

ATA Statement on California Senate Bill 900 (SB 900) Amending AB 5

[California Senate Bill SB 900](#) creates an exemption for the relationship between a “service provider that provides ... certified interpretation or translation services” and a “referral agency” in the application of the [ABC test under AB 5](#). In its place, SB 900 mandates the application of the multifactor [Borello test](#).

While SB 900 is an improvement on the status quo under AB 5, there are several issues of varying degrees of importance from ATA’s perspective that should be addressed and resolved before ATA can fully support the bill.

POSITIVE ASPECTS OF SB 900

- Exempts many translators and interpreters (T&I) from application of the ABC test, thus allowing their classification as independent contractors.
- Expressly includes sole proprietors as a permissible business entity for a service provider.
- Expressly recognizes ATA as one of several professional associations for purposes of SB 900.

AREAS IN SB 900 THAT NEED REVISION, IMPROVEMENT, OR CLARIFICATION

- Exemption under referral agency rather than professional services

Translation and interpretation services would be included in Section 2781 of the California Labor Code, which addresses relationships between service providers and “referral agencies,” including companies connecting service providers for minor home repair, home cleaning, errands, pet sitting, picture hanging, etc.

As highly-educated and experienced professionals, translators and interpreters should be included under Section 2777, which deals with “professional services.”

This characterization of the role of language service companies and agencies (LSCs) as mere “referral agencies” flies in the face of reality. Additional services, such as project management, editing, and proofreading, are essential components to the quality provision of T&I services. The overwhelming majority of LSCs provide other value-added services to the end client, such as desktop publishing and localization in addition to any “matching of” translators and interpreters with end clients.

- Delivery in one’s own name

Section 2781 (a) (4) will be extremely problematic from the LSC perspective in that it requires that the service provider (translator or interpreter) to deliver services to the (end) client under their own name, and not under the name of the LSC. This, too, flies in the face of reality as many LSCs shield the names of translators and interpreters to prevent losing hard-earned business. While some may argue this may be desirable, it should not be a prerequisite for classification as an independent contractor.

- Meaning error?

Section 2781 (b) (3), which specifies the type of service providers for which the referral agency acts as a broker, uses the phrase “certified interpretation or translation services.” It is currently unknown if “non-certified” T&I services, which comprise the vast majority of T&I services, would also be covered by SB 900. This appears to be a drafting error: the services provided in our field are not certified, but rather the actual people providing the services are sometimes certified.

The use of the term “certified,” be it in reference to the service or the service provider, entails a number of problems that have long been issues in the T&I profession.

- Certification

Section 2775 (b) (7) states “Certified interpretation or translation services means a person who...” and then lists several organizations of which the service provider must be a member in good standing, or which has provided the service provider with a certification or credential.

Aside from the issue about people, and not “services,” being certified, as previously mentioned, the list omits existing professional T&I credentials which should legitimately be included. Using the word “certified” also may create unintended consequences for practitioners of our profession.

SUMMARY

While still a work in progress, SB 900 is an acceptable starting point for obtaining the desired exemption for translators and interpreters from the ABC test under AB 5.

CALL TO ACTION

California translators and interpreters should [contact their state legislators](#) and demand that the problems outlined above be fixed. ATA also encourages all translators and interpreters to continue to support the [Coalition of Practicing Translators and Interpreters of California](#) in its efforts to improve the language of this bill.

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ATA Position Statements and Updates on AB5

[ATA Position on California Assembly Bill 5](#)

[California Passes Assembly Bill 5 \(ATA Newsbriefs\)](#)

[ATA Statement on AB5 and Mandatory Employee Classification](#)

[Take Action: ATA Template on Mandatory Employee Classification Legislation](#)

[Take Action: What Can I Do about Mandatory Employee Classification Legislation in my State](#)

[ATA Statement on California SB 875 \(Exemption to AB5 for Translators and Interpreters\)](#)

[AB 5: It's Not Just in California](#) (*The ATA Chronicle*, January/February 2020)

Additional Resources

[Coalition of Practicing Translators and Interpreters of California](#)

[Joint National Committee for Languages](#)