
INTRODUCTION

This thematic briefing introduces a range of products included in the **Future of Work & Gig Economy** study, developed by the **Center for Education and Research on Innovation (CEPI) of the São Paulo Law School of Getulio Vargas Foundation (FGV)**. This brief summary describes the initial results of the qualitative analysis of federal proposals to statutory law that attempt to regulate the matter, focusing on those submitted during the period of the COVID-19 pandemic. Here you will see the key proposals to statutory law, proposals for legislative definitions and the most frequent rules on working conditions, benefits and remuneration. Enjoy your reading!

Key findings

1. The high number of bills have emerged from two movements: one-off bills with specific needs, due primarily to the pandemic, and comprehensive bills geared towards overall regulations of work on digital platforms;
2. Bills submitted as of the middle of the year presented more comprehensive proposals;
3. Most bills do not restrict their application to the emergency period of the pandemic, even though half of them contain provisions that make some kind of reference to it;
4. Two themes predominated in the set of bills analyzed, regardless of their type: health and safety at work (e.g. supply of equipment) and assistance in the event of injuries and work-related incidents (e.g. coverage in case of accidents);
5. As a point of attention, most bills do not feature relevant definitions for applying rights, such as the concept of a company or digital platform, criteria for defining who has rights and the time at which someone is considered to be providing a service on the platform. This absence has implications for the judicial application of the theme and the observance of duties and rights.

OVERVIEW

Concern for the future of work is not recent, but it has intensified over the last few decades following the technological development of the Fourth Industrial Revolution.¹ In this scenario of accelerated and far-reaching changes provoked by the evolution of informational

and computational technology, productive and social dynamics emerge, highlighted by the gig economy, which we will discuss under the idea of an on-demand economy.

Characterized by the use of digital technologies and the prevalence of more flexible contracts, the gig economy incites debates on the legal nature of the relationship between on-demand workers and platforms, the conditions they work in, the appropriate security mechanisms used to protect them, and others.

The theme has gained increased attention in Brazil since transportation apps began to be used in 2014, but received even more prominence during the Covid-19 pandemic in 2020. During the health crisis, delivery services were viewed by society as essential tools for facilitating social distancing measures and for continuing economic activities in a range of economic sectors, including food (supermarkets, restaurants) and health (pharmacies).

The increase in delivery services during the pandemic period has fueled a legislative debate on the issue. This was reflected in proposals to statutory law aimed to more accurately or more broadly regulate what can be identified as work on demand. Forty proposals to statutory law (bills), **submitted to the National Congress between March and November 2020**, were analyzed for this study. The analysis sought to answer the following questions:

- How the Brazilian federal legislature deal with work on demand?
- What are its priority issues?
- How does Covid-19 connect with the current debate?
- What rights do bills provide?

METHODOLOGICAL NOTES

This briefing introduces the results from a legislative study that seeks to monitor the parliamentary agenda for regulating relationships and working conditions mediated by digital platforms.

Through searches for keywords within the electronic portals of the Brazilian House of Representatives and the Federal Senate from June to November 2020, 220 results were found (213 proposals in the House and 17 in the Senate). Among these, 190 were omitted due to a lack of thematic relevance, with the 40 bills remaining making up the research sample.

Read the details of the methodology and the codebook by accessing the link or QR CODE (available only in Portuguese):
<http://bit.ly/fgvgigbt1expandido>.



All bills were coded independently by at least two researchers on the team from a codebook (version 2.1) that is still in the process of being enhanced. The codes were compared and standardized and a unified analysis was later obtained. Those results are presented below.

UNDER DISCUSSION: LEGISLATIVE DEFINITIONS

One of the primary concerns when analyzing any regulation is identifying the legislative definitions. On one hand, the undefined terms lead to legal uncertainty and transfer the challenge of interpreting them to the Executive and Judicial Branches within the sphere of regulations and judicial decisions. On the other, each defined term is a legislative choice that determines the obligations, rights and responsibilities of those involved.

