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**By: Delegate Brinkley**

Introduced and read first time: January 31, 1996

Assigned to: Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

**2 Workers' Compensation - Independent Contractors Receiving Compensation From**  
**3 Farmers for Service - Not Covered Employees**

4 FOR the purpose of providing that an individual who receives compensation from a  
5 farmer for a service is not a covered employee if certain conditions are met; and  
6 generally relating to the coverage of individuals who receive compensation from a  
7 farmer for a service.

8 BY repealing and reenacting, with amendments,  
9 Article - Labor and Employment  
10 Section 9-210  
11 Annotated Code of Maryland  
12 (1991 Volume and 1995 Supplement)

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

**15 Article - Labor and Employment**

16 9-210.

17 (a) (1) In this section the following words have the meanings indicated.

18 (2) "Farmer" includes a dairy farmer.

19 (3) (i) "Migrant farm worker" means an individual who is engaged in  
20 seasonal or other temporary agricultural employment and who is:

21 1. absent overnight from the permanent residence of the  
22 individual; or

23 2. transported to and from the place of employment of the  
24 individual by a day-haul operation.

25 (ii) "Migrant farm worker" does not include an individual who  
26 performs a service included in subsection (b) of this section if the individual:

27 1. does not operate equipment or machinery; and

28 2. is employed:

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1                           A. within 25 miles of the permanent residence of the individual;  
2 and

3                           B. for not more than 13 weeks a year.

4           (b) An individual, including a migrant farm worker, is a covered employee if:

5                       (1) the individual receives compensation from a farmer for any service other  
6 than office work, including:

7                           (i) operating a machine connected with animal, crop, or soil  
8 management;

9                           (ii) constructing or repairing a fixture or machine; or

10                          (iii) handling an animal or crop with or without a machine; and

11               (2) the farmer has:

12                          (i) at least 3 full-time employees; or

13                          (ii) an annual payroll of at least \$15,000 for full-time employees.

14           (C) AN INDIVIDUAL WHO RECEIVES COMPENSATION FROM A FARMER FOR A  
15 SERVICE IS NOT A COVERED EMPLOYEE IF:

16                       (1) THE INDIVIDUAL CUSTOMARILY IS ENGAGED IN AN INDEPENDENT  
17 BUSINESS OCCUPATION OF THE SAME NATURE AS THAT OF THE SERVICE  
18 PERFORMED;

19                       (2) THE INDIVIDUAL IS FREE FROM CONTROL AND DIRECTION OVER  
20 THE INDIVIDUAL'S PERFORMANCE OF THE SERVICE;

21                       (3) THE INDIVIDUAL PROVIDES THE INDIVIDUAL'S OWN EQUIPMENT,  
22 MATERIALS, AND TOOLS; AND

23                       (4) THE FARMER IS NOT REQUIRED TO WITHHOLD SOCIAL SECURITY,  
24 UNEMPLOYMENT, STATE, OR FEDERAL TAXES FROM THE COMPENSATION PAID TO  
25 THE INDIVIDUAL.

26           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
27 October 1, 1996.