

HOUSE BILL 1325

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1998 Regular Session  
8r2289

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By: **Delegate Gordon (Chairman, Unemployment Insurance Subcommittee)**

Introduced and read first time: February 20, 1998

Assigned to: Rules and Executive Nominations

Re-referred to: Economic Matters, March 2, 1998

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 27, 1998

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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,  
17 Article - Labor and Employment  
18 Section ~~8-208, 8-212(e), and 8-217~~ 8-212(c), 8-217, and 8-607(e)  
19 Annotated Code of Maryland  
20 (1991 Volume and 1997 Supplement)

21 BY adding to  
22 Article - Labor and Employment  
23 Section 8-803.1  
24 Annotated Code of Maryland

1 (1991 Volume and 1997 Supplement)

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

4 **Article - Labor and Employment**

5 ~~§ 208.~~

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

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

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

12 (b) ~~Employment is not covered employment if the employment is performed~~  
13 ~~for:~~

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

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

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

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

19 (c) ~~Employment is not covered employment if the employment is performed~~  
20 ~~by:~~

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

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

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

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

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

31 ~~[(d)]~~ (E) ~~During any calendar quarter in which the compensation is less than~~  
32 ~~\$50, the employment is not covered employment if it is performed for an organization~~  
33 ~~that is exempt from income tax under:~~

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

3           (2)     ~~§ 521 of the Internal Revenue Code.~~

4 8-212.

5       (c)     (1)     Except as provided in this subtitle, employment performed for a  
6 governmental entity of a state is covered employment if the employment is excluded  
7 from the definition of "employment" in the Federal Unemployment Tax Act solely by  
8 § 3306(c)(7) of the Act.

9           (2)     Employment performed for a governmental entity is not covered  
10 employment if performed:

11                   (i)     as an elected official;

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

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

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

18                   (v)   in an advisory or policymaking position that ordinarily requires  
19 8 hours or less of work each week; OR

20                   (VI)   AS AN ELECTION OFFICIAL OR ELECTION WORKER IF THE  
21 AMOUNT OF REMUNERATION RECEIVED BY THE INDIVIDUAL DURING THE  
22 CALENDAR YEAR FOR SERVICES AS AN ELECTION OFFICIAL OR ELECTION WORKER IS  
23 LESS THAN \$1,000.

24 8-217.

25       (A)     Employment that an inmate of a custodial or penal institution performs  
26 ~~{for a not-for-profit organization or a governmental entity}~~ is not covered  
27 employment.

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

31           (2)     EMPLOYMENT THAT AN INMATE OF A CUSTODIAL OR PENAL  
32 INSTITUTION PERFORMS FOR A PRIVATE, FOR-PROFIT EMPLOYER IS COVERED  
33 EMPLOYMENT IF THE INMATE CONTINUES TO BE EMPLOYED BY THE PRIVATE,  
34 FOR-PROFIT EMPLOYING UNIT AFTER BEING PERMANENTLY RELEASED FROM THE  
35 CUSTODIAL OR PENAL INSTITUTION, INCLUDING RELEASED BY PAROLE.

1 8-607.

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

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

8 8-803.1.

9 FOR PURPOSES OF DETERMINING THE WEEKLY BENEFIT AMOUNT IN ANY  
10 BENEFIT YEAR UNDER § 8-803 OF THIS SUBTITLE, WAGES PAID BY A PRIVATE,  
11 FOR-PROFIT EMPLOYING UNIT FOR EMPLOYMENT PERFORMED BY AN INDIVIDUAL  
12 WHILE AN INMATE OF A CUSTODIAL OR PENAL INSTITUTION SHALL BE INCLUDED AS  
13 WAGES IF THE INDIVIDUAL CONTINUES TO BE EMPLOYED BY THE PRIVATE,  
14 FOR-PROFIT EMPLOYING UNIT AFTER BEING PERMANENTLY RELEASED BY THE  
15 CUSTODIAL OR PENAL INSTITUTION, INCLUDING RELEASED BY PAROLE.

16 SECTION 2. AND BE IT FURTHER ENACTED, That notwithstanding §  
17 8-405(b) of the Labor and Employment Article and pursuant to P.L. 105-33, the  
18 Balanced Budget Act of 1997, § 8-405(b) of the Labor and Employment Article shall  
19 not be applicable to the transfer of Reed Act Funds under § 903 of the Social Security  
20 Act for federal fiscal years 1999, 2000, and 2001 only as it relates to the appropriation  
21 of funds and that the transfer of any funds shall only be used for the administration  
22 of the unemployment insurance program. All other provisions of § 8-405(b) shall  
23 apply.

24 SECTION 3. AND BE IT FURTHER ENACTED, That ~~§ 8-217~~ § 8-217(b)(1) of  
25 the Labor and Employment Article, as amended by this Act, shall be construed  
26 retroactively and shall be applied to and interpreted to affect all determinations by  
27 the Secretary of Labor, Licensing, and Regulation of (1) rates of contributions for  
28 employing units for all calendar years beginning on or after January 1, 1994; and (2)  
29 benefit charges for unemployment insurance claims for benefits based on work  
30 performed on or after January 1, 1994 and will be in the form of credits to employing  
31 units. Wages that are paid for work that an inmate of a custodial or penal institution  
32 performs for other than a not-for-profit organization or a governmental entity  
33 performed through September 30, 1998 may be used in determining monetary  
34 eligibility for unemployment insurance benefits.

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

