87R17549 JSC-D

By:  Turner of Tarrant H.B. No. 4182

Substitute the following for H.B. No. 4182:

By:  Turner of Tarrant C.S.H.B. No. 4182

A BILL TO BE ENTITLED

AN ACT

relating to the employment status of certain remote service workers.

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

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

CHAPTER 94.  REMOTE SERVICE CONTRACTORS

SUBCHAPTER A.  GENERAL PROVISIONS

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

Sec. 94.0002.  DEFINITIONS. In this chapter:

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

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

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

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

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

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

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

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

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

SUBCHAPTER B.  EMPLOYMENT STATUS

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

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

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

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

(2)  the marketplace company does not:

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

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

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

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

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

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