Unofficial Copy 1996 Regular Session 6lr2048 K1 By: Delegate Brinkley Introduced and read first time: January 31, 1996 Assigned to: Economic Matters Committee Report: Favorable with amendments House action: Adopted Read second time: February 28, 1996 CHAPTER ____ 1 AN ACT concerning 2 Workers' Compensation - Independent Contractors Receiving Compensation From Farmers for Service - Not Covered Employees 3 4 FOR the purpose of providing that an individual who receives compensation from a farmer for a service is not a covered employee if certain conditions are met; and 5 6 generally relating to the coverage of individuals who receive compensation from a farmer for a service. 7 8 BY repealing and reenacting, with amendments, Article - Labor and Employment 9 10 Section 9-210 11 Annotated Code of Maryland (1991 Volume and 1995 Supplement) 12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF 13 14 MARYLAND, That the Laws of Maryland read as follows: **Article - Labor and Employment** 15 16 9-210. 17 (a) (1) In this section the following words have the meanings indicated. 18 (2) "Farmer" includes a dairy farmer.

(3) (i) "Migrant farm worker" means an individual who is engaged in

1. absent overnight from the permanent residence of the

20 seasonal or other temporary agricultural employment and who is:

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22 individual; or

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1 2. transported to and from the place of employment of the 2 individual by a day-haul operation.
3 (ii) "Migrant farm worker" does not include an individual who 4 performs a service included in subsection (b) of this section if the individual:
5 1. does not operate equipment or machinery; and
6 2. is employed:
7 A. within 25 miles of the permanent residence of the individual; 8 and
9 B. for not more than 13 weeks a year.
10 (b) An EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, AN 11 individual, including a migrant farm worker, is a covered employee if:
12 (1) the individual receives compensation from a farmer for any service other 13 than office work, including:
14 (i) operating a machine connected with animal, crop, or soil 15 management;
16 (ii) constructing or repairing a fixture or machine; or
17 (iii) handling an animal or crop with or without a machine; and
18 (2) the farmer has:
19 (i) at least 3 full-time employees; or
20 (ii) an annual payroll of at least \$15,000 for full-time employees.
21 (C) AN INDIVIDUAL, <u>OTHER THAN A MIGRANT FARM WORKER</u> , WHO 22 RECEIVES COMPENSATION FROM A FARMER FOR A SERVICE IS NOT A COVERED 23 EMPLOYEE IF:
24 (1) THE INDIVIDUAL CUSTOMARILY IS ENGAGED IN AN INDEPENDENT 25 BUSINESS OCCUPATION OF THE SAME NATURE AS THAT OF THE SERVICE 26 PERFORMED;
27 (2) THE INDIVIDUAL IS FREE FROM CONTROL AND DIRECTION OVER 28 THE INDIVIDUAL'S PERFORMANCE OF THE SERVICE;
29 (3) THE INDIVIDUAL PROVIDES THE INDIVIDUAL'S OWN EQUIPMENT, 30 MATERIALS, AND TOOLS; AND
31 (4) THE FARMER IS NOT REQUIRED TO WITHHOLD SOCIAL SECURITY, 32 UNEMPLOYMENT, STATE, OR FEDERAL TAXES FROM THE COMPENSATION PAID TO 33 THE INDIVIDUAL.
34 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect 35 October 1, 1996.

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