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LEGISLATIVE ACTION

Senate

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House

Floor: WD

03/09/2018 10:05 AM

Senator Bradley moved the following:

Senate Amendment to Amendment (486636) (with title amendment)

Between lines 2302 and 2303

insert:

Section 55. Chapter 451, Florida Statutes, consisting of sections 451.01 and 451.02, Florida Statutes, is created to read:

CHAPTER 451

MARKETPLACE CONTRACTORS

451.01. Definitions.—For purposes of this chapter, the



167998

12 term:

13 (1) "Household services" means:

14 (a) Furniture assembly;

15 (b) Interior painting;

16 (c) Television mounting;

17 (d) Local moving help, such as packing, lifting, loading,

18 and rearranging household items, but excluding transporting

19 items;

20 (e) Hanging pictures, mirrors, curtains, blinds, and

21 shelves;

22 (f) Home cleaning;

23 (g) Installation of in home technology that does not

24 require a hard-wired electrical connection; or

25 (h) Installing or replacing door hardware.

26

27 Household services shall not include services that require

28 licensure under chapter 489.

29 (2) "Marketplace contractor" means any individual that:

30 (a) Enters into an agreement with a marketplace platform to

31 use the platform's technology application to connect with third-

32 party individuals or entities seeking temporary household

33 services.

34 (b) In return for compensation, offers or provides

35 temporary household services to third-party individuals or

36 entities through the marketplace platform's technology

37 application.

38 (3) "Marketplace platform" or "platform" means an entity

39 operating in this state that:

40 (a) Offers an online-enabled technology application



41 service, website, or system that enables marketplace contractors
42 to provide services to third-party individuals or entities
43 seeking such temporary household services.

44 (b) Accepts service requests from the public only through
45 its online-enabled technology application service, website, or
46 system.

47 451.02 Marketplace contractors.-

48 (1) A marketplace contractor shall be treated as an
49 independent contractor, and not an employee, of the marketplace
50 platform for all purposes under state and local laws,
51 regulations, and ordinances, including, but not limited to,
52 chapters 440 and 443, if all of the following conditions are
53 met:

54 (a) The marketplace platform does not unilaterally
55 prescribe specific hours during which the marketplace contractor
56 must be available to accept service requests submitted through
57 the platform from third-party individuals or entities.

58 (b) The marketplace platform does not prohibit the
59 marketplace contractor from using the technology application
60 offered by other marketplace platforms.

61 (c) The marketplace platform does not restrict the
62 contractor from engaging in any other occupation or business.

63 (d) The marketplace platform and marketplace contractor
64 agree in writing that the marketplace contractor is an
65 independent contractor with respect to the marketplace platform.

66 (e) The marketplace contractor bears all or substantially
67 all of the marketplace contractor's expenses incurred by the
68 marketplace contractor in performing the services.

69 (f) The marketplace contractor is responsible for paying



167998

70 taxes on the marketplace contractor's income.

71 (2) Subsection (1) applies to services performed by a
72 marketplace contractor before July 1, 2018, if the conditions
73 set forth in subsection (1) were satisfied when the services
74 were performed.

75 (3) Compliance with subsection (1) is not mandatory to
76 establish the existence of an independent contractor
77 relationship. The exclusion of any person or service from this
78 section does not create any presumption and is not admissible to
79 deny the existence of an independent contractor relationship.

80 (4) Third-party individuals or entities seeking services
81 through the marketplace platform and marketplace contractors
82 must comply with chapter 440 in the same manner as if they had
83 not connected through the marketplace platform.

84 (5) This section does not apply to:

85 (a) Services performed in the employ of the state, a
86 political subdivision of the state, an Indian tribe, an
87 instrumentality of a state, or any political subdivision of a
88 state or an Indian tribe that is wholly owned by one or more
89 states, political subdivisions, or Indian tribes, respectively,
90 provided that such service is excluded from employment as
91 defined in s. 3306 of the Federal Unemployment Tax Act.

92 (b) Services performed in the employ of a religious,
93 charitable, educational, or other organization that is excluded
94 from employment as defined in ss. 3301-3311 of the Federal
95 Unemployment Tax Act, solely by reason of s. 3306(c)(8) of the
96 act.

97
98 ===== T I T L E A M E N D M E N T =====



167998

99 And the title is amended as follows:
100 Delete line 2900
101 and insert:
102 school districts for certain purposes; creating ch.
103 451, F.S., entitled "Marketplace Contractors";
104 creating s. 451.01, F.S.; defining terms; creating s.
105 451.02, F.S.; providing that a marketplace contractor
106 is deemed an independent contractor if specified
107 conditions are met; providing applicability and
108 construction; providing sales