

SENATE BILL REPORT

SB 6289

As of January 26, 2016

Title: An act relating to employing certain independent contractors through the use of a digital platform.

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

Sponsors: Senators Baumgartner and Hobbs.

Brief History:

Committee Activity: Commerce & Labor: 1/25/16.

SENATE COMMITTEE ON COMMERCE & LABOR

Staff: Susan Jones (786-7404)

Background: The state's industrial insurance laws, commonly referred to as the workers' compensation act, provides medical and other benefits to workers who suffer a work-related injury or develop an occupational disease. Employers must insure through the State Fund administered by the Department of Labor and Industries (L&I) or, if qualified, may self-insure.

The Legislature has found that:

- there is a hazard in all employment;
- it is the purpose of the workers' compensation act to embrace all employments which are within the legislative jurisdiction of the state; and
- the workers' compensation act is to be liberally construed for the purpose of reducing to a minimum the suffering and economic loss arising from injuries and/or death occurring in the course of employment.

Certain employments are excluded from the mandatory coverage of the workers' compensation system. Two of the excluded employments are:

- any person employed as a domestic servant in a private home by an employer who has less than two employees regularly employed 40 or more hours a week in such employment; and
- any person employed to do gardening, maintenance, or repair at a private home of the employer.

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.

Summary of Bill: If an employer secures the services of a domestic servant or a person to do gardening, maintenance, or repair at a private home through a digital platform, they are excluded from the workers' compensation system.

Digital platform means a digital application or digital platform that:

- provides lists of specified jobs available with employers other than itself;
- has written agreements with the employers and service providers stating that the platform is not the employer of the service providers; and
- charges a fee to the employer and/or worker for its services.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: There are online websites that connect homeowners with professionals to do home projects. These websites or digital platforms save the homeowner a lot of time. Handy.com provides this digital platform. Handy.com had \$2 million in revenue with 11,000 consumers making over 40,000 transactions with approximately 300 professionals, earning on average of \$19 per hour. The platform provides the professionals with the ability to choose which jobs to take, how much to work, and when to work. The professional may choose to accept or reject a job. The professionals like the platform for the flexibility and independence. The platform works because of the independent contractor relationship between the platform and the professional. Under current law, if a homeowner makes a telephone call to hire a professional to do home projects, there is an exemption from independent contractor status. However, it is unclear if the exemption applies if the homeowner hires the person through a digital platform. If the professional is injured, the worker takes the risk of the injury. The bill would provide clarity that whether the homeowner calls or goes online to hire the professional, they are an independent contractor.

CON: The problem with the bill is that independent contractor status necessarily hinges on the how a worker finds the job. It's not on the relationship between the worker and the client or the employer. There is nothing in the law now about how a worker finds a job, whether it is through a digital platform, a job application, a hiring hall, or friends and family. There is no difference between picking up the phone and using an app and that is why it should not be written in the law. Electrical workers are opposed to the bill as electrical work is one of the most dangerous jobs in the country. The apps cover small electrical jobs and other dangerous jobs. If electricians and others go out on a job, they should be entitled to workers compensation.

OTHER: There currently is a limited exemption in the law for those working in and about the home for domestic servants and those doing home repairs from the worker category.

Persons Testifying: PRO: Steve Gano, Handy.com; Brian Miller, Handy.com; Austin Miller, Self Employed.

CON: Joe Kendo, Washington State Labor Council; Matthew Hepner, Certified Electrical Workers of Washington.

OTHER: Elizabeth Smith, Labor & Industries.

Persons Signed In To Testify But Not Testifying: No one.