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S.B. 423*
136th General Assembly

Bill Analysis

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Version: As Reported by Senate Health

Primary Sponsor: Sen. Manchester

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SUMMARY

- Specifies conditions under which a health care worker providing services to patients is not an employee of a healthcare worker platform or a healthcare facility for purposes of state overtime and minimum wage requirements, the Bimonthly Pay Law, the Workers' Compensation Law, the Unemployment Compensation Law, and the Income Tax Law.
- Allows a healthcare worker platform to advertise to the public that the platform is seeking health care workers to use the platform.

DETAILED ANALYSIS

Relationship between healthcare worker, platform, and facility

The bill specifies conditions under which a health care worker is not an employee of a healthcare worker platform or a healthcare facility for purposes of the minimum wage and overtime provisions of Ohio's Minimum Fair Wage Standards Law,[1] the Bimonthly Pay Law,[2] the Workers' Compensation Law,[3] the Unemployment Compensation Law,[4] and the Income Tax Law.[5] The bill defines "health care worker," "healthcare worker platform," and "healthcare facility" as follows:

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* This analysis was prepared before the report of the Senate Health Committee appeared in the Senate Journal. Note that the legislative history may be incomplete.

[1] R.C. 4111.03 and 4111.14.

[2] R.C. 4113.15.

[3] R.C. 4121.01 and 4123.01.

[4] R.C. 4141.01.

[5] R.C. 5747.01.

- Health care worker: A professional or worker who provides health care or directly related services to patients through a health care worker platform, including professionals or workers who are providing a service to patients that does not require a license;
- Health care worker platform: A person who offers or operates an electronic platform, system, or application through which health care workers can accept one or more shifts to perform health care related services at a health care facility; and
- Health care facility: A facility used to provide health care or related services.[6]

Except as described below, under the bill, a health care worker is not an employee of the healthcare worker platform or the healthcare facility for work booked through a health care worker platform for purposes of the laws listed above if all the following apply:

- The platform and worker agree in writing or electronically that the worker is an independent contractor for all work booked through the platform.
- The platform allows each worker to decide whether to accept a shift at a facility without any requirement that a worker accept a minimum number of shifts.
- The platform allows each worker to agree in writing or electronically to the rates offered or set by the facility or platform.
- The worker may accept or reject shifts with any facility without being penalized by the platform.
- The platform does not require the worker to be available to accept or fulfill a particular shift during specific hours or on specific days.
- The platform does not restrict the worker from engaging in any other occupation or business, including health care work or health care related work.
- The platform does not require the worker to use specific equipment, tools, or other supplies.
- The platform does not prescribe or control the means and methods for the services performed by a worker at a facility.
- The contract or other agreement between the worker and the platform may be terminated by either party with or without cause.
- The worker is responsible for the payment of all federal, state, and local taxes on the worker's earnings derived from all services performed for facilities booked through the platform.
- The platform does not require a worker to enter a noncompete agreement with the platform.

[6] R.C. 4113.87(A).

- The platform does not require a worker or facility to pay any fee or compensation to the platform if a worker accepts an offer of employment from a facility.
- The platform maintains, or verifies that the worker maintains, occupational accident insurance and general liability insurance or professional liability insurance that applies to the work booked through the platform.
- The platform does not restrict a worker from accepting shifts through another platform or from a facility that does not offer shifts on the platform.

With respect to the requirement that a platform may not restrict a worker from accepting shifts through another platform or facility, the bill allows a platform to remove a worker if the worker accepts simultaneous shifts on two different platforms.[7]

Exception for current employees

The bill does not apply to a health care worker who books a shift through a health care worker platform if the health care worker and health care facility or its parent company have an existing employment relationship and either of the following apply:

- The worker has received compensation from the health care facility that must be reported using Internal Revenue Service form W-2 for any of the 21 days immediately preceding the shift;
- The worker books a shift at the facility through a platform during a period of employer-approved leave, including medical, parental, family, or military leave, whether paid or unpaid.[8]

Advertising by health care platform

The bill also expressly allows a health care worker platform to advertise to the public that the platform is seeking health care workers to use the platform.[9]

Background – tests used to determine a worker's status

Ohio's minimum wage and overtime laws, Bimonthly Pay Law, Workers' Compensation Law, Unemployment Compensation Law, and the Income Tax Law use different tests to determine whether a worker is an employee or an independent contractor. Although the tests vary, the determination of independent contractor status is generally based on how much direction and control the purported employer has over the worker performing the services.

The following tests are used to determine independent contractor status under the laws affected by the bill:

[7] R.C. 4113.87(B).

[8] R.C. 4113.87(C).

[9] R.C. 4113.87(D).

- Income tax – the "common law test," an 11-factor test that is also used by the Internal Revenue Service (IRS) to determine independent contractor status under the federal income tax and federal unemployment tax laws.[10]
- Unemployment compensation – a 20-factor test specifically for construction and a separate 20-factor test for all other employment, both of which are similar to the "common law test."[11]
- Minimum wage and overtime – an "economic realities" test[12] that is also used to determine independent contractor status under federal minimum wage and overtime laws.
- Bimonthly pay and workers' compensation – whether the employer reserves the right to control the manner or means of doing the work (workers' compensation has a separate test for individuals in the construction industry).[13]

HISTORY

Action	Date
Introduced	04-14-26
Reported, S. Health	--

ANSB0423RS-136/ar

[10] U.S. Internal Revenue Service Publication 15-A (2025) Employer's Supplemental Tax Guide.

[11] R.C. 4141.01(B)(2)(k) and Ohio Administrative Code 4141-3-05.

[12] *See Donovan v. Brandal*, 736 F.2d 1114 (6th Cir. 1984) and *Solis v. Cascom, Inc.,* 2011 WL 10501391, case No. 3:0-cv-257 (S.D. Ohio 2011).

[13] *Gillum v. Industrial Comm.,* 141 Ohio St. 373, 374 (1943). *See also Bostic v. Connor*, 37 Ohio St.3d 144 (1988).