

House Bill 991

By: Representatives Jones of the 25th, Davis of the 87th, Anderson of the 10th, Townsend of the 179th, and Barrett of the 24th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial
2 relations, so as to provide for an exception to the definition of employment for certain
3 services performed by certain healthcare technology platform contractors utilizing a
4 healthcare technology platform company's application or platform to facilitate such services;
5 to provide for conditions; to require healthcare technology platform companies to maintain
6 certain insurance coverage; to provide for definitions; to revise the definition of employee
7 with regard to workers' compensation; to exclude certain healthcare technology platform
8 contractors from workers' compensation requirements; to provide for related matters; to
9 provide for an effective date; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial relations,
13 is amended in Article 2 of Chapter 8, relating to definitions relative to employment security,
14 by adding a new paragraph to subsection (n) of Code Section 34-8-35, relating to
15 employment, to read as follows:

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16 “(16.2)(A) Healthcare or directly related services performed at a healthcare facility in
17 this state by a healthcare technology platform contractor facilitated through a healthcare
18 technology platform company's application or platform, provided that such company
19 has a written contract with such contractor, with which such company is in compliance,
20 that expressly provides that such company shall not:

21 (i) Unilaterally prescribe specific dates, times of day, or a minimum number of hours
22 during which an individual is required to be available to provide services;

23 (ii) Terminate such contract for not accepting, and shall not require an individual to
24 accept, any specific service or shift request as a condition of maintaining access to
25 such company's application or platform;

26 (iii) Restrict an individual from performing services through other healthcare
27 technology platform companies, except while the individual is performing services
28 facilitated through such company;

29 (iv) Contractually restrict an individual from working in any other lawful occupation
30 or business;

31 (v) Require an individual to use specific equipment, tools, or other supplies;

32 (vi) Prescribe or control the means and methods for the services performed by an
33 individual at a healthcare facility; or

34 (vii) Assess a fee or otherwise require compensation from a healthcare facility or
35 healthcare technology platform contractor if such contractor accepts an offer of
36 employment from such facility.

37 (B) The exclusion provided under this paragraph only applies to healthcare or directly
38 related services performed at a healthcare facility in this state by a healthcare
39 technology platform contractor facilitated through a healthcare technology platform
40 company's application or platform and shall not be construed to affect the classification
41 of a healthcare technology platform contractor under any other circumstances.

42 (C) As used in this paragraph, the term:

43 (i) 'Healthcare facility' means any facility used to provide healthcare or directly
44 related services, including, but not limited to, hospitals; other special care units;
45 skilled nursing facilities; intermediate care facilities; assisted living communities;
46 personal care homes; ambulatory surgical or obstetrical facilities; health maintenance
47 organizations; home health agencies; and diagnostic, treatment, or rehabilitation
48 centers.

49 (ii) 'Healthcare technology platform company' means a person that maintains an
50 online enabled application or platform used to facilitate the delivery of healthcare or
51 directly related services at a healthcare facility in this state and through which a
52 healthcare technology platform contractor can accept one or more shifts to perform
53 healthcare or directly related services at a healthcare facility in this state; provided,
54 however, that such company shall maintain occupational accident insurance coverage
55 and general and professional liability insurance coverage for such contractors during
56 the performance of any such services facilitated through such company's application
57 or platform.

58 (iii) 'Healthcare technology platform contractor' means any healthcare professional
59 or worker who performs healthcare or directly related services at a healthcare facility
60 in this state facilitated through a healthcare technology platform company's
61 application or platform. Such term shall include licensed healthcare professionals and
62 workers who are not required to be licensed.

63 (iv) 'Occupational accident insurance coverage' means a private insurance policy that
64 applies to expenses such as medical costs or lost wages for an individual who is
65 involved in a work-related accident or other unforeseen event that results in bodily
66 injury while actively engaged as an independent contractor.

67 (v) 'Person' means an individual, partnership, association, corporation, or any other
68 organized group of persons;"

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SECTION 2.

70 Said title is further amended in Article 1 of Chapter 9, relating to general provisions relative
71 to workers' compensation, by revising paragraph (2) of Code Section 34-9-1, relating to
72 definitions, as follows:

