, Dean Preston, Aaron Peskin  
Donna Levitt, Division Manager  
Greg Wagner, Department of Public Health  
Dr. Naveena Bobba, Department of Public Health  
Sneha Patil, Department of Public Health  
Anne Pearson, Office of the City Attorney  
Cristine Soto DeBerry, Office of the District Attorney  
Tera Anderson, Office of the District Attorney



City and County of San Francisco

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

Certified Copy

Resolution

200323 [ Urging Enforcement Action and Injunctive Relief for the Misclassification of San Francisco Workers ]

**Sponsors:** Mar; Haney, Ronen, Walton, Safai, Preston and Peskin

Resolution urging local enforcement of State Assembly Bill No. 5; pursuit of immediate injunctive relief; additional public health directives; and further state action to address the misclassification of San Francisco workers and ensure employee access to benefits.

3/31/2020 Board of Supervisors - ADOPTED

Ayes: 10 - Fewer, Haney, Mandelman, Mar, Preston, Ronen, Safai, Stefani, Walton and Yee

Absent: 1 - Peskin

4/10/2020 Mayor - RETURNED UNSIGNED

STATE OF CALIFORNIA  
CITY AND COUNTY OF SAN FRANCISCO

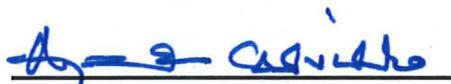
CLERK'S CERTIFICATE

I do hereby certify that the foregoing Resolution is a full, true, and correct copy of the original thereof on file in this office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City and County of San Francisco.

May 22, 2020

Date

  
Angela Calvillo  
Clerk of the Board

1 [Urging Enforcement Action and Injunctive Relief for the Misclassification of San Francisco  
2 Workers]

3 **Resolution urging local enforcement of State Assembly Bill No. 5; pursuit of immediate**  
4 **injunctive relief; additional public health directives; and further state action to address**  
5 **the misclassification of San Francisco workers and ensure employee access to**  
6 **benefits.**

7  
8 WHEREAS, On April 30, 2018, the California Supreme Court issued a landmark,  
9 unanimous decision in the matter of Dynamex Operations West, Inc. v. Superior Court of Los  
10 Angeles (2018) (“Dynamex”), which embraced a standard for worker classification that  
11 presumes that all workers are employees instead of independent contractors and placed the  
12 burden of making that determination on the employer; and

13 WHEREAS, On September 18, 2019, Governor Gavin Newsom signed State Assembly  
14 Bill No. 5 (“A.B. 5”), authored by Assembly Member Lorena Gonzalez, to codify and expand  
15 the California Supreme Court’s decision in Dynamex; and

16 WHEREAS, On July 16, 2019, the San Francisco Board of Supervisors adopted a  
17 Resolution supporting A.B.5, authored by Supervisor Rafael Mandelman, on file with the Clerk  
18 of the Board of Supervisors in File No. 190771, which is hereby declared to be a part of this  
19 Resolution as if set forth fully herein; and

20 WHEREAS, A.B. 5 went into effect on January 1, 2020, establishing a presumption that  
21 a worker is an employee for purposes of wages and benefits included in the California Labor  
22 Code, Unemployment Insurance Code, and Industrial Welfare Commission wage orders; and

23 WHEREAS, California law grants City Attorneys in cities with more than 750,000  
24 residents the authority to seek injunctive relief on behalf of workers who have been  
25 misclassified, see Cal. Lab. Code § 2750.3(j); and

1           WHEREAS, The City of San Diego recently engaged in a successful enforcement  
2 action and obtained a court order preventing an app-based company from claiming that their  
3 workers are independent contractors, see The People of the State of California v. Mapbear,  
4 Inc., Case No. 37-2019-00048731-CU-MC-CTL (Feb. 13, 2020); and

5           WHEREAS, These public actions may be necessary to ensure that workers have  
6 access to the benefits they need, which are blocked by misclassification; and

7           WHEREAS, While the impact from COVID-19 continues to grow in San Francisco and  
8 across California, misclassified employees are losing work and their livelihoods; and

9           WHEREAS, Without assistance, these workers face many uncertainties, including  
10 housing and food insecurity, no access to health care, exposure to COVID-19 without safety  
11 training, sanitation and protective equipment, and more; and

12           WHEREAS, App-based employers including Uber, Lyft, Doordash, Instacart,  
13 Postmates, and others continue to flout our state and city laws, leaving their misclassified  
14 employees without access to unemployment insurance, paid sick leave, medical benefits,  
15 workers' compensation, and other crucial benefits, even amidst an unprecedented public  
16 health and economic crisis; and

17           WHEREAS, Public servants have a moral obligation to fight on behalf of the most  
18 vulnerable when companies like Uber, Lyft, Doordash, Instacart, Postmates abandon the very  
19 people who make their business possible; and

