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**By: Chairman, Economic Matters Committee (Departmental - Labor, Licensing and Regulation)**

Introduced and read first time: February 2, 1996

Assigned to: Economic Matters

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 6, 1996

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CHAPTER \_\_\_\_

1 AN ACT concerning

2 **Unemployment Insurance - Exemptions from Coverage and Wages**

3 FOR the purpose of clarifying that certain cafeteria plans are excluded from the  
4 definition of taxable wages for unemployment insurance purposes; exempting  
5 certain nonimmigrant aliens from unemployment insurance coverage; and generally  
6 relating to the unemployment insurance law.

7 BY repealing and reenacting, with amendments,  
8 Article - Labor and Employment  
9 Section 8-101(v)  
10 Annotated Code of Maryland  
11 (1991 Volume and 1995 Supplement)

12 BY adding to  
13 Article - Labor and Employment  
14 Section 8-223  
15 Annotated Code of Maryland  
16 (1991 Volume and 1995 Supplement)

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

19 **Article - Labor and Employment**

20 8-101.

21 (v) (1) "Wages" means all compensation for personal services except as  
22 provided in paragraph (3) of this subsection.

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1 (2) "Wages" includes:

2 (i) a bonus;

3 (ii) a commission;

4 (iii) a tip; and

5 (iv) the cash value of all compensation in any medium other than cash.

6 (3) "Wages" does not include:

7 (i) the amount of any payment made to or on behalf of an employee  
8 or any dependent of an employee under a plan or system established by an employing unit  
9 that provides for employees generally or for their dependents or for a class of employees  
10 and their dependents on account of:

11 1. retirement;

12 2. sickness or accident disability payments under a workers'  
13 compensation law;

14 3. medical or hospitalization expenses in connection with  
15 sickness or accident disability;

16 4. a cafeteria plan as defined in 26 U.S.C. § 125, if the payments  
17 would not be treated as wages [under] OUTSIDE a cafeteria plan;

18 5. dependent care assistance to the extent that the assistance  
19 payments would be excludable from gross income under the provisions of 26 U.S.C. § 127  
20 or § 129; or

21 6. death;

22 (ii) any amount that an employing unit pays for insurance or an  
23 annuity or into a fund to provide for a payment described in item (i) of this paragraph;

24 (iii) any payment on account of sickness or accident disability or  
25 medical or hospitalization expenses in connection with sickness or accident disability  
26 made by the employing unit to or on behalf of an employee at least 6 calendar months  
27 after the last calendar month in which the employee worked for the employing unit;

28 (iv) any payment made to or on behalf of an employee or beneficiary of  
29 the employee:

30 1. from or to a trust exempt from tax under § 401(a) of the  
31 Internal Revenue Code at the time of the payment, unless the payment is made to an  
32 employee of the trust as compensation for services rendered as an employee and not as  
33 beneficiary of the trust; or

34 2. under or to an annuity plan that, at the time of payment,  
35 meets the requirements of § 401(a)(3) through (6) of the Internal Revenue Code;

36 (v) with respect to compensation paid to an employee for domestic  
37 service in a private home of the employing unit or for agricultural labor, the payment by

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1 an employing unit without deduction of the tax imposed on an employee under § 3101 of  
2 the Internal Revenue Code;

3 (vi) any payment required from an employee under a state  
4 unemployment insurance law;

5 (vii) compensation paid in any medium other than cash to an employee  
6 for service not in the course of the trade or business of the employing unit;

7 (viii) any payment other than vacation or sick pay made to an  
8 employee after the month in which the employee becomes 65 years old if the employee  
9 did not work for the employing unit in the period for which the payment is made;

10 (ix) any payment, including an amount paid into a fund to provide for  
11 any payment by an employing unit to or on behalf of an employee under a plan or system  
12 that an employing unit establishes that provides for employees of the employing unit  
13 generally or a class or group of employees to supplement unemployment benefits;

14 (x) any payment to an individual as compensation for serving or being  
15 called to serve on a jury; or

16 (xi) any payment to an individual as allowance or reimbursement for  
17 travel or other expenses incurred on the business of the employer up to the amount of  
18 expenses actually incurred and accounted for by the individual to the employer.

19 8-223.

20 EMPLOYMENT IS NOT COVERED EMPLOYMENT IF PERFORMED BY AN  
21 INDIVIDUAL WHO IS A NONIMMIGRANT ALIEN ADMITTED TO THE UNITED STATES  
22 UNDER ~~§ 101(A)(15)(F)~~, ~~§ 1101(A)(15)(F)~~, (J), (M), OR (Q) OF THE FEDERAL  
23 IMMIGRATION AND NATIONALITY ACT.

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