

Senate Engrossed House Bill

FILED
MICHELE REAGAN
SECRETARY OF STATE

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

CHAPTER 210

HOUSE BILL 2652

AN ACT

AMENDING TITLE 23, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 10; RELATING TO EMPLOYMENT RELATIONSHIPS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 23, Arizona Revised Statutes, is amended by adding
3 chapter 10, to read:

4 CHAPTER 10

5 EMPLOYMENT RELATIONSHIPS

6 ARTICLE 1. GENERAL PROVISIONS

7 23-1601. Qualified marketplace contractors; definitions

8 A. A QUALIFIED MARKETPLACE CONTRACTOR SHALL BE TREATED AS AN
9 INDEPENDENT CONTRACTOR FOR ALL PURPOSES UNDER STATE AND LOCAL LAWS,
10 REGULATIONS AND ORDINANCES, INCLUDING EMPLOYMENT SECURITY LAWS PRESCRIBED IN
11 CHAPTER 4 OF THIS TITLE AND WORKERS' COMPENSATION LAWS PRESCRIBED IN CHAPTER
12 6 OF THIS TITLE, IF ALL OF THE FOLLOWING APPLY:

13 1. ALL OR SUBSTANTIALLY ALL OF THE PAYMENT FOR THE SERVICES PERFORMED
14 BY THE QUALIFIED MARKETPLACE CONTRACTOR IS RELATED TO THE PERFORMANCE OF
15 SERVICES OR OTHER OUTPUT.

16 2. THE SERVICES PERFORMED BY THE QUALIFIED MARKETPLACE CONTRACTOR ARE
17 GOVERNED BY A WRITTEN CONTRACT EXECUTED BETWEEN THE QUALIFIED MARKETPLACE
18 CONTRACTOR AND A QUALIFIED MARKETPLACE PLATFORM.

19 3. THE WRITTEN CONTRACT REQUIRED BY PARAGRAPH 2 OF THIS SUBSECTION
20 PROVIDES FOR ALL OF THE FOLLOWING:

21 (a) THAT THE QUALIFIED MARKETPLACE CONTRACTOR IS PROVIDING SERVICES AS
22 AN INDEPENDENT CONTRACTOR AND NOT AS AN EMPLOYEE.

23 (b) THAT, PURSUANT TO PARAGRAPH 1 OF THIS SUBSECTION, ALL OR
24 SUBSTANTIALLY ALL OF THE PAYMENT PAID TO THE CONTRACTOR SHALL BE BASED ON THE
25 PERFORMANCE OF SERVICES OR OTHER OUTPUT.

26 (c) THAT THE QUALIFIED MARKETPLACE CONTRACTOR IS ALLOWED TO WORK ANY
27 HOURS OR SCHEDULES THE QUALIFIED MARKETPLACE CONTRACTOR CHOOSES. IF THE
28 QUALIFIED MARKETPLACE CONTRACTOR ELECTS TO WORK SPECIFIED HOURS OR SCHEDULES,
29 A CONTRACT MAY REQUIRE THE QUALIFIED MARKETPLACE CONTRACTOR TO PERFORM WORK
30 DURING THE SELECTED HOURS OR SCHEDULES.

31 (d) THAT THE QUALIFIED MARKETPLACE CONTRACT DOES NOT RESTRICT THE
32 CONTRACTOR'S ABILITY TO PERFORM SERVICES FOR OTHER PARTIES.

33 (e) THAT THE QUALIFIED MARKETPLACE CONTRACTOR BEARS ALL OR
34 SUBSTANTIALLY ALL OF THE QUALIFIED MARKETPLACE CONTRACTOR'S OWN EXPENSES THAT
35 ARE INCURRED BY THE QUALIFIED MARKETPLACE CONTRACTOR IN PERFORMING THE
36 SERVICES.

37 (f) THAT THE QUALIFIED MARKETPLACE CONTRACTOR IS RESPONSIBLE FOR THE
38 TAXES ON THE QUALIFIED MARKETPLACE CONTRACTOR'S OWN INCOME.

