

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.

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

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-

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

(A) December 31, 2021; or

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

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

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

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

(C) does not require a licensee using the
online-enabled application or platform to gen-
erate business to accept any specific job request
as a condition of maintaining access to the enti-
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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