

SENATE BILL 303

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CF 0lr2341

By: **Senator Kittleman**

Introduced and read first time: January 27, 2010

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Labor and Employment – Exemption from Covered Employment – Home Care**
3 **Workers**

4 FOR the purpose of clarifying that work performed by a home care worker under
5 certain circumstances is not covered employment for purposes of unemployment
6 insurance; and generally relating to coverage of individuals providing home care
7 work under the unemployment insurance law.

8 BY repealing and reenacting, without amendments,
9 Article – Labor and Employment
10 Section 8–205
11 Annotated Code of Maryland
12 (2008 Replacement Volume and 2009 Supplement)

13 BY adding to
14 Article – Labor and Employment
15 Section 8–206(i)
16 Annotated Code of Maryland
17 (2008 Replacement Volume and 2009 Supplement)

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 (a) Work that an individual performs under any contract of hire is not
23 covered 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 (b) The Secretary shall adopt regulations to provide:

11 (1) general guidance about the application of subsection (a) of this
12 section; and

13 (2) specific examples of how subsection (a) of this section is applied to
14 certain industries, including the construction industry, the landscaping industry, and
15 the home care services industry.

16 8–206.

17 **(I) WORK IS NOT COVERED EMPLOYMENT WHEN PERFORMED BY A**
18 **HOME CARE WORKER IF THE SECRETARY IS SATISFIED THAT:**

19 **(1) THE WORKER AND THE HOME CARE AGENCY HAVE ENTERED**
20 **INTO A WRITTEN AGREEMENT THAT IS CURRENTLY IN EFFECT;**

21 **(2) THE WORKER IS NOT RESTRICTED AS TO THE NUMBER OF**
22 **HOME CARE AGENCIES THE WORKER MAY WORK FOR;**

23 **(3) THE WORKER IS PERMITTED TO NEGOTIATE THE RATE OF**
24 **PAYMENT; AND**

25 **(4) THE WRITTEN AGREEMENT EXPRESSLY STATES:**

26 **(I) THE WORKER IS AN INDEPENDENT CONTRACTOR; AND**

27 **(II) THE WORKER KNOWS:**

28 **1. OF THE RESPONSIBILITY TO PAY STATE AND**
29 **FEDERAL INCOME TAXES AND TO MAKE ANY REQUIRED SOCIAL SECURITY**
30 **CONTRIBUTIONS FOR SELF-EMPLOYMENT; AND**

