



Recently Enacted Tennessee Law Protects Gig Economy Companies

Insights

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Frequent readers of our blog will recall our post from earlier this year where we referenced the efforts of gig economy company Handy to [lobby legislators in a number of states](#) to pass laws protecting the independent contractor status of individuals working in the online digital marketplace. That effort was recently successful in Tennessee.

Earlier this year, a new Tennessee law ([HB 1978](#)) went into effect specifying that a “marketplace contractor” of a “marketplace platform” is not an employee of the marketplace platform “for all purposes under state and local laws, rules, ordinances, and resolutions” provided there is a written agreement between the marketplace contractor and the marketplace platform and certain conditions are met. After defining the terms “marketplace contractor” and “marketplace platform,” the law goes on to incorporate several well-established common law principles used to determine independent contractor status into conditions that must be met. They include:

- The marketplace platform does not unilaterally prescribe specific hours during which the marketplace contractor must be available to accept service requests from third-party individuals or entities;
- The marketplace platform does not prohibit the marketplace contractor from using any online-enabled application, software, website, or system offered by other marketplace platforms;
- The marketplace platform does not restrict the marketplace contractor from engaging in any other occupation or business;
- The marketplace platform does not require marketplace contractors to use specific supplies or equipment;
- The marketplace platform does not control the means and methods for the services performed by a marketplace contractor by requiring the marketplace contractor to follow specified instructions governing how to perform the services” but may require that specific quality standards be met;
- The agreement or contract between the marketplace contractor and the marketplace platform may be terminated by either the marketplace contractor or the marketplace platform with or without cause;

- The marketplace platform provides no medical or other insurance benefits to the marketplace contractor, and the marketplace contractor is responsible for paying taxes on all income derived as a result of services performed to third parties from the assignments or connections received from the marketplace platform; and
- All, or substantially all, payment to the marketplace contractor is based on performance of services to third parties who have engaged the services of the marketplace contractor through the marketplace platform.

While the law excludes “transportation network companies” (ride-sharing companies such as Uber and Lyft) and “construction services providers” (“any person or entity engaged in the construction industry”) from its coverage, transportation network companies are afforded protection under a different provision of the Tennessee Code. Tennessee joins several other states, including Iowa, Kentucky, and Utah in creating a more favorable legal environment for gig economy companies and individuals interested in flexible work opportunities.

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