

House Study Bill 558 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON COMMERCE BILL BY
CHAIRPERSON COWNIE)

A BILL FOR

1 An Act relating to the independent contractor status of
2 marketplace contractors performing services through the
3 use of marketplace platforms and including retroactive
4 applicability provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 93.1 Definitions.

2 For purposes of this chapter:

3 1. "*Marketplace contractor*" means any individual,
4 corporation, partnership, sole proprietorship, or other entity
5 that does all of the following:

6 a. Enters into an agreement with a marketplace platform
7 to use the marketplace platform's online-enabled application,
8 software, internet site, or system to receive connections to
9 third-party individuals or entities seeking services.

10 b. Offers or provides services in return for compensation to
11 third-party individuals or entities upon connection through the
12 marketplace platform's online-enabled application, software,
13 internet site, or system.

14 2. "*Marketplace platform*" means a corporation, partnership,
15 sole proprietorship, or other entity operating in this state
16 that offers an online-enabled application, software, internet
17 site, or system that enables the provision of services by
18 marketplace contractors to third-party individuals or entities
19 seeking such services.

20 Sec. 2. NEW SECTION. 93.2 Status of marketplace
21 contractors.

22 A marketplace contractor shall be treated as an independent
23 contractor, and not an employee, of a marketplace platform for
24 all purposes under state law, including but not limited to
25 chapters 87 and 96, and rules and local ordinances, amendments,
26 resolutions, and motions, if all of the following conditions
27 are met:

28 1. The marketplace contractor and marketplace platform
29 agree in writing that the marketplace contractor is an
30 independent contractor with respect to the marketplace
31 platform.

32 2. The marketplace platform does not unilaterally prescribe
33 specific hours during which the marketplace contractor must
34 be available to accept service requests from third-party
35 individuals or entities submitted through the marketplace

1 platform's online-enabled application, software, internet site,
2 or system.

3 3. The marketplace platform does not prohibit the
4 marketplace contractor from using any online-enabled
5 application, software, internet site, or system offered by
6 other marketplace platforms.

7 4. The marketplace platform does not restrict the
8 marketplace contractor from engaging in any other occupation
9 or business.

10 5. The marketplace contractor bears all or substantially
11 all of the marketplace contractor's own expenses that are
12 incurred by the marketplace contractor in performing the
13 services.

14 Sec. 3. NEW SECTION. 93.3 Exclusions.

15 This chapter does not apply to the following services:

16 1. Services performed in the employ of a state, political
17 subdivision of a state, or Indian tribe, or an instrumentality
18 of a state, political subdivision of a state, or Indian tribe,
19 which instrumentality is wholly owned by one or more states,
20 political subdivisions, or Indian tribes, that are excluded
21 from the definition of employment pursuant to 26 U.S.C.
22 §3306(c) by reason of 26 U.S.C. §3306(c)(7).

23 2. Services performed in the employ of a religious,
24 charitable, educational, or other organization that are
25 excluded from the definition of employment pursuant to 26
26 U.S.C. §3306(c) solely by reason of 26 U.S.C. §3306(c)(8).

27 Sec. 4. RETROACTIVE APPLICABILITY.

28 1. This Act applies retroactively to services performed by a
29 marketplace contractor prior to the effective date of this Act
30 if all of the conditions set forth in section 93.2, as enacted
31 by this Act, were met when the services were performed.

32 2. This section does not apply to an action, claim, or
33 proceeding initiated prior to the effective date of this Act.

34 EXPLANATION

35 The inclusion of this explanation does not constitute agreement with

1 the explanation's substance by the members of the general assembly.

2 This bill relates to the independent contractor status of
3 marketplace contractors performing services through the use of
4 marketplace platforms.

5 The bill defines marketplace contractor as any individual,
6 corporation, partnership, sole proprietorship, or other entity
7 that enters into an agreement with a marketplace platform
8 to use the platform's online-enabled application, software,
9 internet site, or system to receive connections to third-party
10 individuals or entities seeking services, and that also offers
11 or provides services in return for compensation to third-party
12 individuals or entities upon connection through the marketplace
13 platform's online-enabled application, software, internet site,
14 or system.

15 The bill defines marketplace platform as a corporation,
16 partnership, sole proprietorship, or other entity operating in
17 this state that offers an online-enabled application, software,
18 internet site, or system that enables the provision of services
19 by marketplace contractors to third-party individuals or
20 entities seeking such services.

21 The bill provides that a marketplace contractor shall be
22 treated as an independent contractor, and not an employee, of a
23 marketplace platform for all purposes under state law and rules
24 and local ordinances, amendments, resolutions, and motions, if
25 five specified conditions are all met.

26 The bill does not apply to certain services excluded from
27 employment as defined in 26 U.S.C. §3306(c).

28 The bill applies retroactively to services performed by a
29 marketplace contractor prior to the effective date of the bill
30 if all of the conditions set forth in the bill were met when
31 the service was performed. This provision does not apply to an
32 action, claim, or proceeding initiated prior to the effective
33 date of the bill.