
By: **Delegate Malone**

Introduced and read first time: February 13, 1998

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Unemployment Insurance - Independent Contractors**

3 FOR the purpose of altering the criteria for determining whether certain work is
4 covered employment under unemployment insurance law; and generally
5 relating to unemployment insurance.

6 BY repealing and reenacting, with amendments,
7 Article - Labor and Employment
8 Section 8-205
9 Annotated Code of Maryland
10 (1991 Volume and 1997 Supplement)

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

13 **Article - Labor and Employment**

14 8-205.

15 Work that an individual performs under any contract of hire is not covered
16 employment if the Secretary is satisfied that:

17 (1) the individual who performs the work is free from control and
18 direction over its performance both in fact and under the contract;

19 (2) the individual customarily is engaged in an independent business or
20 occupation of the same nature as that involved in the work; [and]

21 (3) the work is:

22 (i) outside of the usual course of business of the person for whom
23 the work is performed; or

24 (ii) performed outside of any place of business of the person for
25 whom the work is performed[.];

1 (4) THE INDIVIDUAL MAINTAINS A SEPARATE BUSINESS INCLUDING
2 THE INDIVIDUAL'S OWN OFFICE, EQUIPMENT, MATERIALS, AND OTHER FACILITIES;

3 (5) THE INDIVIDUAL HOLDS OR HAS APPLIED FOR A FEDERAL
4 EMPLOYER IDENTIFICATION NUMBER;

5 (6) THE INDIVIDUAL OPERATES UNDER CONTRACTS TO PERFORM WORK
6 OR SERVICES FOR SPECIFIC AMOUNTS OF MONEY AND CONTROLS THE MEANS OF
7 PERFORMING THE WORK OR SERVICES;

8 (7) THE INDIVIDUAL INCURS EXPENSES RELATED TO WORK OR
9 SERVICES THE INDIVIDUAL PERFORMS UNDER CONTRACT;

10 (8) THE INDIVIDUAL IS RESPONSIBLE FOR SATISFACTORY COMPLETION
11 OF WORK OR SERVICES THAT THE INDIVIDUAL CONTRACTS TO PERFORM AND IS
12 LIABLE FOR FAILURE TO COMPLETE THE SERVICE;

13 (9) THE INDIVIDUAL RECEIVES COMPENSATION FOR WORK OR
14 SERVICES PERFORMED UNDER CONTRACT ON A COMMISSION, PER JOB, OR
15 COMPETITIVE BID BASIS;

16 (10) THE INDIVIDUAL REALIZES A PROFIT OR SUFFERS A LOSS UNDER
17 CONTRACTS TO PERFORM WORK OR SERVICES;

18 (11) THE INDIVIDUAL HAS CONTINUING OR RECURRING BUSINESS
19 LIABILITIES OR OBLIGATIONS; AND

20 (12) THE INDIVIDUAL HAS A BUSINESS WHOSE SUCCESS OR FAILURE
21 DEPENDS ON THE RELATIONSHIP OF BUSINESS RECEIPTS TO EXPENDITURES.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
23 effect October 1, 1998.