

Tennessee Senate

PUBLIC CHAPTER NO. 131

SENATE BILL NO. 1377

By Watson, Yager, Stevens, Bailey, Massey, Lowe, Reeves, Taylor

Substituted for: House Bill No. 494

By Baum, Terry, Sparks, Fritts, Rudd, Helton-Haynes, Stevens, Burkhart, Eldridge, Cepicky, Lafferty

AN ACT to amend Tennessee Code Annotated, Title 50 and Title 65, Chapter 15, Part 3, relative to employer-employee relationships.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 50, Chapter 1, is amended by adding the following as a new part:

50-1-1101.

This part is known and may be cited as the "Voluntary Portable Benefit Act."

50-1-1102.

As used in this part:

(1) "Benefit plan" includes:

(A) Health insurance;

(B) Income replacement insurance;

(C) Life insurance;

(D) Retirement benefits; and

(E) Other benefits that may customarily be provided as part of a benefit plan;

(2) "Employee" means an individual who performs services for an employer for wages, and the services performed by the individual qualify as an employer-employee relationship with the employer based upon consideration of the twenty-factor test described in § 50-2-111;

(3) "Hiring party" means a person who hires or enters into a contract with an independent contractor;

(4) "Independent contractor" means an individual who performs services for a hiring party in exchange for compensation, and the relationship with the hiring party qualifies the individual as an independent contractor based upon consideration of the twenty-factor test described in § 50-2-111;

(5) "Portable benefit account" means an account opened by an independent contractor to fund the purchase of one (1) or more benefit plans and that is administered by a third-party portable benefit account provider chosen by the independent contractor and assigned to a beneficiary of one (1) or more benefit plans rather than a hiring party; and

(6) "Portable benefit account provider" means a bank, as defined in Section 3(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. § 1813(a)(1)); an investment management firm; or a technology provider or program manager that offers services through a bank or investment management firm.

50-1-1103.

(a) An individual or entity, including a hiring party, whether public or private, an independent contractor, or an internet or application-based company, may voluntarily contribute funds to a portable benefit account for an independent contractor.

(b) Contributions to a portable benefit account must not be used as a criterion for determining a worker's employment classification under this title, or title 65, chapter 15.

(c) Contributions to a portable benefit account may be made using the funds of a hiring party or a percentage of funds withheld from the compensation owed to an independent contractor, as long as:

(1) Withholding such compensation is expressed in a written agreement;

(2) Such written agreement is clear, unambiguous, and prominently displayed either in the work contract or a separate notice;

(3) Such withholdings are voluntary and require the independent contractor to opt-in; and

(4) The independent contractor may choose to opt-out of such withholdings at any time.

SECTION 2. Tennessee Code Annotated, Section 50-8-101(1)(B), is amended by deleting the language "In return for compensation from the third-party or marketplace platform, offers" and substituting "In return for compensation from the third-party or marketplace platform, including compensation in the form of a contribution to a portable benefit account as described in § 50-1-1103, offers".

SECTION 3. Tennessee Code Annotated, Section 50-8-102(a)(9), is amended by deleting the language "marketplace platform provides no medical or other insurance benefits to the marketplace contractor, and the".

SECTION 4. Tennessee Code Annotated, Section 65-15-301(4), is amended by deleting the language "control, direct, or manage the personal vehicles" and substituting "control, direct, or manage, as the applicability of such terms are understood pursuant to § 50-2-111, the personal vehicles".

SECTION 5. This act takes effect upon becoming a law, the public welfare requiring it.

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PASSED: March 20, 2025

RANDY McNALLY
SPEAKER OF THE SENATE

CAMERON SEXTON, *SPEAKER*
HOUSE OF REPRESENTATIVES

APPROVED this 3rd **day of** April **2025**

BILL LEE, *GOVERNOR*