**PROPOSED RULEMAKING**

**DEPARTMENT OF LABOR AND INDUSTRY**

**[ 34 PA. CODE CH. 601 ]**

**Bureau of Sharing**

**[46 Pa.B. 851]**

**[Saturday, February 13, 2016]**

 The Department of Labor and Industry (Department) proposed to add § 601 (relating to regulation of sharing economy businesses) to read as set forth in Annex A.

A. *Effective Date*

 This proposed rulemaking will go into effect upon final-form publication in the *Pennsylvania Bulletin*.

B. *Contact Persons*

 For further information contact Floyd Pepper, Director of the Bureau of Sharing, Department of Labor and Industry, 30 North Third Street, Suite 150, Harrisburg, PA 17101-1716, (717) 237-0236.

C. *Statutory Authority*

 This proposed rulemaking is being made under the authority of 43 P.S. §§ 1550-1555 (relating to Shared Economy Code), unless otherwise noted.

D. *Background and Purpose*

 Part XV of 43 Pa.C.S. (Shared Economy Code) (Code) creates the Bureau of Sharing (Bureau) within the Department of Labor and Industry (Department) to regulate businesses using the sharing economy business model in order to protect consumers. The proposed Chapter 501 (relating to regulation of sharing economy businesses) (Chapter) to Part XVI (Bureau of Sharing) expressly provides the process for the Code requirement a sharing economy business to obtain a license in order to provide services in the Commonwealth. Services given by a sharing economy business without a license is not allowed. The proposed chapter authorizes the Bureau to provide for consumer safety and expressly provides for the status of an employee of a sharing economy business. The proposed chapter also provides guidelines for pricing of sharing economy business services.

 Proposed § 501.01 pertains to definitions for the Chapter.

 Proposed § 501.10. pertains to the required licensure for a shared economy business. The Code authorizes the Bureau to regulate sharing economy businesses to protect consumer safety. Specifically, the Code provides that the Bureau must license each business providing services in the sharing economy. The Code does not expressly state the process for licensure. The absence of a process providing for licensure would violate the directives of the Code.

 Proposed § 501.20 provides for consumer safety protections. The Code directs the Bureau to ensure consumers are safe when using services from shared economy businesses. Specifically, the Code provides that the Bureau must provide rules for shared economy businesses that would ensure protection of a consumer’s person, possessions and finances. The Code does not expressly state what provisions are required for consumer safety. The absence of a process providing for licensure would violate the directives of the Code.

 Proposed § 501.30 provides for who is a covered employee under the Code. Specifically, the Code provides that employees are also members of the shared economy business that must abide by the Code and all regulations thereunder in order for that shared economy business to maintain its license. The Code does not provide who is covered under the term “employe.” The absence of further definition for a covered employee would create confusion of whether specific employees are subject to the Code and all regulations thereunder.

 Proposed § 501.40 provides for pricing of services provided by shared economy businesses. Specifically, the Code directs the Bureau to ensure prices for services are fair for consumers. The Code does not provide for what a fair price for a shared economy service is. The absence of a process providing for licensure would violate the directives of the Code.

E. *Benefits, Costs and Compliance*

*Benefits*

 This proposed rulemaking provides a licensure structure for sharing economy businesses to protect consumers in the Commonwealth.

*Costs*

 The proposed rulemaking has no associated cost.

*Compliance Costs*

 The proposed rulemaking will not impose additional compliance costs on State employees or employers.

F. *Sunset Review*

 A sunset review is not applicable.

G. *Regulatory Review*

 Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on February 10, 2016, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Labor Committee and the Senate Labor and Industry Committee. A copy of this material is available to the public upon request.

 Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b) which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor of comments, recommendations or objections raised.

H. *Public Comments*

 Those who could be affected by the proposed addition of the Chapter include an owner or employee of a sharing economy business. Also, potentially affected by proposed addition of the Chapter is a current or potential consumer of a sharing economy business.

 *Written comments*. Interested persons are invited to submit comments, suggestions or objections regarding the proposed rulemaking to Floyd Pepper, Director of the Bureau of Sharing, Department of Labor and Industry, 30 North Third Street, Suite 150, Harrisburg, PA 17101-1716. Comments submitted by facsimile will not be accepted. The Board must receive comments, suggestions or objections by March 14, 2016.

 *Electronic comments*. Comments may be submitted by e-mail to the Department at fpepper@pa.gov and must be received by the Department by March 14, 2016. A subject heading of the proposed rulemaking and a return name and address must be included in each transmission. If an acknowledgment of electronic comments is not received by the sender within 2 working days, comments should be retransmitted to ensure receipt.