There are definitions that are essential, such as the engaged time, which establishes when the calculation for remuneration or the incidence of a right begins and ends, the idea of a platform operating company, which determines who has obligations, and the very notion of a platform worker, which is sometimes accompanied by the idea of “regular”. Bearing this in mind, five key definitions were selected for analysis: the activity itself, the companies, the time engaged, the digital platforms and the service providers.²

See the full table of all bills in Annexes (in English) or by accessing the link or the QR CODE on the side (available only in Portuguese):
<http://bit.ly/fqvgigbt1expandido>.



The analysis identified that almost half of the bills do not expressly define terms applied in the law. Only five of them provide definitions for most of the terms deemed important. Also, five of them define the engaged time and another five define what digital service platforms are. The term that is most defined is the provider (or delivery worker) of an application, with 10 bills containing a few provisions.

Table 1 shows the bills that received the highest number of definition codes, working conditions, benefits and remuneration among the 40 bills in the sample.

Table 1 – Comparison of bills in relation to the presence of legislative definitions

COVID bills ⁽¹⁾	✕	✕	✕	☀	☀	✕	✕	✕	☀
Definitions	Bill 3748 Bill 3754	Bill 4172	Bill 3570	Bill 3577	Bill 1665	Bill 3954	Bill 4033	Bill 3599	Bill 3797
Activities	✓	✕	✕	✕	✓	✕	✓	✕	✕
Companies	✕	✓	✕	✓	✓	✕	✕	✓	✕
Time Engaged	✓	✓	✕	✕	✕	✓	✕	✕	✕
Platforms	✓	✕	✕	✓	✓	✕	✕	✕	✕
Service Providers	✓	✕	✕	✓	✓	✕	✕	✕	✓

Source: Own preparation.

⁽¹⁾ For the purposes of Table 1, we regard “COVID bills” as the proposals to statutory law that condition or link their application over time to the emergency period due to COVID-19. ☀ = Some provisions of the bill are linked to an emergency

period; ☀ = the bill is integrally linked to the emergency period; ✕ = the bill does not bind its provisions to the emergency period, even though it may contain rules that are applicable to the virus.

Box 1 – Examples of definitions found in the proposals to statutory law

Definition of Service Providers	<p><i>Bill 3538/2020</i></p> <p>Art. 3 The following are considered to be regular workers for the purposes of this legislation: I – the worker who has been at the disposal of the application to work for at least 40 hours per month within the last three months; II – the worker who has been at the disposal of the application to work for at least 40 hours per month for at least nine months over the last twelve months;</p>
	<p><i>Bill 3797/2020</i></p> <p>Art. 2 Self-employed professionals, non-employees, who are not exclusively linked to a company and who provide specific services to one or more companies are considered to be delivery people and drivers providing services through an app.</p>
Definition of Companies	<p><i>Bill 3577/2020</i></p> <p>Art. 350-A. § 1 A company operating a delivery application is considered to be any electronic platform that is a mediator between the supplier of products and services and their consumer.</p>
	<p><i>Bill 3599/2020</i></p> <p>Art. 1. Sole Paragraph. For the purposes of this Law, a digital platform company is the individual or legal entity that commercially exploits the application or other platforms for communication on a network.</p>

Source: Own preparation.

KEEP AN EYE ON: RIGHTS, BENEFITS AND WORKING CONDITIONS

One of the primary drivers for submitting bills on the subject is the desire to improve working conditions and stipulate benefits for workers who provide services on digital platforms. The scenario brought on by COVID-19 placed an emphasis on issues like health and hygiene during the performance of work activities, in addition to provoking debates on, for example, the potential for paid leave due to contamination by the virus.

Within this briefing, we attempted to organize these provisions through a comparative

analysis between the bills. **Table 2** provides details on what is covered and what is missing in each of the 10 bills highlighted above.

