

ATA Statement on California SB 875 (Exemption to AB5 for translators and interpreters)

The American Translators Association (ATA) appreciates the intent behind SB 875, i.e., to exempt professional translators and interpreters, who have a long and successful history of working as independent contractors while providing language services, from the extremely negative consequences of AB5. The vast majority of translators and interpreters voluntarily choose to work as independent contractors and are so under contract for performance and in fact.

However, as the largest professional association of translators and interpreters in the United States, with almost 10,000 members, and the Voice of Interpreters and Translators, ATA has some misgivings about the specific wording of SB 875.

1. It is unclear why “court interpreters” are specifically singled out, but not other interpreters such those specializing in healthcare, conference interpreting, community interpreting, etc. This “special emphasis” on court interpreters could be interpreted as giving them some kind of exclusive status apart from other professional interpreters who specialize in other fields. All professional interpreters are highly-skilled language service providers irrespective of their particular specialization. ATA is concerned that such “special emphasis” in the proposed legislation could later be interpreted by the courts in a manner that would be prejudicial to other professional interpreters and translators. Moreover, many interpreters work in multiple contexts, e.g., legal and community, especially in languages of lesser diffusion.
2. Subdivision (xii) (II) (ia) states that all interpreters and translators must “*Set their own rates, that exceed two times the applicable minimum wage.*” While the ability to set one’s own rates is a valid and defining characteristic of an independent contractor, the imposition of a minimum rate could be problematic in practice. What is problematic is the fact that, unlike with interpreting services, almost all translation work is normally billed on a basis other than hourly, e.g., per source or target word or by a flat rate for the total “project.” There is no fair or standard method for converting these other billing methods to an equivalent hourly rate. Translators vary in their efficiency, i.e., the speed with which they translate, depending on the subject matter of the text, the nature of the text provided, familiarity with the subject matter, the research materials available, the turnaround time available, and many other factors. Even the same translator will have variations in their efficiency based on these variable factors.

The intent of the proposed amendment would be far better served, and more equitably served with respect to all professional translators and interpreters, if the proposed amendment simply followed the same wording as that for other professions already exempted in AB5, by simply listing “professional translators and interpreters” as one of the “Professional services” enumerated under subdivision (c) (2) (B) and thus specify application of the Borello test instead of the strict ABC test.

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