

Senate File 2257 - Reprinted

SENATE FILE 2257
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 3058)

(As Amended and Passed by the Senate February 19, 2018)

A BILL FOR

1 An Act defining marketplace contractors and designating
2 marketplace contractors as independent contractors under
3 specified circumstances.

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

1 Section 1. NEW SECTION. 93.1 Definitions.

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

4 1. "*Governmental entity*" means the same as defined in
5 section 96.19.

6 2. "*Indian tribe*" means the same as defined in section
7 96.19.

8 3. a. "*Marketplace contractor*" means a person or
9 organization, including an individual, corporation, limited
10 liability company, partnership, sole proprietor, or other
11 entity, that does all of the following:

12 (1) Enters into a written agreement with a marketplace
13 platform to use the marketplace platform's digital network
14 to connect with individuals or entities that seek to obtain
15 services from the marketplace contractor.

16 (2) Performs services for individuals or entities upon
17 connection through a marketplace platform's digital network in
18 exchange for compensation or payment of a fee.

19 (3) Does not perform the services offered by the marketplace
20 contractor at or from a physical business location that is
21 operated by the marketplace platform in the state.

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

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

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

34 1. A marketplace contractor shall be treated as an
35 independent contractor, and not an employee of a marketplace

1 platform, for all purposes under state or local law, including
2 but not limited to chapters 87 and 96, if the following
3 conditions are met:

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

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

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

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

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

24 3. When providing services that require an Iowa license,
25 the marketplace contractor shall be responsible for obtaining
26 the Iowa license and making such license available to the
27 individuals or entities for whom the marketplace contractor is
28 providing services.

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

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

35 *b.* Services performed by an individual in the employ of a

1 religious, charitable, educational, or other organization, but
2 only if the services are excluded from employment as defined in
3 the Federal Unemployment Tax Act, 26 U.S.C. §3301-3311, solely
4 by reason of section 3306(c)(8) of that Act.

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