For the purposes of this study, the table covers both regulations on working conditions

See the full table of all bills in Annexes (in English) or by accessing the link or the QR CODE on the side (available only in Portuguese):
<http://bit.ly/fgvgigbt1expandido>.



and rules on social benefits and calculating remuneration. **Regulations on working conditions** comprise rules that govern aspects of executing a service, including the requirement of a support warehouse for food and the use of sanitary equipment. **Social benefits** include rules that guarantee social protection to service providers in the event of contingencies, such as health insurance (health), work leave (health or rest) and unemployment benefits (income). **Rules on remuneration** govern criteria for payment for the service.

Approximately 70% of the bills include working conditions and another 70% provide for some type of benefit. The most common concerns are health and safety (22 bills) and supplying materials for the job (20 bills). For benefits, there are rules with respect to unfortunate incidents, such as an illness, damage, theft or loss of the vehicle used to perform the job (19 bills). Finally, 33% of the bills provide for something concerning remuneration.

Table 2 – Comparison of bills in relation to the existence of rules on working conditions, benefits and remuneration

COVID Bills ⁽¹⁾	×	×	×	☀	☀	×	×	×	☀
Aspect	Bill 3748 3754	Bill 4172	Bill 3570	Bill 3577	Bill 1665	Bill 3954	Bill 4033	Bill 3599	Bill 3797
Injuries and Work-Related Incidents	✓	✓	✓	✓	✓	✓	✓	✓	✓
Health and Safety	✓	✓	✓	✓	✓	✓	×	✓	✓
Materials	✓	✓	✓	✓	✓	×	✓	✓	✓
Insurance	×	✓	✓	✓	✓	✓	✓	✓	✓
Remuneration	✓	✓	✓	✓	×	×	✓	✓	✓
Rest	✓	✓	×	✓	✓	✓	✓	✓	×
Information	✓	✓	✓	✓	✓	×	×	×	✓
Support	✓	✓	✓	✓	×	×	✓	×	×
Compensatory Benefits	✓	✓	✓	×	✓	×	✓	×	×
Job Duration	✓	✓	×	×	×	×	✓	✓	✓
Food	×	✓	×	✓	✓	✓	✓	×	×
General Conditions	✓	✓	✓	×	×	✓	×	×	×
Collective Bargaining Rights and Social Dialog	✓	✓	✓	×	×	✓	×	×	×
Unemployment	✓	✓	✓	×	×	✓	×	×	×
Warehouse	×	×	×	✓	×	✓	✓	✓	×
Training	✓	✓	✓	×	×	×	×	×	×
Social Security	✓	✓	✓	×	×	×	×	×	×
Health Benefits	✓	×	✓	×	✓	×	×	×	×
Indemnity	✓	✓	×	×	×	×	×	×	×

Aspect	Bill 3748 3754	Bill 4172	Bill 3570	Bill 3577	Bill 1665	Bill 3954	Bill 4033	Bill 3599	Bill 3797
Miscellaneous Work Leaves	✓	×	×	✓	×	×	×	×	×
Maternity Leave	✓	×	×	×	×	×	×	×	×
Retirement	×	×	×	×	×	×	×	×	✓
Education	×	×	×	×	×	×	×	×	×

Source: Own preparation. ^(a) For an explanation of symbols, please see the caption for **Table 1**. For the details on the indicated aspects, see the codebook in the expanded booklet (available only in Portuguese).

Box 2 – Examples of health and safety provisions, and injuries and work-related incidents