73 "(2) 'Employee' means every person in the service of another under any contract of hire
74 or apprenticeship, written or implied, except a person whose employment is not in the
75 usual course of the trade, business, occupation, or profession of the employer; and, except
76 as otherwise provided in this chapter, minors are included even though working in
77 violation of any child labor law or other similar statute; provided, however, that nothing
78 contained in this chapter shall be construed as repealing or altering any such law or
79 statute. Any reference to any employee who has been injured shall, if the employee dies,
80 include such employee's legal representatives, dependents, and other persons to whom
81 compensation may be payable pursuant to this chapter. All firefighters, law enforcement
82 personnel, and personnel of emergency management or civil defense agencies, emergency
83 medical services, and rescue organizations whose compensation is paid by the state or
84 any county or municipality, regardless of the method of appointment, and all full-time
85 county employees and employees of elected salaried county officials are specifically
86 included in this definition. There shall also be included within such term any volunteer
87 firefighter of any county or municipality of this state, but only for services rendered in
88 such capacity which are not prohibited by Code Section 38-3-36 and only if the
89 governing authority of the county or municipality for which such services are rendered
90 shall provide by appropriate resolution for inclusion of such volunteer firefighters; any
91 volunteer law enforcement personnel of any county or municipality of this state who are
92 certified by the Georgia Peace Officer Standards and Training Council, for volunteer law
93 enforcement services rendered in such capacity which are not prohibited by Code Section
94 38-3-36 and only if the governing authority of the county or municipality for which such
95 services are rendered shall provide by appropriate resolution for inclusion of such

96 volunteer law enforcement personnel; any person who is a volunteer member or worker
97 of an emergency management or civil defense organization, emergency medical service,
98 or rescue organization, whether governmental or not, of any county or municipality of
99 this state for volunteer services, which are not prohibited by Code Section 38-3-36,
100 rendered in such capacity and only if the governing authority of the county or
101 municipality for which such services are rendered shall provide by appropriate resolution
102 for inclusion of such volunteer members or workers; and any person certified by the
103 Department of Public Health or the Georgia Composite Medical Board and registered
104 with any county or municipality of this state as a medical first responder for any
105 volunteer first responder services rendered in such capacity, which are not prohibited by
106 Code Section 38-3-36 and only if the governing authority of the county or municipality
107 for which such services are rendered shall provide by appropriate resolution for inclusion
108 of such responders. The various elected county officers and elected members of the
109 governing authority of an individual county shall also be included in this definition, if the
110 governing authority of such county shall provide therefor by appropriate resolution. For
111 the purposes of workers' compensation coverage, employees of county and district health
112 agencies established under Chapter 3 of Title 31 are deemed and shall be considered
113 employees of the State of Georgia and employees of community service boards
114 established under Chapter 2 of Title 37 shall be considered to be employees of the state.
115 For the purpose of workers' compensation coverage, members of the Georgia National
116 Guard and the State Defense Force serving on state active duty pursuant to an order by
117 the Governor are deemed and shall be considered to be employees of this state. A person
118 shall be an independent contractor and not an employee if such person has a written
119 contract as an independent contractor and if such person buys a product and resells it,
120 receiving no other compensation, or provides an agricultural service or such person
121 otherwise qualifies as an independent contractor. Notwithstanding the foregoing
122 provisions of this paragraph, any officer of a corporation may elect to be exempt from

123 coverage under this chapter by filing written certification of such election with the insurer
124 or, if there is no insurer, the State Board of Workers' Compensation as provided in Code
125 Section 34-9-2.1. For purposes of this chapter, an owner-operator as such term is defined
126 in Code Section 40-2-87 shall be deemed to be an independent contractor. For purposes
127 of this chapter, a healthcare technology platform contractor shall be an independent
128 contractor and not an employee if the services performed by such contractor are excluded
129 from the definition of employment as provided in paragraph (16.2) of subsection (n) of
130 Code Section 34-8-35. Inmates or persons participating in a work release program,
131 community service program, or similar program as part of the punishment for violation
132 of a municipal ordinance pursuant to Code Section 36-32-5 or a county ordinance or a
133 state law shall not be deemed to be an employee while participating in work or training
134 or while going to and from the work site or training site, unless such inmate or person is
135 employed for private gain in violation of Code Section 42-1-5 or Code Section 42-3-50
136 or unless the municipality or county had voluntarily established a policy, on or before
137 January 1, 1993, to provide workers' compensation benefits to such individuals.
138 Individuals who are parties to a franchise agreement as set out by the Federal Trade
139 Commission franchise disclosure rule, 16 C.F.R. 436.1 through 436.11, shall not be
140 deemed employees for purposes of this chapter."

141 **SECTION 3.**

142 Said title is further amended in said chapter by adding a new subsection to Code Section
143 34-9-2, relating to applicability of chapter to employers and employees generally, to read as
144 follows:

145 "(g) This chapter shall not apply to healthcare technology platform contractors when such
146 contractors are performing services that are excluded from the definition of employment
147 as provided in paragraph (16.2) of subsection (n) of Code Section 34-8-35."

148 **SECTION 4.**

149 This Act shall become effective upon its approval by the Governor or upon its becoming law
150 without such approval.

151 **SECTION 5.**

152 All laws and parts of laws in conflict with this Act are repealed.