39 (g) THAT THE CONTRACT AND THE ASSOCIATION CREATED BY THE CONTRACT MAY
40 BE TERMINATED WITHOUT CAUSE BY EITHER PARTY TO THE CONTRACT AT ANY TIME ON
41 REASONABLE NOTICE GIVEN TO THE OTHER PARTY.

42 B. FOR SERVICES PERFORMED BY A QUALIFIED MARKETPLACE CONTRACTOR BEFORE
43 THE EFFECTIVE DATE OF THIS SECTION, THE QUALIFIED MARKETPLACE CONTRACTOR
44 SHALL BE TREATED AS AN INDEPENDENT CONTRACTOR FOR ALL PURPOSES UNDER STATE

1 AND LOCAL LAWS, REGULATIONS AND ORDINANCES, INCLUDING EMPLOYMENT SECURITY
2 LAWS PRESCRIBED IN CHAPTER 4 OF THIS TITLE AND WORKERS' COMPENSATION LAWS
3 PRESCRIBED IN CHAPTER 6 OF THIS TITLE, IF BOTH OF THE FOLLOWING APPLY:

4 1. ALL OR SUBSTANTIALLY ALL OF THE PAYMENT FOR THE SERVICES PERFORMED
5 BY THE QUALIFIED MARKETPLACE CONTRACTOR IS RELATED TO THE PERFORMANCE OF
6 SERVICES OR OTHER OUTPUT.

7 2. THE SERVICES PERFORMED BY THE QUALIFIED MARKETPLACE CONTRACTOR ARE
8 GOVERNED BY A WRITTEN CONTRACT EXECUTED BETWEEN THE QUALIFIED MARKETPLACE
9 CONTRACTOR AND A QUALIFIED MARKETPLACE PLATFORM THAT CONFORMS TO THE
10 REQUIREMENTS OF SUBSECTION A, PARAGRAPH 3 OF THIS SECTION.

11 C. COMPLIANCE WITH THIS SECTION IS NOT MANDATORY IN ORDER TO ESTABLISH
12 THE EXISTENCE OF AN INDEPENDENT CONTRACTOR RELATIONSHIP. THE EXCLUSION OF
13 ANY CONTRACTOR OR DIGITAL PLATFORM FROM THIS SECTION DOES NOT CREATE ANY
14 PRESUMPTIONS AND IS NOT ADMISSIBLE TO DENY THE EXISTENCE OF AN INDEPENDENT
15 CONTRACTOR RELATIONSHIP.

16 D. THIS SECTION DOES NOT APPLY TO:

17 1. SERVICE PERFORMED IN THE EMPLOY OF A STATE, OR ANY POLITICAL
18 SUBDIVISION OF THE STATE, OR IN THE EMPLOY OF AN INDIAN TRIBE, OR ANY
19 INSTRUMENTALITY OF A STATE, ANY POLITICAL SUBDIVISION OF A STATE OR ANY
20 INDIAN TRIBE THAT IS WHOLLY OWNED BY ONE OR MORE STATES OR POLITICAL
21 SUBDIVISIONS OR INDIAN TRIBES, PROVIDED THAT SUCH SERVICE IS EXCLUDED FROM
22 EMPLOYMENT AS DEFINED IN THE FEDERAL UNEMPLOYMENT TAX ACT (26 UNITED STATES
23 CODE SECTIONS 3301 AND 3306(c)(7)).

24 2. SERVICE PERFORMED IN THE EMPLOY OF A RELIGIOUS, CHARITABLE,
25 EDUCATIONAL OR OTHER ORGANIZATION THAT IS EXCLUDED FROM EMPLOYMENT AS DEFINED
26 IN THE FEDERAL UNEMPLOYMENT TAX ACT (26 UNITED STATES CODE SECTIONS 3301
27 THROUGH 3311), SOLELY BY REASON OF 26 UNITED STATES CODE SECTION 3306(c)(8).