Health and Safety	<p><i>Bill 3554/2020</i></p> <p>Art.2. In addition to other measures that may be instituted, companies that hire workers through an application must guarantee the regular workers access to the Personal Protective Equipment that may be needed to perform the work hired;</p>
	<p><i>Bill 3748/2020</i></p> <p>Art. 18. The platform will need to establish a protocol for assisting the on-demand worker in the event of an accident at work, including, whenever necessary, providing first aid and referring the injured person to a healthcare facility, notwithstanding any compensation for the damages suffered by the worker.</p>
Injuries and Work-Related Incidents	<p><i>Bill 1665/2020</i></p> <p>Art. 4. The application company needs to ensure that delivery workers who are on leave because of an accident or due to suspicion of contamination or being contaminated by the coronavirus (Covid-19) receive financial assistance during the period of leave required for the worker to recover.</p> <p>Sole Paragraph. The financial assistance stipulated in the head provision cannot be less than one minimum wage and must be calculated according to the average of the last three highest compensations received by the delivery worker during the last year in the company.</p>
	<p><i>Bill 804/2020</i></p> <p>Art. 4. The insured parties from the social security systems listed in the head provision of Article 2 of this Law are granted the automatic concession of benefits due to a temporary disability referred to in Art. 59 of Law 8,213 of July 24th, 1991, and Art. 185, item “d”, of Law 8,112 of December 11th, 1990, and its counterparts in the Complementary Social Security Systems when affected by COVID-19 or when included in the risk group provided for in Art. 3 of this Law. [...] § 3. A temporary disability benefit will be extended for as long as necessary for the insurer to fully recover their immunization, and may only be terminated when that person no longer poses a risk of infecting other people in society and provided that their employment or professional activity, as an individual taxpayer, is maintained and is not threatened by the emergency situation referred to in Art. 1 of this Law or by restrictions by the local government.</p>

FINAL COMMENTS

This study provided a comparison between the proposed bills in 2020 in the scenario of COVID-19, addressing the regulation of aspects involving the provision of services in the gig economy.

Under this analysis, some more specific or circumstantial bills and others that are more comprehensive can be identified. Among the latter are Bill 3748/2020 (Rep. Tabata Amaral), Bill 3754/2020 (Sen. Alessandro Vieira) and Bill 4172/2020 (Rep. Henrique Fontana). Without delving into the merit or quality of the proposals, the tables provided show that they touch on various aspects of work in the on-demand economy, from the provision of training to the compensation for depreciation of materials and equipment. Nevertheless, there is a range of criteria, definitions and legislative provisions that at times conflict with one another.

Finally, it is important to note that the bills are still in the initial phase of being submitted and merit discussion with the various actors and sectors (academia, civil society, including unions and associations of service providers, companies and government), with a particular focus on refining definitions and other propositions.

Endnotes:

¹ SCHWAB, Klaus. The fourth industrial revolution. Geneva: World Economic Forum, 2016.

² We opted to use the term “providers” in this thematic briefing because it is broader and more frequently used in the set of bills analyzed to refer to delivery workers and drivers. Terms that are less used in the proposals to statutory law include “workers”, “employees”, “professionals”, and so on.

ANNEXES

Table 3 – Comparison of bills in relation to the presence of legislative definitions

Definitions	Activities	Companies	Time Engaged	Other Actors	Platforms	Service Pro-viders	Total
1665/2020	✓	✓	✗	✗	✓	✓	4
3754/2020	✓	✗	✓	✗	✓	✓	4
3748/2020	✓	✗	✓	✗	✓	✓	4
3577/2020	✗	✓	✗	✗	✓	✓	3
3597/2020	✗	✓	✗	✗	✓	✓	3
2340/2020	✓	✓	✗	✗	✗	✗	2
3384/2020	✗	✓	✗	✗	✗	✓	2
4172/2020	✗	✓	✓	✗	✗	✗	2
3538/2020	✗	✗	✗	✗	✗	✓	1
3554/2020	✗	✗	✗	✗	✗	✓	1
3594/2020	✗	✗	✗	✗	✗	✓	1
3599/2020	✗	✓	✗	✗	✗	✗	1
3689/2020	✗	✗	✓	✗	✗	✗	1
3797/2020	✗	✗	✗	✗	✗	✓	1
3954/2020	✗	✗	✓	✗	✗	✗	1
4033/2020	✓	✗	✗	✗	✗	✗	1
4049/2020	✗	✗	✗	✗	✗	✓	1
4112/2020	✓	✗	✗	✗	✗	✗	1
1344/2020	✗	✗	✗	✗	✗	✗	-
1677/2020	✗	✗	✗	✗	✗	✗	-

