

# SENATE BILL 685

K2

11r2443  
CF HB 589

---

By: **Senators Astle, Klausmeier, Mathias, Muse, and Pipkin**

Introduced and read first time: February 4, 2011

Assigned to: Finance

---

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 31, 2011

---

## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Unemployment Insurance – Messenger Service Drivers – Delivery**

3 FOR the purpose of authorizing certain messenger service drivers whose work is not  
4 covered employment under unemployment insurance law to deliver certain  
5 items and use certain methods of delivery; expanding the requirements that the  
6 Secretary of Labor, Licensing, and Regulation must find to be satisfied for  
7 certain work performed by a certain messenger service driver to not be covered  
8 employment; providing that a messenger service driver whose work is not  
9 covered employment may deliver emergency medical supplies and certain other  
10 items for a messenger service business if the messenger service business  
11 provides certain evidence that the driver is excluded from certain coverage;  
12 defining a certain term; and generally relating to the delivery of certain items  
13 by messenger service drivers under unemployment insurance law.

14 BY repealing and reenacting, with amendments,  
15 Article – Labor and Employment  
16 Section 8–206(d)  
17 Annotated Code of Maryland  
18 (2008 Replacement Volume and 2010 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article – Labor and Employment**

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 8–206.

2 (d) (1) IN THIS SUBSECTION, “MESSENGER SERVICE BUSINESS”  
 3 MEANS A BUSINESS THAT:

4 (I) PRINCIPALLY AND PRIMARILY OFFERS AND PROVIDES  
 5 TO THE PUBLIC OR COMMERCIAL ESTABLISHMENTS EXPEDITED, TIME  
 6 CRITICAL, AND SAME DAY AS REQUESTED DELIVERY SERVICE;

7 (II) DOES NOT MAKE, PRODUCE, SELL, OR DISTRIBUTE  
 8 WHAT IT DELIVERS; AND

9 (III) DOES NOT HAVE AN EXCLUSIVE CONTRACTUAL  
 10 DELIVERY ARRANGEMENT WITH AN INDIVIDUAL OR A COMMERCIAL  
 11 ESTABLISHMENT.

12 (2) Work that a messenger service driver performs for a person who is  
 13 engaged in the messenger service business is not covered employment if the Secretary  
 14 is satisfied that:

15 [(1)] (I) the driver and the person who is engaged in the messenger  
 16 service business have entered into a written agreement that is currently in effect;

17 (II) THE WRITTEN AGREEMENT UNDER ITEM (I) OF THIS  
 18 PARAGRAPH DOES NOT PROHIBIT THE DRIVER FROM PERFORMING FOR MORE  
 19 THAN ONE PERSON WHO IS ENGAGED IN THE MESSENGER SERVICE BUSINESS;

20 (III) THE DRIVER IS FREE TO ACCEPT OR REJECT DELIVERY  
 21 JOBS FROM THE PERSON WHO IS ENGAGED IN THE MESSENGER SERVICE  
 22 BUSINESS;

23 [(2)] ~~(II)~~ (IV) the driver personally provides the vehicle;

24 [(3)] ~~(III)~~ (V) compensation is by commission only;

25 [(4)] ~~(IV)~~ (VI) the driver may set personal work hours; and

26 [(5)] ~~(V)~~ (VII) the written agreement states expressly and  
 27 prominently that the driver knows:

28 [(i)] 1. of the responsibility to pay estimated Social Security  
 29 taxes and State and federal income taxes;

30 [(ii)] 2. that the Social Security tax the driver must pay is  
 31 higher than the Social Security tax the driver would pay otherwise; and

1 [(iii)] 3. that the work is not covered employment.

2 ~~(2)~~ (3) A MESSENGER SERVICE DRIVER FOR A MESSENGER  
3 SERVICE BUSINESS WHOSE WORK IS NOT COVERED EMPLOYMENT UNDER  
4 PARAGRAPH ~~(1)~~ (2) OF THIS SUBSECTION MAY DELIVER INDIVIDUALLY  
5 ADDRESSED MAIL, MESSAGES, DOCUMENTS IN PAPER OR MAGNETIC FORMAT,  
6 SUPPLIES, RECORDS, PARCELS, OR OTHER OBJECTS TO THE PUBLIC OR  
7 COMMERCIAL ESTABLISHMENTS ON FOOT, BY BICYCLE, OR BY MOTOR VEHICLE;

8 (I) INDIVIDUALLY ADDRESSED MAIL, MESSAGES, AND  
9 DOCUMENTS IN PAPER OR MAGNETIC FORMAT; AND

10 (II) EMERGENCY MEDICAL SUPPLIES, RECORDS, PARCELS,  
11 OR SIMILAR ITEMS IF THE MESSENGER SERVICE BUSINESS PROVIDES TO THE  
12 SECRETARY EVIDENCE OF A WORKER STATUS DETERMINATION FROM THE  
13 INTERNAL REVENUE SERVICE OR OTHER EVIDENCE THAT THE MESSENGER  
14 SERVICE DRIVER IS EXCLUDED FROM COVERAGE UNDER THE FEDERAL  
15 UNEMPLOYMENT TAX ACT.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
17 June 1, 2011.

Approved:

\_\_\_\_\_  
Governor.

\_\_\_\_\_  
President of the Senate.

\_\_\_\_\_  
Speaker of the House of Delegates.