

HOUSE BILL 64

K2

9lr0317

By: **Delegates McConkey, Haddaway, Krysiak, Mathias, Miller, and Minnick**
Introduced and read first time: January 16, 2009
Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Unemployment Insurance - Exemption from Covered Employment -**
3 **Continuing Education Instructors**

4 FOR the purpose of clarifying that a certain type of continuing education instruction
5 performed under certain circumstances is not covered employment for purposes
6 of unemployment insurance; and generally relating to coverage of individuals
7 providing continuing education under the unemployment insurance law.

8 BY repealing and reenacting, without amendments,
9 Article - Labor and Employment
10 Section 8-205, 8-212(c), and 8-214
11 Annotated Code of Maryland
12 (2008 Replacement Volume)

13 BY adding to
14 Article - Labor and Employment
15 Section 8-206(g)
16 Annotated Code of Maryland
17 (2008 Replacement Volume)

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

20 **Article - Labor and Employment**

21 8-205.

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 (2) the individual customarily is engaged in an independent business
4 or occupation of the same nature as that involved in the work; and

5 (3) the work is:

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

8 (ii) performed outside of any place of business of the person for
9 whom the work is performed.

10 8-206.

11 **(G) (1) THIS SUBSECTION APPLIES TO AN INDIVIDUAL WHO**
12 **PROVIDES CONTINUING EDUCATION INSTRUCTION SERVICES FOR A**
13 **NONGOVERNMENTAL ENTITY IF THE CONTINUING EDUCATION SERVICES ARE:**

14 **(I) FROM THE DUTIES OF THE INDIVIDUAL'S REGULAR**
15 **PROFESSION; AND**

16 **(II) OUTSIDE THE USUAL COURSE OF BUSINESS OF THE**
17 **NONGOVERNMENTAL ENTITY FOR WHOM THE WORK IS PERFORMED.**

18 **(2) WORK IS NOT COVERED EMPLOYMENT WHEN PERFORMED BY**
19 **A CONTINUING EDUCATION INSTRUCTOR UNDER THIS SUBSECTION IF THE**
20 **SECRETARY IS SATISFIED THAT:**

21 **(I) THE INSTRUCTOR HAS ENTERED INTO A WRITTEN**
22 **AGREEMENT WITH A NONGOVERNMENTAL ENTITY THAT IS IN EFFECT;**

23 **(II) THE AGREEMENT PROVIDES THAT:**

24 **1. THE HOURS OF INSTRUCTION ARE SET BY THE**
25 **INSTRUCTOR;**

26 **2. THE CURRICULUM FOR THE INSTRUCTION IS**
27 **PROVIDED BY THE INSTRUCTOR; AND**

28 **3. INSTRUCTION IS NOT PROVIDED ON THE**
29 **PREMISES OF THE INSTRUCTOR'S EMPLOYING UNIT; AND**

1 **(III) THE AGREEMENT EXPRESSLY STATES THAT THE**
2 **INSTRUCTOR KNOWS:**

3 **1. THE INSTRUCTOR IS RESPONSIBLE TO PAY STATE**
4 **AND FEDERAL INCOME TAXES AND MAKE ANY REQUIRED SOCIAL SECURITY**
5 **CONTRIBUTIONS FOR SELF-EMPLOYMENT; AND**

6 **2. THAT THE WORK IS NOT COVERED EMPLOYMENT.**

7 8-212.

8 (c) (1) Except as provided in this subtitle, employment performed for a
9 governmental entity of a state is covered employment if the employment is excluded
10 from the definition of "employment" in the Federal Unemployment Tax Act solely by §
11 3306(c)(7) of the Act.

12 (2) Employment performed for a governmental entity is not covered
13 employment if performed:

14 (i) as an elected official;

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

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

19 (iv) in a position that, under the laws of the State, is designated
20 a major nontenured advisory or policymaking position;

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

23 (vi) as an election official or election worker if the amount of
24 remuneration received by the individual during the calendar year for services as an
25 election official or election worker is less than \$1,000.

26 8-214.

27 Employment that an individual performs that is not in the course of the
28 business or trade of the individual's employer is not covered employment unless:

29 (1) during a calendar quarter, the employer pays cash compensation of
30 at least \$50 for the employment; and

HOUSE BILL 64

1 (2) the employment is performed by an individual whom the employer
2 regularly employs to perform the employment during a part of each of at least 24 days
3 during the calendar quarter or the preceding calendar quarter.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2009.