

117TH CONGRESS  
1ST SESSION

# S. 338

To promote the general health and well-being of individuals accessing work through digital marketplace companies, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 22, 2021

Mr. BRAUN (for himself and Mr. SCOTT of South Carolina) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To promote the general health and well-being of individuals accessing work through digital marketplace companies, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Helping Gig Economy  
5 Workers Act of 2021”.

6 **SEC. 2. DIGITAL MARKETPLACE COMPANY SAFE HARBOR.**

7 (a) DEFINITIONS.—In this section:

8 (1) COVID–19 EMERGENCY PERIOD.—The  
9 term “COVID–19 emergency period” means the pe-

1       riod beginning March 15, 2020, and ending on the  
2       later of—

3               (A) December 31, 2021; or

4               (B) the date of expiration of the public  
5       health emergency declared by the Secretary of  
6       Health and Human Services under section 319  
7       of the Public Health Service Act (42 U.S.C.  
8       247d) on January 31, 2020, with respect to  
9       COVID-19.

10       (2) DIGITAL MARKETPLACE COMPANY.—The  
11       term “digital marketplace company” means a busi-  
12       ness entity affecting commerce that—

13               (A) maintains an online-enabled applica-  
14       tion or platform to facilitate the exchange of  
15       goods or services by users of the online-enabled  
16       application or platform;

17               (B) licenses access to an online-enabled ap-  
18       plication or platform to facilitate the exchange  
19       of goods or services; and

20               (C) does not require a licensee using the  
21       online-enabled application or platform to gen-  
22       erate business to accept any specific job request  
23       as a condition of maintaining access to the enti-  
24       ty’s online-enabled application or platform.

1           (3) INDIVIDUAL ACCESSING WORK THROUGH A  
 2           DIGITAL MARKETPLACE COMPANY.—The term “indi-  
 3           vidual accessing work through a digital marketplace  
 4           company” means an individual who—

5                   (A) is provided with the option to accept or  
 6                   reject job requests through an online-enabled  
 7                   application or platform maintained by a digital  
 8                   marketplace company; and

9                   (B) provides services to digital platform  
 10                  consumers upon connection through a digital  
 11                  network maintained by the digital marketplace  
 12                  company in exchange for compensation or pay-  
 13                  ment of a fee.

14          (b) IN GENERAL.—Notwithstanding any other provi-  
 15          sion of law, in order to promote the general health and  
 16          well-being of individuals accessing work through digital  
 17          marketplace companies and to facilitate financial assist-  
 18          ance during public health emergencies, actions described  
 19          in subsection (c) taken by a digital marketplace company  
 20          during the COVID–19 emergency period shall not be used  
 21          under any Federal, State, or local law, ordinance, or regu-  
 22          lation as evidence for the purposes of—

23                   (1) determining whether an individual accessing  
 24                   work through the digital marketplace company is an  
 25                   employee or independent contractor; or

1           (2) determining whether the digital marketplace  
2           company is the joint employer of an individual who  
3           is providing services on behalf of another company.

4           (c) PROTECTED ACTIONS.—The actions described in  
5 this subsection are—

6           (1) providing financial assistance to individuals  
7           who previously accessed work through the digital  
8           marketplace company but are unable to work be-  
9           cause of health or safety concerns;

10          (2) directly providing benefits that are related  
11          to the health or safety of individuals accessing work  
12          through the digital marketplace company;

13          (3) providing training or information related to  
14          the health or safety of such individuals or the public;

15          (4) providing medical or cleaning supplies to  
16          such individuals;

17          (5) performing health checks on such individ-  
18          uals;

19          (6) providing medical testing to such individ-  
20          uals; and

21          (7) taking any action, including those required  
22          or suggested by any Federal, State, or local law, or-  
23          dinance, order, or directive of any type, that is in-  
24          tended to protect public health and safety.

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