

GIG WORKERS AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: John D. Johnson

House Sponsor: _____

LONG TITLE

General Description:

This bill amends Title 34, Labor in General, regarding the employment status of certain workers.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ establishes that an on-demand labor contractor is not an employee of a labor marketplace platform company if certain conditions are met;
- ▶ establishes applicability; and
- ▶ provides for severability.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

34-53b-101, Utah Code Annotated 1953

34-53b-201, Utah Code Annotated 1953

34-53b-301, Utah Code Annotated 1953

34-53b-302, Utah Code Annotated 1953



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Be it enacted by the Legislature of the state of Utah:

Section 1. Section **34-53b-101** is enacted to read:

CHAPTER 53b. ON-DEMAND LABOR MARKETPLACE PLATFORMS ACT

Part 1. General Provisions

34-53b-101. Definitions.

As used in this chapter:

(1) "Labor marketplace platform company" means an entity that uses an Internet-connected software platform, including a mobile application:

(a) to connect an on-demand labor contractor with a person seeking an on-demand labor service;

(b) through which a third party may request and pay for an on-demand labor service;

and

(c) through which an on-demand labor contractor may:

(i) (A) indicate the on-demand labor contractor's availability to perform an on-demand labor service; or

(B) advertise an on-demand labor service;

(ii) communicate with or receive a communication from a person before, during, or after the on-demand labor contractor performs an on-demand labor service for the person;

(iii) accept a request for an on-demand labor service from the entity or a third party;

and

(iv) receive payment from the entity or a third party for performing an on-demand labor service.

(2) "On-demand labor contractor" means an individual who enters into an agreement with a labor marketplace platform company to use the labor marketplace platform company's software platform to:

(a) find an opportunity to perform an on-demand labor service for a person seeking an on-demand labor service through the software platform; or

(b) advertise an on-demand labor service.

(3) (a) "On-demand labor service" means work:

(i) performed as a discrete task;

59 (ii) (A) performed sporadically; or
 60 (B) that is of limited or finite duration; and
 61 (iii) performed with some level of skill, regardless of whether the work is associated
 62 with a specialized industry or trade.

63 (b) "On-demand labor service" includes work creating a custom-order product.

64 Section 2. Section **34-53b-201** is enacted to read:

65 **Part 2. Employment Status**

66 **34-53b-201. Conditions under which an on-demand labor contractor is not an**
 67 **employee of a labor marketplace platform company.**

68 (1) An on-demand labor contractor is not an employee of a labor marketplace platform
 69 company, if under the agreement between the on-demand labor contractor and the labor
 70 marketplace platform company and in fact:

71 (a) all or substantially all of the on-demand labor services the on-demand labor
 72 contractor performs under the agreement:

73 (i) are not for the labor marketplace platform company; and

74 (ii) are on an hourly per-job, or per-transaction basis;

75 (b) the labor marketplace platform company does not:

76 (i) prescribe specific hours during which the on-demand labor contractor must be
 77 available to accept a request for an on-demand labor service;

78 (ii) schedule, control, or limit the on-demand labor contractor's working hours;

79 (iii) restrict the on-demand labor contractor from:

80 (A) engaging in another occupation or business; or

81 (B) accepting a request for an on-demand labor service through another labor
 82 marketplace platform company or otherwise;

83 (iv) set or control:

84 (A) the rate or amount of pay the on-demand labor contractor receives for an
 85 on-demand labor service;

86 (B) any working conditions while the on-demand labor contractor performs the
 87 on-demand labor service; or

88 (C) the manner in which, method by which, or location at which the on-demand labor
 89 contractor performs an on-demand labor service;

- 90 (v) require the on-demand labor contractor to:
- 91 (A) accept a request for an on-demand labor service; or
- 92 (B) perform an on-demand labor service; or
- 93 (vi) hire, fire, or discipline the on-demand labor contractor for any purpose;
- 94 (c) each on-demand labor service the on-demand labor contractor performs requires
- 95 specialized training or skill that the labor marketplace platform company does not provide the
- 96 on-demand labor contractor; and
- 97 (d) except for the use of the labor marketplace platform company's software platform,
- 98 the on-demand labor contractor is responsible for:
- 99 (i) the practical knowledge, skill, or expertise required to perform each on-demand
- 100 labor service; and
- 101 (ii) providing the necessary tools, materials, or equipment required to perform each
- 102 on-demand labor service.
- 103 (2) A labor marketplace company does not affect an on-demand labor contractor's
- 104 employment status under this chapter by:
- 105 (a) conducting a background screening on the on-demand labor contractor;
- 106 (b) facilitating payment to the on-demand labor contractor for an on-demand labor
- 107 service the on-demand labor contractor provides a third party;
- 108 (c) contracting with another person for the person to facilitate payment to the
- 109 on-demand labor contractor for an on-demand labor service the on-demand labor contractor
- 110 provides a third party; or
- 111 (d) collecting or withholding from the on-demand labor contractor:
- 112 (i) a transaction processing fee;
- 113 (ii) a tax a governmental entity imposes; or
- 114 (iii) a platform-use fee.

115 Section 3. Section **34-53b-301** is enacted to read:

116 **Part 3. Scope and Severability**

117 **34-53b-301. Applicability.**

118 Nothing in this chapter affects a person licensed or required to be licensed under Title
119 34, Chapter 29, Employment Agencies, as an employment agency.

120 Section 4. Section **34-53b-302** is enacted to read:

121 34-53b-302. Severability Clause.

122 (1) If a provision of this chapter or the application of a provision to a person or
123 circumstance is held invalid by a final decision of a court of competent jurisdiction, the
124 remainder of this chapter shall be given effect without the invalid provision or application.

125 (2) The provisions of this chapter are severable.