

HOUSE BILL 1325

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1998 Regular Session
(8lr2289)

ENROLLED BILL
-- Economic Matters/Finance --

Introduced by **Delegate Gordon (Chairman, Unemployment Insurance Subcommittee)**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Unemployment Insurance - Amendments - Balanced Budget Act of 1997**

3 FOR the purpose of aligning the State unemployment insurance laws with the
4 Federal Unemployment Tax Act to exempt from unemployment insurance
5 coverage ~~the service of certain individuals who work for certain separately~~
6 ~~incorporated religious schools, the service of certain election officials, officials~~
7 ~~and the service of certain inmates of custodial or penal institutions; altering, for~~
8 ~~a certain period of time, the process for distribution of funds under Section 903~~
9 ~~of the Social Security Act providing that certain wages paid to an inmate under~~
10 ~~certain circumstances may not constitute taxable wages; providing that wages~~
11 ~~paid to an inmate under certain circumstances shall be included as wages for~~
12 ~~the purpose of determining certain weekly benefit amounts; providing that~~
13 ~~certain federal funds may be used only for certain purposes; providing for the~~
14 ~~application of certain provisions of this Act; and generally relating to~~
15 unemployment insurance.

16 BY repealing and reenacting, with amendments,

1 Article - Labor and Employment
 2 Section ~~8-208, 8-212(e), and 8-217~~ 8-212(c), 8-217, and 8-607(e)
 3 Annotated Code of Maryland
 4 (1991 Volume and 1997 Supplement)

5 BY adding to
 6 Article - Labor and Employment
 7 Section 8-803.1
 8 Annotated Code of Maryland
 9 (1991 Volume and 1997 Supplement)

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

12 **Article - Labor and Employment**

13 ~~§ 208.~~

14 (a) ~~Except as otherwise provided in this subtitle, employment is covered~~
 15 ~~employment if the employment is:~~

16 (1) ~~performed for a charitable, educational, religious, or other~~
 17 ~~organization; and~~

18 (2) ~~excluded from the definition of "employment" in the Federal~~
 19 ~~Unemployment Tax Act solely by § 3306(e)(8) of the Act.~~

20 (b) ~~Employment is not covered employment if the employment is performed~~
 21 ~~for:~~

22 (1) ~~a church or an association or convention of churches; or~~

23 (2) ~~an organization that is:~~

24 (i) ~~operated primarily for religious purposes; and~~

25 (ii) ~~controlled, operated, principally supported, or supervised by a~~
 26 ~~church or an association or convention of churches.~~

27 (c) ~~Employment is not covered employment if the employment is performed~~
 28 ~~by:~~

29 (1) ~~a commissioned, licensed, or ordained minister of a church in the~~
 30 ~~exercise of the ministry; or~~

31 (2) ~~a member of a religious order in the exercise of duties required by the~~
 32 ~~order.~~

1 ~~(D) EMPLOYMENT IS NOT COVERED EMPLOYMENT IF THE EMPLOYMENT IS~~
2 ~~PERFORMED FOR AN ELEMENTARY OR SECONDARY SCHOOL THAT IS:~~

3 ~~(1) OPERATED PRIMARILY FOR RELIGIOUS PURPOSES UNDER § 501(C)(3)~~
4 ~~OF THE INTERNAL REVENUE CODE; AND~~

5 ~~(2) EXEMPT FROM INCOME TAX UNDER § 501(A) OF THE INTERNAL~~
6 ~~REVENUE CODE.~~

7 ~~[(d)] (E) During any calendar quarter in which the compensation is less than~~
8 ~~\$50, the employment is not covered employment if it is performed for an organization~~
9 ~~that is exempt from income tax under:~~

10 ~~(1) § 501(a) of the Internal Revenue Code unless the organization is~~
11 ~~described in § 401(a) of the Internal Revenue Code; or~~

12 ~~(2) § 521 of the Internal Revenue Code.~~

13 8-212.

14 (c) (1) Except as provided in this subtitle, employment performed for a
15 governmental entity of a state is covered employment if the employment is excluded
16 from the definition of "employment" in the Federal Unemployment Tax Act solely by
17 § 3306(c)(7) of the Act.