**ANNEX A**

**TITLE 34. LABOR AND INDUSTRY**

**PART XVI. BUREAU OF SHARING**

**CHAPTER 501. REGULATION OF A SHARING ECONOMY BUSINESS**

**§ 501.01. Definitions**

 **The following words and terms, when used in this part, have the following meanings, unless the context clearly indicates otherwise:**

 ***Act*--The Shared Economy Regulatory Act (43 P.S. §§ 1550-1555).**

 ***Bureau*--The Bureau of Sharing*.***

 ***Department--*The Department of Labor and Industry of the Commonwealth.**

 ***Service Company*--A company providing shared economy services to consumers.**

 ***Service Provider*--A provider of shared economy services for consumers in the Commonwealth.**

 ***STAMP*--The Safety Training and Management Program created by the Department and administered by the Bureau.**

**§ 501.10. Licensure.**

 **(a) *License Required.***

**(1) A person shall be licensed by the Department as service company or service provider to engage in business-related activity falling under the Act.**

**(2) It shall be unlawful for any entity or individual to engage in business-related activity falling under the Act in the Commonwealth without a service provider or service company license as provided for under the Act or this title.**

**(b) *Authority*.**

 **(1) Subject to the provisions of the Shared Economy Regulatory Act, the Bureau of Sharing shall have the authority to issue a license to any qualified entity or individual to engage in approved Sharing Economy business activity within the Commonwealth**

 **(2) An entity or individual may obtain a license as a service company or may obtain a license as a service provider.**

**§ 501.20. Consumer Safety.**

 **(a) All entities or individuals licensed under the Act shall complete the STAMP within ninety days of licensure by the Bureau.**

1. **STAMP shall include, but not be limited to, the following:**

 **(1) Orientation to Commonwealth consumer protection laws for all licensees;**

 **(2) Training for service providers in responsible customer service practices;**

 **(3) Training for service companies in proper practices for employee monitoring and complaint response;**

 **(4) Successful criminal history clearance from the Pennsylvania State Police for all officers of the service company and each service provider.**

**§ 501.30. Employes.**

 **(a) Unless otherwise specified by the Act or this title, a service provider shall be considered the employee of the service company from whom it accepts task assignments;**

 **(b) Any person performing services covered under this Act for a licensed service company may be presumed as an employe of that Service Company;**

**(c) A service company may not use independent contractors to escape responsibility for violations of the Act or this title.**

**§ 501.40. Pricing.**

 **(a) A service company shall post fixed prices for each offered product and service on the website or mobile application that is used as a customer portal to that service company;**

 **(b) A service company may change the pricing for any good or service twice within any twenty-four hour period, but may not alter such price within two hours of a previous price change;**

1. **The price posted when a customer contracts for a good or service shall be honored despite any future price change.**

**Taskrabbit Regulations:**

1. **Pa. Code Chapter 8: Sharing Economy Regulations.**

**§8.10. Licensing.**

8.11. Requirement to be Licensed.

It shall be unlawful for any entity or individual to engage in business-related activity falling under the Sharing Economy Regulatory Act in the Commonwealth without first being licensed by the Bureau of Sharing as provided for under the Act or this title.

8.12. Bureau’s Authority to Issue Licenses.

1. Subject to the provisions of the Shared Economy Regulatory Act, the Bureau of Sharing shall have the authority to issue a license to any qualified entity or individual to engage in approved Sharing Economy business activity within the Commonwealth;
2. There shall be two categories of licenses: Shared Economy Service Companies (“SESC”) and Shared Economy Service Providers (“SESP”).

**§8.20. Consumer Safety.**

1. All entities or individuals licensed under the Act shall complete the Safety Training and Management Program (“STAMP”) within ninety days of licensure by the Bureau.
2. The STAMP program shall consist of four parts:
3. Orientation to Commonwealth consumer protection laws for all licensees;
4. Training for Licensed Shared Economy Service Providers in responsible customer service practices;
5. Training for Licensed Shared Economy Service Companies in proper practices for employee monitoring and complaint response;
6. Successful criminal history clearance from a Commonwealth Police Agency for all licensed individuals or officers of corporate licensees.

**§8.30. Employees.**

1. Any person performing services covered under this Act for a Licensed Shared Economy Service Company is presumed to be an employee of that Service Company;
2. Generally, Shared Economy Service Providers shall be considered the employee of the Shared Economy Service Company from whom they accept task assignments;
3. The use of Independent Contractors shall not affect the Licensed Service Company’s responsibility for violations of the Act or this title.

**§8.40. Pricing.**

1. Licensed Shared Economy Service Companies shall post fixed prices for all offered products or services on the website or mobile application that is used as a customer portal to that Service Company;
2. Shared Economy Service Companies may change the pricing for any good or service twice within any 24-hour period, but may not alter such price within 2-hours of a previous price change;
3. The price posted when a customer contracts for a good or service shall be honored despite any future price change.