

Senate File 2257 - Enrolled

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AN ACT

DEFINING MARKETPLACE CONTRACTORS AND DESIGNATING MARKETPLACE CONTRACTORS AS INDEPENDENT CONTRACTORS UNDER SPECIFIED CIRCUMSTANCES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 93.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Governmental entity" means the same as defined in section 96.19.
2. "Indian tribe" means the same as defined in section 96.19.
3. a. "Marketplace contractor" means a person or organization, including an individual, corporation, limited liability company, partnership, sole proprietor, or other entity, that does all of the following:
 - (1) Enters into a written agreement with a marketplace platform to use the marketplace platform's digital network to connect with individuals or entities that seek to obtain services from the marketplace contractor.
 - (2) Performs services for individuals or entities upon connection through a marketplace platform's digital network in exchange for compensation or payment of a fee.
 - (3) Does not perform the services offered by the marketplace contractor at or from a physical business location that is operated by the marketplace platform in the state.

b. "Marketplace contractor" does not include a person or organization that performs services consisting of transporting freight, sealed and closed envelopes, boxes, parcels, or other sealed and closed containers for compensation.

4. "Marketplace platform" means a person or organization, including an individual, corporation, limited liability company, partnership, sole proprietor, or other entity, that operates a digital network to connect marketplace contractors to individuals or entities that seek to obtain the type of services offered by marketplace contractors.

Sec. 2. NEW SECTION. **93.2 Marketplace contractors as independent contractors — retroactivity.**

1. A marketplace contractor shall be treated as an independent contractor, and not an employee of a marketplace platform, for all purposes under state or local law, including but not limited to chapters 87 and 96, if the following conditions are met:

a. The marketplace contractor and marketplace platform agree in writing that the marketplace contractor is engaged as an independent contractor and not an employee of the marketplace platform.

b. The marketplace platform does not unilaterally prescribe specific hours during which the marketplace contractor must be available to accept service requests submitted through the marketplace platform's digital network.

c. The marketplace platform does not prohibit the marketplace contractor from engaging in outside employment or performing services through other marketplace platforms.

d. The marketplace contractor bears its own expenses incurred in performing services.

2. For services performed by a marketplace contractor prior to the effective date of this Act, a marketplace contractor shall be treated as an independent contractor and not an employee of a marketplace platform for all purposes under state or local law, including but not limited to chapters 87 and 96, if the conditions set forth in subsection 1 were satisfied at the time the services were performed.

3. When providing services that require an Iowa license, the marketplace contractor shall be responsible for obtaining

the Iowa license and making such license available to the individuals or entities for whom the marketplace contractor is providing services.

4. This section shall not apply to any of the following:

a. Services performed by an individual in the employ of a governmental entity or Indian tribe, but only if the services are excluded from employment as defined in the Federal Unemployment Tax Act, 26 U.S.C. §3301-3311, solely by reason of section 3306(c)(7) of that Act.

b. Services performed by an individual in the employ of a religious, charitable, educational, or other organization, but only if the services are excluded from employment as defined in the Federal Unemployment Tax Act, 26 U.S.C. §3301-3311, solely by reason of section 3306(c)(8) of that Act.

c. Services performed by a real estate broker or a real estate salesperson licensed pursuant to chapter 543B.

CHARLES SCHNEIDER
President of the Senate

LINDA UPMEYER
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2257, Eighty-seventh General Assembly.

W. CHARLES SMITHSON
Secretary of the Senate

Approved _____, 2018

KIM REYNOLDS
Governor