
By: Delegate Donoghue

Introduced and read first time: January 31, 1997

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Unemployment Insurance - Exemption From Covered Employment - Newspaper**
3 **Distribution**

4 FOR the purpose of establishing that certain work performed under certain
5 circumstances by direct sellers engaged in the trade or business of delivering or
6 distributing newspapers or shopping news is not covered employment for purposes
7 of unemployment insurance.

8 BY repealing and reenacting, with amendments,
9 Article - Labor and Employment
10 Section 8-206
11 Annotated Code of Maryland
12 (1991 Volume and 1996 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 8-206.

17 (a) Work is not covered employment when performed by a licensed barber or
18 licensed cosmetologist who leases a chair or booth from a holder of a barbershop permit,
19 a beauty salon permit, or an owner-manager permit who operates a barbershop or beauty
20 salon, if the Secretary is satisfied that:

21 (1) the barber or cosmetologist as lessee and the permit holder have entered
22 into a written lease that is in effect;

23 (2) the lessee pays a stipulated amount for use of the chair or booth and is
24 not required to make any further accounting of income to the permit holder;

25 (3) the lessee has access to the premises at all hours and may set personal
26 work hours and prices; and

27 (4) the lease expressly states that the lessee knows:

28 (i) of the responsibility to pay State and federal income taxes and
29 make contributions to social security for self-employment; and

2

1 (ii) that the work is not covered employment.

2 (b) Work that a direct seller performs is not covered employment if the Secretary
3 is satisfied that:

4 (1) the direct seller is engaged in the trade or business of selling consumer
5 products:

6 (i) in the home or at any other location outside of a permanent retail
7 establishment; or

8 (ii) to a buyer on a buy-sell basis, a deposit-commission basis, or any
9 similar basis for resale by the buyer or any other person in the home or at any other
10 location outside of a permanent retail establishment;

11 (2) the direct seller and the person for whom the work is performed have
12 entered into a written agreement that is currently in effect;

13 (3) substantially all of the compensation for the employment is related
14 directly to sales or other output, including the performance of a service, rather than to the
15 number of hours worked; and

16 (4) the written agreement states that the direct seller will not be treated as
17 an employee for the purpose of State and federal income taxes with respect to the
18 employment performed under the agreement.

19 (C) WORK THAT AN INDIVIDUAL ENGAGED IN THE TRADE OR BUSINESS OF
20 DELIVERING OR DISTRIBUTING NEWSPAPERS OR SHOPPING NEWS, INCLUDING THE
21 PERFORMANCE OF ANY SERVICES DIRECTLY RELATED TO THE DELIVERY OR
22 DISTRIBUTION OF NEWSPAPERS OR SHOPPING NEWS, IS NOT COVERED
23 EMPLOYMENT IF THE SECRETARY IS SATISFIED THAT THE INDIVIDUAL MEETS THE
24 REQUIREMENTS FOR A DIRECT SELLER UNDER PARAGRAPHS (2), (3), AND (4) OF
25 SUBSECTION (B) OF THIS SECTION.

26 [(c)] (D) Work that a messenger service driver performs for a person who is
27 engaged in the messenger service business is not covered employment if the Secretary is
28 satisfied that:

29 (1) the driver and the person who is engaged in the messenger service
30 business have entered into a written agreement that is currently in effect;

31 (2) the driver personally provides the vehicle;

32 (3) compensation is by commission only;

33 (4) the driver may set personal work hours; and

34 (5) the written agreement states expressly and prominently that the driver
35 knows:

36 (i) of the responsibility to pay estimated social security taxes and State
37 and federal income taxes;

3

1 (ii) that the social security tax the driver must pay is higher than the
2 social security tax the driver would pay otherwise; and

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

4 [(d)] (E) Work is not covered employment when performed by a taxicab driver
5 who uses a taxicab or taxicab equipment of a taxicab business that is carried on by the
6 holder of a taxicab permit if the Secretary is satisfied that:

7 (1) the driver and permit holder have entered into a written agreement that
8 is currently in effect for the use of the taxicab or taxicab equipment;

9 (2) the driver pays a stipulated amount for the use of the taxicab or taxicab
10 equipment and is not required to make any further accounting to the permit holder;

11 (3) the driver has access to the taxicab or taxicab equipment at all hours
12 and, subject to Article 78 of the Code may set personal work hours and places; and

13 (4) the agreement states expressly that the driver knows:

14 (i) of the responsibility to pay State and federal income taxes; and

15 (ii) that the work is not covered employment.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 1997.