



Goodbye NY: No Union For Uber Drivers...For Now

June 11, 2021 | [Labor And Employment](#), [National Labor Relations Board](#), [State Labor Laws](#), [Unions And Union Membership](#)



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New York recently was entertaining [proposed legislation](#) that would have given ridesharing drivers, such as Uber drivers, the right to form unions. Notwithstanding potential legal hurdles under federal labor and antitrust laws, that legislation is dead – at least for now.

[As reported by Bloomberg Law](#), “A state senator scrapped closely watched plans to introduce a gig work bill this year that would have offered workers union representation without making them employees. ‘We could never get everybody together,’ said Democrat Diane Savino, a former union official who had been aiming to introduce a bill with both labor and industry support in time to pass before this year’s legislative session ends this week. ‘It’s a complicated problem, but the only way we’re going to get to a solution is people are going to have to put aside their own agendas and figure out, How do we solve it?’”

In short, the clock seems to have run out for this potential law in 2021, but talks related to this effort have been ongoing for several years, and all indications are that it is not going away. The reason New York state legislators want such a law is that Uber and virtually all ridesharing companies [classify their drivers as independent contractors](#) not employees. Under the National Labor Relations Act (NLRA), however, only “employees” have the right to form and join unions. Thus, the New York legislation seeks to fill that perceived gap.

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Even if the legislation is proposed again in the future, though, it likely will face legal challenges. Similar efforts in other jurisdictions have been challenged on antitrust grounds and on grounds that the NLRA preempts such laws.

As long as ridesharing drivers continue to be classified as independent contractors, these state and local law efforts to give them union rights likely will persist. In addition, more challenges to their status as independent contractors versus employees at the National Labor Relations Board may be on the horizon in light of the new [pro-labor majority starting to take shape](#). This is an issue to watch on several different fronts.