20           WHEREAS, On March 16, 2020, the San Francisco Health Officer issued Order No.  
21 C19-07, directing all individuals living in the City and County of San Francisco to shelter in  
22 place at their place of residence with limited exceptions; and

23           WHEREAS, On March 24, 2020, the San Francisco Board of Supervisors adopted a  
24 Resolution urging the creation of a multilingual workers rights hotline and committing to  
25 provide additional local support for workers impacted by Order No. C19-07, on file with the

1 Clerk of the Board of Supervisors in File No. 200304, which is hereby declared to be a part of  
2 this Resolution as if set forth fully herein; and

3 WHEREAS, Because they are denied benefits, drivers living paycheck to paycheck will  
4 be forced to continue working to afford food, rent, healthcare, and more, putting passengers  
5 and the public at risk; now, therefore, be it

6 RESOLVED, That the San Francisco Board of Supervisors urges the Office of Labor  
7 Standards Enforcement to establish rapid enforcement procedures to address  
8 misclassification of San Francisco employees and ensure local compliance with Assembly Bill  
9 5, and to proactively communicate to all employers their obligations under local law to provide  
10 benefits such as paid sick leave to their employees; and, be it

11 FURTHER RESOLVED, That the San Francisco Board of Supervisors urges the Office  
12 of Labor Standards Enforcement to base each app-based employee's eligibility to receive paid  
13 sick leave under San Francisco's Administrative Code, Chapter 12W and required healthcare  
14 expenditures under Administrative Code, Chapter 12Q on the total hours the employee is  
15 logged in to the employer's platform along with the amount of such benefits; and, be it

16 FURTHER RESOLVED, That the San Francisco Board of Supervisors urges the  
17 Department of Public Health to (i) establish minimum health and safety guidelines for TNC  
18 and food delivery drivers who continue to operate during this pandemic, and (ii) direct  
19 employers still in operation to provide sanitary supplies for their workers as needed, and (iii)  
20 direct companies who employ gig workers to comply with all Workers Compensation benefits  
21 in the event their employee should come into contact with a customer who has been infected;  
22 and, be it

23 FURTHER RESOLVED, That the San Francisco Board of Supervisors urges City  
24 Attorney Dennis Herrera and District Attorney Chesa Boudin to seek immediate injunctive  
25 relief to prevent the misclassification of San Francisco workers as they seek to access basic

1 workplace rights like paid sick leave, unemployment insurance, and benefits provided under  
2 the San Francisco Health Care Security Ordinance; and, be it

3 FURTHER RESOLVED, That the City and County of San Francisco urges California  
4 Attorney General Xavier Becerra to (i) seek immediate injunctive relief to prevent the  
5 misclassification of California workers as they seek to access basic workplace rights like paid  
6 sick leave and unemployment insurance, and (ii) issue guidance to all District Attorneys, City  
7 Attorneys, and County Counsels regarding their authority to seek rapid injunctive relief to  
8 ensure workers can access workplace benefits under current state law; and, be it

9 FURTHER RESOLVED, That the San Francisco Board of Supervisors urges Labor  
10 Secretary Julie Su to provide guidance for accessing benefits like disability insurance, paid  
11 family leave, and unemployment insurance for misclassified workers; and, be it

12 FURTHER RESOLVED, That the Clerk of the Board of Supervisors shall transmit  
13 copies of this Resolution to the Office of Labor Standards, Department of Public Health, City  
14 Attorney Dennis Herrera, District Attorney Chesa Boudin, California Attorney General Xavier  
15 Becerra, and California Labor Secretary Julie Su with a request to take all action necessary to  
16 achieve the objectives of this Resolution.

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City and County of San Francisco  
Tails  
Resolution

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

File Number: 200323

Date Passed: March 31, 2020

Resolution urging local enforcement of State Assembly Bill No. 5; pursuit of immediate injunctive relief; additional public health directives; and further state action to address the misclassification of San Francisco workers and ensure employee access to benefits.

March 31, 2020 Board of Supervisors - ADOPTED

Ayes: 10 - Fewer, Haney, Mandelman, Mar, Preston, Ronen, Safai, Stefani,  
Walton and Yee  
Absent: 1 - Peskin

File No. 200323

I hereby certify that the foregoing  
Resolution was ADOPTED on 3/31/2020 by  
the Board of Supervisors of the City and  
County of San Francisco.

Angela Calvillo  
Clerk of the Board

Unsigned

London N. Breed  
Mayor

4/10/20

Date Approved

I hereby certify that the foregoing resolution, not being signed by the Mayor within the time limit as set forth in Section 3.103 of the Charter, or time waived pursuant to Board Rule 2.14.2, became effective without her approval in accordance with the provision of said Section 3.103 of the Charter or Board Rule 2.14.2.

Angela Calvillo  
Clerk of the Board

4/10/2020

Date