
Labor & Workplace Standards Committee

SSB 6289

Brief Description: Addressing the use of a digital platform to employ certain independent contractors.

Sponsors: Senate Committee on Commerce & Labor (originally sponsored by Senators Baumgartner and Hobbs).

Brief Summary of Substitute Bill

- Provides that an entity administering a digital platform for certain domestic services and gardening, maintenance, or repair in a private home is not an employer for purposes of industrial insurance.

Hearing Date: 2/23/16

Staff: Joan Elgee (786-7106).

Background:

Under the state's industrial insurance laws, workers are covered and the employer must pay premiums unless an exception applies. Some employments are excluded from coverage. These include:

- A domestic servant in a private home employed by an employer who has less than two employees regularly employed 40 or more hours per week; and
- A person employed to do gardening, maintenance, or repair in or about the the employer's place of residence.

In addition, an entity is not an employer and a person is not a "worker" if a six-part independent contractor test is satisfied. The six-part test has the following elements, requiring that the individual:

1. *Control or direction.* Is free from control or direction;

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

2. *Separate business*. Performs a service:

- that is outside the usual course of business for which the service is performed,
- that is outside all of the places of business of the enterprise for which the service is performed, or
- for which the individual is responsible for the costs of the principal place of business where the services are performed;

3. *Established independent business*. Has:

- an independently established trade, occupation, profession, or business, or
- a principal place of business that qualifies for an Internal Revenue Service (IRS) deduction;

4. *IRS schedule of expenses*. Is responsible for filing a schedule of expenses with the IRS;

5. *Books and records*. Has a separate set of books and records that reflect all items of income and expenses; and

6. *State tax accounts*. Has an active and valid account with the Department of Revenue, and any other required state agencies for the payment of taxes, on the contract date or within a reasonable period after the contract date.

Each element of the six-part test must be satisfied.

An employer or worker may not contract away the burdens or benefits of the industrial insurance laws.

Summary of Bill:

An entity administering a digital platform or application is not an employer for: (1) individuals performing services as domestic servants as defined in the law excluding certain domestic workers in private homes from employment; and (2) gardeners, maintenance workers, or repair workers in private homes.

A digital platform is a digital network or software application to connect service providers to requestors to provide services that: (1) provides lists of specified jobs available with employers other than itself; (2) is consistent with the law prohibiting contracting away the burdens or benefits of the industrial insurance laws and clarifies the roles of service providers and requestors; and (3) charges a fee to the employer and/or worker for its services.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.