Definitions	Activities	Companies	Time Engaged	Other Actors	Platforms	Service Providers	Total
1686/2020	×	×	×	×	×	×	-
1744/2020	×	×	×	×	×	×	-
180/2020	×	×	×	×	×	×	-
1872/2020	×	×	×	×	×	×	-
2379/2020	×	×	×	×	×	×	-
2786/2020	×	×	×	×	×	×	-
2875/2020	×	×	×	×	×	×	-
3484/2020	×	×	×	×	×	×	-
3515/2020	×	×	×	×	×	×	-
3516/2020	×	×	×	×	×	×	-
3570/2020	×	×	×	×	×	×	-
3572/2020	×	×	×	×	×	×	-
4241/2020	×	×	×	×	×	×	-
4497/2020	×	×	×	×	×	×	-
4768/2020	×	×	×	×	×	×	-
665/2020	×	×	×	×	×	×	-
794/2020	×	×	×	×	×	×	-
804/2020	×	×	×	×	×	×	-
854/2020	×	×	×	×	×	×	-
940/2020	×	×	×	×	×	×	-

Source: Own preparation.

Table 4 – Comparison of bills in relation to the existence of rules on working conditions, benefits and remuneration (all bills proposed in 2020)

Aspect	180	665	794	804	854	940	1344	1665	1677	1686	1744	1872	2340	2379	2786	2875	3384	3484	3515	3516
B: Retirement	✓	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×
B: Unemployment	×	×	×	✓	×	×	✓	×	×	×	×	×	×	×	×	×	×	×	×	×
B: Education	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×
B: Indemnity	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	✓	×	×	×
B: Injuries and Work-Related Incidents	✓	×	×	✓	×	×	✓	✓	×	✓	×	×	×	✓	×	×	×	×	×	✓
B: Maternity Leave	✓	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×
B: Miscellaneous Work Leaves	✓	×	×	×	×	×	×	×	×	✓	×	×	×	×	×	×	×	×	×	×
B: Social Security	✓	×	×	✓	×	×	✓	×	×	×	×	×	×	×	×	×	×	×	×	×
B: Remuneration	×	×	×	✓	✓	✓	✓	✓	✓	✓	✓	×	×	✓	×	×	✓	×	×	×
B: Health	×	×	×	✓	×	×	×	✓	×	×	×	×	×	×	×	×	×	×	×	×
B: Insurance	×	×	×	✓	×	×	×	✓	×	×	×	×	×	×	×	×	×	×	×	✓
CW: Food	×	×	×	×	×	×	×	✓	✓	✓	×	×	×	×	×	×	×	×	×	×
CW: Rest	✓	×	×	×	×	×	×	✓	×	×	×	×	×	×	×	×	×	×	×	×
CW: Duration	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×
CW: Warehouse	×	×	×	×	×	×	×	×	✓	✓	×	×	×	×	×	×	×	×	×	×
CW: General Conditions	×	×	✓	×	×	×	×	×	✓	×	×	×	×	×	×	×	×	×	×	×
CW: Information	×	✓	×	×	×	×	×	✓	✓	✓	×	×	×	×	×	×	×	×	×	×
CW: Materials	×	×	✓	×	✓	×	×	✓	✓	✓	×	✓	×	×	×	×	×	×	×	×
CW: Health and Safety	×	✓	✓	×	✓	✓	✓	✓	✓	✓	×	✓	×	×	×	×	×	×	×	×
CW: Support	×	✓	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×
Collective Bargaining Rights and Social Dialog	×	✓	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×
Remuneration	×	✓	×	×	×	×	×	×	×	×	×	×	✓	×	×	×	✓	×	×	×
Training	✓	×	×	✓	×	×	✓	×	✓	✓	×	×	×	✓	×	×	✓	×	×	×

