

Department of Legislative Services  
 Maryland General Assembly  
 2005 Session

FISCAL AND POLICY NOTE  
 Revised

Senate Bill 719  
 Finance

(Senator Middleton)

Economic Matters

**Unemployment Insurance - Exemption from Covered Employment - Owner Operators of Class F (Tractor) and Class E (Truck) Vehicles**

This bill exempts owner operators of specified vehicles from covered employment for unemployment insurance purposes.

The bill applies to all determinations by the Department of Labor, Licensing, and Regulation (DLLR) pertaining to: (1) rates of contributions for employing units beginning on or after January 1, 2006; and (2) benefit charges for unemployment insurance claims for work performed by vehicle owner operators on or after January 1, 2006.

Contributions paid or benefits charges collected prior to January 1, 2006 are not subject to refund.

**Fiscal Summary**

**State Effect:** This bill would not directly affect State operations or finances.

**Unemployment Insurance Trust Fund (UITF):** Revenues will decrease by \$1.3 million annually as unemployment insurance taxes are not assessed for payments to specified vehicle owner operators, and expenditures will decrease by \$462,300 in FY 2007 and \$924,600 annually beginning in FY 2008 for decreased unemployment insurance benefits.

(in dollars)	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
NonBud Rev.	(\$1,339,400)	(\$1,339,400)	(\$1,339,400)	(\$1,339,400)	(\$1,339,400)
NonBud Exp.	0	(462,300)	(924,600)	(924,600)	(924,600)
Net Effect	(\$1,339,400)	(\$877,100)	(\$414,800)	(\$414,800)	(\$414,800)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

**Local Effect:** None.

**Small Business Effect:** Minimal decrease in unemployment insurance expense.

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## Analysis

**Bill Summary:** Work performed by owner operators of Class F (tractor) and Class E (truck), as defined in the Transportation Article, is not covered employment if the Secretary of Labor, Licensing, and Regulation is satisfied that:

- the owner operator and a motor carrier have entered into a written agreement that is in effect for permanent or trip leasing and the agreement provides there is no intent to create an employer-employee relationship and the owner operator is paid rental compensation;
- for federal income tax purposes, the owner operator qualifies as an independent contractor; and
- the owner operator owns the vehicle or holds it under a lease arrangement, is responsible for maintenance, bears the principal burden of its operating costs, supplies the personnel in connection with the operation, and generally determines the details and means of performing the services under the agreement.

The bill does not apply to Class T (Tow Trucks) vehicles.

**Current Law:** Covered employment is defined as work performed by an individual for an employing unit. A multitude of exemptions to covered employment exist under current law. Examples include, certain services performed solely for commission including yacht salespersons, insurance brokers, and messenger service drivers. To the extent that work is exempt under federal law, a real estate broker or real estate salesperson working for a licensed real estate broker for commission is also not covered employment.

**Background:** When an individual performs service for a business in return for compensation in the form of wages, the individual is likely covered for unemployment insurance purposes. The employer reports the wages to the Division of Unemployment Insurance and pays unemployment insurance taxes on those wages. If a person is not in covered employment, the person's wages are not reported and the employer does not pay unemployment insurance taxes for those services.

Most exemptions from covered employment under Maryland law mirror Federal Unemployment Tax Act (FUTA) exemptions. However, Maryland does have two exemptions not included in FUTA: yacht salespersons and messenger service drivers.

### **Unemployment Insurance Trust Fund:**

#### *Trust Fund Revenue*

It is estimated that approximately 4,900 workers would be eliminated from unemployment insurance coverage. With an average unemployment insurance tax rate of 3.2%, the loss of unemployment insurance contributions to the UITF would be approximately \$1.3 million annually.

Currently there are 919 general freight and trucking companies reporting for unemployment insurance purposes. The classifications of companies are established by the North American Industry Classification System. Estimates are based on the following facts/assumptions:

- taxable wages from 7/1/01 through 6/30/04 totaled \$351,690,003;
- unemployment benefit charges during same period totaled \$6,472,889;
- industry average unemployment tax rate is 3.2%;
- average employment is 11,490; and
- percentage of health care employees exempt under bill 43%.

#### *Unemployment Benefit Payments*

Payment of unemployment benefits would decrease as certain vehicle owner operators would no longer be covered for unemployment insurance. It is estimated that benefit payments would decrease by approximately \$462,300 in fiscal 2007 and \$924,600 annually beginning in fiscal 2008. There is no effect in fiscal 2006 and a reduced effect in fiscal 2007 because claimants use wages reported during the previous year for eligibility.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Labor, Licensing, and Regulation; Department of Legislative Services

**Fiscal Note History:** First Reader - February 25, 2005  
ncs/jr Revised - Updated Information - March 1, 2005  
Revised - Senate Third Reader - March 28, 2005

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