

By: Turner of Tarrant

H.B. No. 4182

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the employment status of certain remote service  
3 workers.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subtitle E, Title 2, Labor Code, is amended by  
6 adding Chapter 94 to read as follows:

7 CHAPTER 94. REMOTE SERVICE CONTRACTORS

8 SUBCHAPTER A. GENERAL PROVISIONS

9 Sec. 94.0001. SHORT TITLE. This chapter may be cited as the  
10 Remote Service Marketplace Platforms Act.

11 Sec. 94.0002. DEFINITIONS. In this chapter:

12 (1) "Digital application" means an Internet-connected  
13 software application that a person uses to obtain or provide a  
14 remote service.

15 (2) "Marketplace company" means a person that:

16 (A) offers a digital application to the public;

17 and

18 (B) accepts requests for remote services  
19 exclusively through the person's digital application.

20 (3) "Remote service" means a service designed to  
21 assist others that a person performs remotely through a digital  
22 application. The term includes tutoring, closed captioning, open  
23 captioning, subtitling, transcribing, translating, interpreting,  
24 and conducting a language assessment remotely through a digital

1 application.

2 (4) "Remote service contractor" means a person who  
3 uses a marketplace company's digital application to provide a  
4 remote service to another person.

5 Sec. 94.0003. NONAPPLICABILITY. This chapter does not  
6 apply to services performed by an individual in the employ of:

7 (1) a state, a political subdivision of a state, or an  
8 Indian tribe or an instrumentality of a state, political  
9 subdivision of a state, or Indian tribe that is wholly owned by one  
10 or more states, political subdivisions, or Indian tribes, provided  
11 that the services are excluded from employment as defined in the  
12 Federal Unemployment Tax Act (26 U.S.C. Section 3301 et seq.)  
13 solely because of Section 3306(c)(7) of that Act; or

14 (2) a religious, charitable, educational, or other  
15 organization, provided that the services are excluded from  
16 employment as defined in the Federal Unemployment Tax Act (26  
17 U.S.C. Section 3301 et seq.) solely because of Section 3306(c)(8)  
18 of that Act.

19 SUBCHAPTER B. EMPLOYMENT STATUS

20 Sec. 94.0101. CONDITIONS UNDER WHICH REMOTE SERVICE  
21 CONTRACTOR IS NOT EMPLOYEE. (a) A remote service contractor is not  
22 an employee of a marketplace company if, under the agreement  
23 between the remote service contractor and the marketplace company  
24 and in fact:

25 (1) all or substantially all of the work the remote  
26 service contractor performs under the agreement:

27 (A) is on a per-job or per-transaction basis; and

1                   (B) is compensated on an hourly, per-job, or  
2 per-transaction basis;

3                   (2) the marketplace company does not:

4                   (A) prescribe specific hours during which the  
5 remote service contractor must be available to accept a request for  
6 remote service;

7                   (B) prescribe a specific location at which the  
8 remote service contractor must be available to perform a remote  
9 service; or

10                   (C) restrict the remote service contractor from  
11 engaging in another occupation or business; and

12                   (3) except for the use of the marketplace company's  
13 digital application, the remote service contractor is responsible  
14 for providing the necessary tools, materials, and equipment to  
15 perform a remote service requested by a person through the  
16 marketplace company's digital application.

17                   (b) A marketplace company's act of screening or training a  
18 remote service contractor does not affect the remote service  
19 contractor's employment status under this chapter.

20                   SECTION 2. This Act takes effect September 1, 2021.