



Reprinted
February 27, 2018

ENGROSSED HOUSE BILL No. 1286

DIGEST OF HB 1286 (Updated February 26, 2018 3:08 pm - DI 102)

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

(SENATE SPONSOR — BOOTS, NIEZGODSKI)

January 16, 2018, read first time and referred to Committee on Employment, Labor and Pensions.

January 30, 2018, amended, reported — Do Pass.

February 1, 2018, read second time, ordered engrossed. Engrossed.

February 5, 2018, read third time, passed. Yeas 88, nays 4.

SENATE ACTION

February 7, 2018, read first time and referred to Committee on Pensions and Labor.

February 22, 2018, amended, reported favorably — Do Pass.

February 26, 2018, read second time, amended, ordered engrossed.

EH 1286—LS 7037/DI 113



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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.

ENGROSSED 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 consisting of passenger transport provided in
16 connection with technology offered by a transportation
17 network company (as defined in IC 8-2.1-17-18). Such service

EH 1286—LS 7037/DI 113



1 is governed by IC 8-2.1-19.1.

2 (4) Service related to a referral by a hiring hall maintained by
3 a labor organization.

4 (5) Service provided for:

5 (A) a public works project of the state or a political
6 subdivision; or

7 (B) the erection, construction, alteration, structural repair,
8 or structural improvement of a building, structure, or
9 other improvement on land, excluding a single family
10 dwelling or a single unit of a multi-family dwelling.

11 **Sec. 2. The following definitions apply throughout this chapter:**

12 (1) "Marketplace contractor" means a person or an
13 organization, including an individual, a corporation, a limited
14 liability company, a partnership, a sole proprietor, or other
15 entity, that enters into an agreement with a marketplace
16 platform to provide services to third party individuals or
17 entities seeking those services. The term does not include a
18 person or organization when the services performed by the
19 person or organization consist of transporting freight, sealed
20 and closed envelopes, boxes, parcels, or other sealed and
21 closed containers for compensation.

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

25 (A) operates an Internet web site or smartphone
26 application that facilitates the provision of services by
27 marketplace contractors to individuals or entities seeking
28 the services;

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

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

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

40 (1) All or substantially all of the payment for the services
41 performed by the marketplace contractor is related to the
42 performance of services or other output.



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- (2) The services performed by the marketplace contractor are governed by a written contract executed between the marketplace contractor and the marketplace platform.**
- (3) The written contract required under subdivision (2) includes the following provisions:**
 - (A) The marketplace contractor is providing services as an independent contractor and not as an employee of the marketplace platform.**
 - (B) All or substantially all of the payments paid to the marketplace contractor are to be based on the performance of services or other output by the marketplace contractor.**
 - (C) The marketplace contractor may work any hours or schedules the marketplace contractor chooses. However, if the marketplace contractor does elect to work specified hours or schedules, the marketplace platform may require the marketplace contractor to work during the specified hours or schedules that the marketplace contractor elected to work.**
 - (D) Except as provided in clause (C), the marketplace contractor may perform services for other parties without restriction.**
 - (E) The marketplace contractor bears responsibility for all or substantially all of the expenses that the marketplace contractor pays or incurs in performing the services, without the right to obtain reimbursement from the 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.

COMMITTEE REPORT

Madam President: The Senate Committee on Pensions and Labor, to which was referred House Bill No. 1286, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 15, after "Service" insert "**consisting of passenger transport**".

Page 1, line 15, after "provided" insert "**in connection with technology offered**".

Page 1, line 16, after "IC 8-2.1-17-18)." insert "**Such service is governed by IC 8-2.1-19.1.**".

and when so amended that said bill do pass.

(Reference is to HB 1286 as printed January 30, 2018.)

BOOTS, Chairperson

Committee Vote: Yeas 7, Nays 2.



SENATE MOTION

Madam President: I move that Engrossed House Bill 1286 be amended to read as follows:

Page 2, between lines 1 and 2, begin a new line block indented and insert:

"(4) Service related to a referral by a hiring hall maintained by a labor organization.

(5) Service provided for:

(A) a public works project of the state or a political subdivision; or

(B) the erection, construction, alteration, structural repair, or structural improvement of a building, structure, or other improvement on land, excluding a single family dwelling or a single unit of a multi-family dwelling."

(Reference is to EHB 1286 as printed February 23, 2018.)

BOOTS

