



January 30, 2018

HOUSE BILL No. 1286

DIGEST OF HB 1286 (Updated January 30, 2018 9:33 am - DI 113)

Citations Affected: IC 22-1.

Synopsis: Marketplace contractors. Specifies conditions under which a marketplace contractor that uses a marketplace platform to connect with third parties seeking services is an independent contractor of the marketplace platform.

Effective: July 1, 2018.

VanNatter, Lehman, Taylor J

January 16, 2018, read first time and referred to Committee on Employment, Labor and Pensions.
January 30, 2018, amended, reported — Do Pass.

HB 1286—LS 7037/DI 113



January 30, 2018

Second Regular Session of the 120th General Assembly (2018)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2017 Regular Session of the General Assembly.

HOUSE BILL No. 1286

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 22-1-6 IS ADDED TO THE INDIANA CODE AS
2 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2018]:

4 **Chapter 6. Marketplace Contractors**
5 **Sec. 1. This chapter does not apply to the following:**
6 (1) Service performed in the employ of the state, a political
7 subdivision, an Indian tribe, or an instrumentality of the state,
8 a political subdivision, or an Indian tribe if the service is
9 excluded from employment as defined in the Federal
10 Unemployment Tax Act (26 U.S.C. 3301 et seq.).
11 (2) Service performed in the employ of a religious, charitable,
12 educational, or other organization that is excluded from
13 employment as defined in the Federal Unemployment Tax
14 Act.
15 (3) Service provided by a transportation network company (as
16 defined in IC 8-2.1-17-18).
17 **Sec. 2. The following definitions apply throughout this chapter:**

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1 (1) "Marketplace contractor" means a person or an
 2 organization, including an individual, a corporation, a limited
 3 liability company, a partnership, a sole proprietor, or other
 4 entity, that enters into an agreement with a marketplace
 5 platform to provide services to third party individuals or
 6 entities seeking those services. The term does not include a
 7 person or organization when the services performed by the
 8 person or organization consist of transporting freight, sealed
 9 and closed envelopes, boxes, parcels, or other sealed and
 10 closed containers for compensation.

11 (2) "Marketplace platform" means an organization, including
 12 a corporation, a limited liability company, a partnership, a
 13 sole proprietor, or other entity, that:

14 (A) operates an Internet web site or smartphone
 15 application that facilitates the provision of services by
 16 marketplace contractors to individuals or entities seeking
 17 the services;

18 (B) accepts service requests from the public only through
 19 the organization's Internet web site or smartphone
 20 application and does not accept service requests by
 21 telephone, facsimile, or in person at a retail location; and

22 (C) does not perform services at or from a physical
 23 location in Indiana.

24 **Sec. 3.** Notwithstanding any other law, a marketplace contractor
 25 shall be treated as an independent contractor for all purposes
 26 under state law and ordinances and resolutions adopted by
 27 political subdivisions (as defined in IC 36-1-2-13), if the following
 28 apply:

29 (1) All or substantially all of the payment for the services
 30 performed by the marketplace contractor is related to the
 31 performance of services or other output.

32 (2) The services performed by the marketplace contractor are
 33 governed by a written contract executed between the
 34 marketplace contractor and the marketplace platform.

35 (3) The written contract required under subdivision (2)
 36 includes the following provisions:

37 (A) The marketplace contractor is providing services as an
 38 independent contractor and not as an employee of the
 39 marketplace platform.

40 (B) All or substantially all of the payments paid to the
 41 marketplace contractor are to be based on the
 42 performance of services or other output by the



1 marketplace contractor.
2 (C) The marketplace contractor may work any hours or
3 schedules the marketplace contractor chooses. However, if
4 the marketplace contractor does elect to work specified
5 hours or schedules, the marketplace platform may require
6 the marketplace contractor to work during the specified
7 hours or schedules that the marketplace contractor elected
8 to work.
9 (D) Except as provided in clause (C), the marketplace
10 contractor may perform services for other parties without
11 restriction.
12 (E) The marketplace contractor bears responsibility for all
13 or substantially all of the expenses that the marketplace
14 contractor pays or incurs in performing the services,
15 without the right to obtain reimbursement from the
16 marketplace platform for the expenses.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Employment, Labor and Pensions, to which was referred House Bill 1286, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1286 as introduced.)

VANNATTER

Committee Vote: yeas 8, nays 1.

