

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 55th Legislature (2016)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1343

By: Dunnington

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9 COMMITTEE SUBSTITUTE

10 An Act relating to labor; requiring certain
11 contractors be treated as independent contractors;
12 providing conditions; defining terms; providing for
13 codification; and providing an effective date.

14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 1. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 901 of Title 40, unless there is
17 created a duplication in numbering, reads as follows:

18 A. A qualified marketplace contractor shall be treated as an
19 independent contractor for all purposes under state and local laws,
20 regulations and ordinances, including but not limited to the
21 Employment Security Act of 1980 and the Administrative Workers'
22 Compensation Act, if:

23 1. All or substantially all of the remuneration for the
24 services performed by such contractor is directly related to the

1 performance of services or other output rather than to the number of
2 hours worked;

3 2. The services performed by the contractor are governed by a
4 written contract executed between such contractor and a qualified
5 marketplace platform; and

6 3. The written contract provided for in paragraph 2 of this
7 subsection shall include, but not be limited to, provisions that
8 provide for the following:

- 9 a. that the contractor shall be engaged as an independent
10 contractor, not as an employee,
- 11 b. that the contractor shall, in accordance with
12 paragraph 1 of subsection A of this section, be paid
13 based on the performance of services or other output,
- 14 c. that the contractor shall be permitted to work any
15 hours or schedules he or she chooses, provided that if
16 a contractor elects to work specified hours or
17 schedules, a contract may require the worker to
18 perform work during the selected hours or schedules,
- 19 d. that the contractor shall be free to engage in any
20 other occupation or business opportunity, including
21 performing services through other qualified
22 marketplace platforms,
- 23 e. that the contractor shall bear all or substantially
24 all of his or her own expenses,

1 f. that the qualified marketplace contractor shall be
2 responsible for tax on the qualified marketplace
3 contractor's own income, and

4 g. that the contract and the association created thereby
5 may be terminated without cause by either party
6 thereto at any time upon reasonable notice given to
7 the other.

8 B. For purposes of this section, the term "qualified
9 marketplace platform" shall mean an organization, including, but not
10 limited to, a corporation, limited liability company, partnership,
11 sole proprietor, or any other entity, that operates a digital
12 application or digital platform that facilitates the provision of
13 services by qualified marketplace contractors to individuals or
14 entities seeking such services.

15 C. For purposes of this section, the term "qualified
16 marketplace contractor" or "contractor" shall mean any person or
17 organization, including, but not limited to, a natural person,
18 corporation, limited liability company, partnership, sole
19 proprietor, or other entity, that enters into an agreement with a
20 qualified marketplace platform to use the platform's digital
21 application or digital platform to provide services to individuals
22 or entities seeking such services.

23 D. For services performed by a marketplace contractor prior to
24 the enactment of this section, the qualified marketplace contractor

1 shall be treated as an independent contractor for all purposes under
2 state and local laws, regulations and ordinances, including but not
3 limited to the Employment Security Act of 1980 and the
4 Administrative Workers' Compensation Act, if:

5 1. All or substantially all of the remuneration for the
6 services performed by such contractor was directly related to the
7 performance of services or other output rather than to the number of
8 hours worked; and

9 2. The services performed by the contractor were governed by a
10 written contract executed between the contractor and a qualified
11 marketplace platform that conforms to the requirements of paragraph
12 3 of subsection A of this section.

13 SECTION 2. This act shall become effective November 1, 2016.

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15 COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT, COMMERCE AND
16 REAL ESTATE, dated 02/18/2016 - DO PASS, As Amended.
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