Aspect	3538	3554	3570	3572	3577	3594	3597	3599	3689	3748	3754	3797	3954	4033	4049	4112	4172	4241	4497	4768
B: Retirement	×	×	×	×	×	×	×	×	×	×	×	✓	×	×	×	×	×	×	×	×
B: Unemployment	×	×	✓	×	×	×	×	×	×	✓	✓	×	✓	×	×	×	✓	×	×	×
B: Education	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×
B: Indemnity	×	×	×	×	×	×	×	×	×	✓	✓	×	×	×	×	×	✓	×	×	✓
B: Injuries and Work-Related Incidents	✓	×	✓	×	✓	×	✓	✓	✓	✓	✓	✓	✓	✓	×	×	✓	×	×	×
B: Maternity Leave	×	×	×	×	×	×	×	×	×	✓	✓	×	×	×	×	×	×	×	×	×
B: Miscellaneous Work Leaves	✓	×	×	×	✓	×	×	×	×	✓	✓	×	×	×	×	×	×	×	×	×
B: Social Security	×	×	✓	×	×	×	×	×	×	✓	✓	×	×	×	×	×	✓	×	×	×
B: Remuneration	×	×	✓	×	×	×	×	×	✓	✓	✓	×	×	✓	×	×	✓	×	×	×
B: Health	×	×	✓	×	×	×	×	×	×	✓	✓	×	×	×	×	×	×	×	×	×
B: Insurance	×	×	✓	×	✓	×	✓	✓	✓	×	×	✓	✓	✓	×	×	✓	×	×	×
CW: Food	×	×	×	✓	✓	×	×	×	×	×	×	×	✓	✓	×	×	✓	×	×	×
CW: Rest	×	×	×	×	✓	×	×	✓	×	✓	✓	×	✓	✓	×	×	✓	×	×	×
CW: Duration	×	×	×	×	×	×	×	✓	×	✓	✓	✓	×	✓	×	×	✓	×	×	×
CW: Warehouse	×	×	×	✓	✓	×	×	✓	×	×	×	×	✓	✓	×	✓	×	×	×	×
CW: General Conditions	×	✓	✓	×	×	×	×	×	×	✓	✓	×	✓	×	×	×	✓	×	×	×
CW: Information	×	×	✓	×	✓	×	×	×	×	✓	✓	✓	×	×	×	×	✓	×	×	✓
CW: Materials	×	✓	✓	✓	✓	✓	✓	✓	×	✓	✓	✓	×	✓	✓	✓	✓	×	×	×
CW: Health and Safety	×	✓	✓	✓	✓	✓	✓	✓	×	✓	✓	✓	✓	×	✓	×	✓	×	×	×
CW: Support	×	✓	✓	×	✓	×	×	×	×	✓	✓	×	×	✓	×	×	✓	×	×	×
Collective Bargaining Rights and Social Dialog	×	×	✓	×	×	×	×	×	×	✓	✓	×	✓	×	×	×	✓	×	×	×
Remuneration	×	×	✓	×	✓	×	✓	✓	×	✓	✓	✓	×	✓	×	×	✓	×	×	✓
Training	✓	✓	✓	×	×	×	✓	✓	×	✓	✓	✓	✓	×	×	×	×	×	×	✓

Source: Own preparation. Note: the table does not include norms tagged with the "NEG" code type, i.e., that exclude the benefit or the duty to a working condition.

B = benefits; CW = conditions at work.

TECHNICAL INFORMATION

PRODUCED BY



Sponsored by:



STAFF

General Coordination

Alexandre Pacheco da Silva
Marina Feferbaum

Head of Research

Ana Paula Camelo

Co-Head of Research

Guilherme Forma Klafke

Researchers

Ana Carolina R. Dias Silveira
Bruno Ett Bícigo
Olívia Q. Figueiredo Pasqualetto

Translation

Global Translations



This work is licensed under a Creative Commons CC BY Attribution 4.0 International license.

HOW TO CITE THIS TEXT

CENTER FOR EDUCATION AND RESEARCH ON INNOVATION (CEPI) OF THE SÃO PAULO LAW SCHOOL OF GETULIO VARGAS FOUNDATION (FGV). Thematic briefing #1: *2020 proposals to statutory law with regard to the gig economy* – a review of definitions and rules on working conditions, benefits and remuneration. Version 1.0. São Paulo: FGV São Paulo Law School, December 1st, 2020.