

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1045

Introduced by Ebke, 32.

Read first time January 20, 2016

Committee: Business and Labor

- 1 A BILL FOR AN ACT relating to contractors; to define terms; to provide
- 2 for treatment of certain contractors as independent contractors; and
- 3 to provide severability.
- 4 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) For purposes of this section:

2 (a) Qualified marketplace contractor means any person or
3 organization, including, but not limited to, a natural person, a
4 corporation, a limited liability company, a partnership, a sole
5 proprietor, or another entity, that enters into an agreement with a
6 qualified marketplace platform to use the platform's digital application
7 or digital platform to provide services to individuals or entities
8 seeking such services.

9 (b) Qualified marketplace platform means an organization, including,
10 but not limited to, a corporation, a limited liability company, a
11 partnership, a sole proprietor, or another entity, that operates a
12 digital application or digital platform that facilitates the provision of
13 services by qualified marketplace contractors to individuals or entities
14 seeking such services; and

15 (2) A qualified marketplace contractor shall be treated as an
16 independent contractor for all purposes under state and local laws,
17 regulations, and ordinances, including, but not limited to, Chapter 48,
18 if:

19 (a) Substantially all of the remuneration, whether or not paid in
20 cash, for the services performed by the qualified marketplace contractor
21 is directly related to the performance of services or other output rather
22 than to the number of hours worked;

23 (b) The services performed by the qualified marketplace contractor
24 are governed by a written contract executed between such contractor and a
25 qualified marketplace platform; and

26 (c) The written contract described in subdivision (2)(b) of this
27 section includes, but need not be limited to, provisions that provide for
28 the following:

29 (i) That the qualified marketplace contractor shall be engaged as an
30 independent contractor, not as an employee, and shall be treated as such
31 for all purposes, including, but not limited to, federal, state, and

1 local taxation, withholding, unemployment benefits, and workers'
2 compensation;

3 (ii) That the qualified marketplace contractor shall be paid based
4 on the performance of services or other output and shall not be treated
5 as an employee with respect to such services for federal, state, or local
6 tax purposes;

7 (iii) That the qualified marketplace contractor shall be permitted
8 to work any hours or schedules he or she chooses, provided that if the
9 qualified marketplace contractor elects to work specified hours or
10 schedules, the contract may require him or her to perform work during the
11 selected hours or schedules;

12 (iv) That the qualified marketplace contractor shall be free to
13 engage in outside employment and to perform services through other
14 qualified marketplace platforms;

15 (v) That the qualified marketplace contractor shall bear his or her
16 own expenses; and

17 (vi) That the contract and the association created thereby may be
18 terminated without cause by either party thereto at any time upon
19 reasonable notice given to the other party.

20 (3) For services performed by a qualified marketplace contractor
21 prior to the effective date of this act, the qualified marketplace
22 contractor shall be treated as an independent contractor for all purposes
23 under state and local laws, regulations, and ordinances, including, but
24 not limited to, Chapter 48, if:

25 (a) Substantially all of the remuneration, whether or not paid in
26 cash, for the services performed by the qualified marketplace contractor
27 is directly related to the performance of services or other output rather
28 than to the number of hours worked; and

29 (b) The services performed by the qualified marketplace contractor
30 are governed by a written contract executed between such contractor and a
31 qualified marketplace platform that conforms to the requirements of

1 subdivision (2)(c) of this section.

2 Sec. 2. If any section in this act or any part of any section is
3 declared invalid or unconstitutional, the declaration shall not affect
4 the validity or constitutionality of the remaining portions.