28 E. FOR THE PURPOSES OF THIS SECTION:

29 1. "QUALIFIED MARKETPLACE CONTRACTOR" MEANS ANY PERSON OR
30 ORGANIZATION, INCLUDING AN INDIVIDUAL, CORPORATION, LIMITED LIABILITY
31 COMPANY, PARTNERSHIP, SOLE PROPRIETOR OR OTHER ENTITY, THAT ENTERS INTO AN
32 AGREEMENT WITH A QUALIFIED MARKETPLACE PLATFORM TO USE THE QUALIFIED
33 MARKETPLACE PLATFORM'S DIGITAL PLATFORM TO PROVIDE SERVICES TO THIRD-PARTY
34 INDIVIDUALS OR ENTITIES SEEKING THOSE SERVICES. QUALIFIED MARKETPLACE
35 CONTRACTOR DOES NOT INCLUDE ANY CONTRACTOR WHEN THE SERVICES PERFORMED
36 CONSIST OF TRANSPORTING FREIGHT, SEALED AND CLOSED ENVELOPES, BOXES OR
37 PARCELS OR OTHER SEALED AND CLOSED CONTAINERS FOR COMPENSATION.

38 2. "QUALIFIED MARKETPLACE PLATFORM" MEANS AN ORGANIZATION, INCLUDING,
39 BUT NOT LIMITED TO, A CORPORATION, LIMITED LIABILITY COMPANY, PARTNERSHIP,
40 SOLE PROPRIETOR OR ANY OTHER ENTITY, THAT BOTH:

41 (a) OPERATES A DIGITAL WEBSITE OR DIGITAL SMARTPHONE APPLICATION THAT
42 FACILITATES THE PROVISION OF SERVICES BY QUALIFIED MARKETPLACE CONTRACTORS TO
43 INDIVIDUALS OR ENTITIES SEEKING SUCH SERVICES.

1 (b) ACCEPTS SERVICE REQUESTS FROM THE PUBLIC ONLY THROUGH ITS DIGITAL
2 WEBSITE OR DIGITAL SMARTPHONE APPLICATION, AND DOES NOT ACCEPT SERVICE
3 REQUESTS BY TELEPHONE, BY FACSIMILE OR IN PERSON AT PHYSICAL RETAIL
4 LOCATIONS.
5 QUALIFIED MARKETPLACE PLATFORM DOES NOT INCLUDE ANY DIGITAL WEBSITE OR
6 SMARTPHONE APPLICATION WHERE THE SERVICES FACILITATED CONSIST OF TRANSPORTING
7 FREIGHT, SEALED AND CLOSED ENVELOPES, BOXES OR PARCELS OR OTHER SEALED AND
8 CLOSED CONTAINERS FOR COMPENSATION.

APPROVED BY THE GOVERNOR MAY 12, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 12, 2016.

Passed the House March 2, 2016

Passed the Senate April 12, 2016

by the following vote: 38 Ayes,

by the following vote: 23 Ayes,

20 Nays, 2 Not Voting

5 Nays, 2 Not Voting

[Signature]
Speaker of the House

[Signature]
President of the Senate

Pro Tempore

[Signature]
Chief Clerk of the House

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

_____ day of _____, 20____

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this _____ day of _____, 20____

at _____ o'clock _____ M.

Secretary of State

H.B. 2652

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

May 6, 2016,

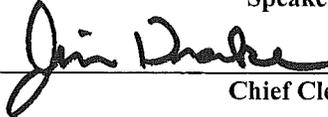
by the following vote: 31 Ayes,

22 Nays, 6 Not Voting

1 excused



Speaker of the House



Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

6th day of May, 2016,

at 1:10 o'clock P. M.



Secretary to the Governor

Approved this 12th day of

May, 2016,

at 8:57 o'clock A. M.



Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 13 day of May, 2016,

at 9:06 o'clock A M.



Secretary of State

H.B. 2652