

NEWS > BUSINESS

AB5: A problem in translation

Monterey, the ‘Language Capital of the World,’ will be impacted



Jesús J. Rocha, who has operated a Salinas interpreting agency for over 28 years, says that state Assembly Bill 5 has cast a shadow over the future of his business and others like it. (Jack Lee — Herald Correspondent)

By **JACK LEE** | newsroom@montereyherald.com |

PUBLISHED: February 1, 2020 at 12:38 pm | UPDATED:
February 4, 2020 at 10:00 am

SALINAS — Jesús J. Rocha has operated a Salinas interpreting agency for over 28 years. But because of California’s Assembly Bill 5, he says the future of translation and interpretation businesses like his is uncertain.

“AB5 is striking fear in the community,” Rocha said.

AB5 went into effect on Jan. 1 and classifies workers as employees, rather than independent contractors, unless specific criteria are met. The bill aims to provide additional labor protections to workers, such as rideshare drivers for Uber and Lyft, by requiring companies to hire them as employees and provide benefits.

Certain professions are exempt from these rules. Doctors, lawyers, graphic designers and real estate agents are among the occupations that will not see any changes.

Translators and interpreters, however, are not included on that list.

Because of this, AB5 will impact the Monterey area, self-titled the “Language Capital of the World.” There are dozens of professionals performing freelance translation and interpretation work in the area. The area is also home to a number of language agencies, including one of the largest language service providers in the world, LanguageLine Solutions. Additionally, the Middlebury Institute and Defense Language Institute, both based in Monterey, are two of the most prestigious institutions providing instruction for future language experts.

Even the students training to become translators and interpreters are facing the effects of AB5.

“It sounds like a lot of employers are scared that they will be penalized for working with anybody who’s based in California on anything other than a full-time employee basis,” said Laura Burian, Dean of the Graduate School of Translation, Interpretation, and Language Education at the Middlebury Institute. Employers who intentionally misclassify workers can be fined between \$5,000 and \$25,000.

“As we’re based in California, we are worried that a number of students will miss out on potential employment opportunities as freelancers upon graduation,” Burian said.

Freelancers are a crucial component of the translation and interpretation industries. Both professions involve the conversion of words from one language to another. Translators work with written work, such as documents or manuals, while interpreters work with speech, such as conference presentations or meetings with physicians. Freelance translators and interpreters typically get assignments through relationships with agencies, such as Rocha’s.

“We work practically seamlessly with agencies. We need each other: the agencies need us and we need the agencies. The linguists need the language companies to provide work for them and vice versa,” said Lorena Ortiz Schneider, founder and chair of the Coalition of Practicing Translators and Interpreters of California (CoPTIC).

This setup provides flexibility that many workers not only appreciate but may require due to other obligations.

“Independent contracting is the only way I can work because of my health situation,” said Brenda Gutierrez, a certified health care interpreter based in Watsonville. She is physically disabled and uses a powered wheelchair, so having the option to choose her hours based on how she feels on a given day is crucial.

With AB5, because the freelancers and agencies operate in the same line of business, language agencies can no longer use freelancers as independent contractors. As a result, California freelancers have been receiving termination notices from language agencies, said Ortiz Schneider. One workaround may be for freelancers to incorporate as businesses, but the process is can be costly and there's still general confusion about what the correct course of action is.

The reduction of available language professionals ultimately hurts communities. AB5 will make it difficult to find qualified interpreters, said Wayne Johnson, the coordinator of client services for the Deaf and Hard of Hearing Central Coast Outreach Office. There are over 41,000 people who are deaf or hard of hearing in Monterey and San Benito Counties who now face challenges in getting language services.

The intent of AB5 is for businesses to hire on workers as employees, rather than maintaining their status as independent contractors. But such an arrangement isn't feasible for less-widespread languages, such as Triqui, an indigenous language of the Mexican state of Oaxaca that has a concentration of speakers in Greenfield. While there is a need for translation and interpretation — for example, in a hospital setting — there's not enough demand for a language agency or a hospital to justify hiring a full-time employee.

AB5 may help certain language workers, such as court interpreters who primarily work for one court, said Michael Ferreira, a court interpreter based in Long Beach.

“You’re working a 40-hour week for months and months and months on end,” Ferreira said. “You get no retirement, you get no dental [or] vision [insurance], you get no retirement compensation — all of these different things that everybody else is getting as a full-time employee, you’re not getting. But you’re being used by the court for 40 hours a week,” he said.

Ferreira is president of the California Federation of Interpreters Local 39000 but these comments reflect his personal opinions.

Potentially, AB5 could bring attention to these situations. Those opposed to AB5 recognize that those are the types of situations that AB5 was intended to address. But, at the expense of other freelance translators and interpreters, it may be doing more harm than good.

CoPTIC is currently working to add an exemption to the Labor Code to exclude translators and interpreters from the effects of AB5, like other specialized professions. From Rocha’s perspective, this just makes sense. With workers’ compensation cases, for example, interpreters work directly with doctors and lawyers, who do have exemptions to AB5.

Recently, Senate Bill 875 was introduced to do just this, providing an exemption that would allow freelance interpreters and translators to continue being independent contractors. However, CoPTIC is working on alternative proposal that has even more inclusive language, said Ortiz Schneider by email.

There’s a misconception that being bilingual is sufficient for language services. In reality, translators and interpreters are trained, experienced professionals who play crucial roles throughout society.

“[AB5] could actually be very harmful, not only to us linguists, but to the people we serve,” said Ortiz Schneider.