18 (2) Employment performed for a governmental entity is not covered
19 employment if performed:

20 (i) as an elected official;

21 (ii) as a member of a legislative body, a judicial body, the State
22 National Guard, or the Air National Guard;

23 (iii) as a temporary employee in case of an earthquake, flood, fire,
24 snow, storm or similar emergency;

25 (iv) in a position that, under the laws of the State, is designated a
26 major nontenured advisory or policymaking position; [or]

27 (v) in an advisory or policymaking position that ordinarily requires
28 8 hours or less of work each week; OR

29 (VI) AS AN ELECTION OFFICIAL OR ELECTION WORKER IF THE
30 AMOUNT OF REMUNERATION RECEIVED BY THE INDIVIDUAL DURING THE
31 CALENDAR YEAR FOR SERVICES AS AN ELECTION OFFICIAL OR ELECTION WORKER IS
32 LESS THAN \$1,000.

1 8-217.

2 (A) Employment that an inmate of a custodial or penal institution performs
3 {for a not-for-profit organization or a governmental entity} is not covered
4 employment.

5 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
6 EMPLOYMENT THAT AN INMATE OF A CUSTODIAL OR PENAL INSTITUTION
7 PERFORMS FOR A PRIVATE, FOR-PROFIT EMPLOYER IS NOT COVERED EMPLOYMENT.

8 (2) EMPLOYMENT THAT AN INMATE OF A CUSTODIAL OR PENAL
9 INSTITUTION PERFORMS FOR A PRIVATE, FOR-PROFIT EMPLOYER IS COVERED
10 EMPLOYMENT IF THE INMATE CONTINUES TO BE EMPLOYED BY THE PRIVATE,
11 FOR-PROFIT EMPLOYING UNIT AFTER BEING PERMANENTLY RELEASED FROM THE
12 CUSTODIAL OR PENAL INSTITUTION, INCLUDING RELEASED BY PAROLE.

13 8-607.

14 (e) WAGES PAID BY A PRIVATE, FOR-PROFIT EMPLOYING UNIT TO AN INMATE
15 OF A CUSTODIAL OR PENAL INSTITUTION BEFORE THE INMATE IS PERMANENTLY
16 RELEASED FROM THE CUSTODIAL OR PENAL INSTITUTION, INCLUDING RELEASED
17 BY PAROLE, MAY NOT CONSTITUTE TAXABLE WAGES.

18 (F) An employing unit may not deduct contributions, wholly or partly, from the
19 wages of an employee.

20 8-803.1.

21 FOR PURPOSES OF DETERMINING THE WEEKLY BENEFIT AMOUNT IN ANY
22 BENEFIT YEAR UNDER § 8-803 OF THIS SUBTITLE, WAGES PAID BY A PRIVATE,
23 FOR-PROFIT EMPLOYING UNIT FOR EMPLOYMENT PERFORMED BY AN INDIVIDUAL
24 WHILE AN INMATE OF A CUSTODIAL OR PENAL INSTITUTION SHALL BE INCLUDED AS
25 WAGES IF THE INDIVIDUAL CONTINUES TO BE EMPLOYED BY THE PRIVATE,
26 FOR-PROFIT EMPLOYING UNIT AFTER BEING PERMANENTLY RELEASED BY THE
27 CUSTODIAL OR PENAL INSTITUTION, INCLUDING RELEASED BY PAROLE.

28 SECTION 2. AND BE IT FURTHER ENACTED, That notwithstanding §
29 8-405(b) of the Labor and Employment Article and pursuant to P.L. 105-33, the
30 Balanced Budget Act of 1997, § 8-405(b) of the Labor and Employment Article shall
31 not be applicable to the transfer of Reed Act Funds under § 903 of the Social Security
32 Act for federal fiscal years 1999, 2000, and 2001 only as it relates to the appropriation
33 of funds and that the transfer of any funds shall only be used for *may not be used for*
34 *any purpose other than* the administration of the unemployment insurance program.
35 All other provisions of § 8-405(b) shall apply.

36 SECTION 3. AND BE IT FURTHER ENACTED, That ~~§ 8-217~~ § 8-217(b)(1) of
37 the Labor and Employment Article, as amended by this Act, shall be construed
38 retroactively and shall be applied to and interpreted to affect all determinations by
39 the Secretary of Labor, Licensing, and Regulation of (1) rates of contributions for
40 employing units for all calendar years beginning on or after January 1, 1994; and (2)

1 benefit charges for unemployment insurance claims for benefits based on work
2 performed on or after January 1, 1994 and will be in the form of credits to employing
3 units. Wages that are paid for work that an inmate of a custodial or penal institution
4 performs for other than a not-for-profit organization or a governmental entity
5 performed through September 30, 1998 may be used in determining monetary
6 eligibility for unemployment insurance benefits.

7 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 1998.