

Chapter 625

(Senate Bill 685)

AN ACT concerning

Unemployment Insurance – Messenger Service Drivers – Delivery

FOR the purpose of authorizing certain messenger service drivers whose work is not covered employment under unemployment insurance law to deliver certain items and use certain methods of delivery; expanding the requirements that the Secretary of Labor, Licensing, and Regulation must find to be satisfied for certain work performed by a certain messenger service driver to not be covered employment; providing that a messenger service driver whose work is not covered employment may deliver emergency medical supplies and certain other items for a messenger service business if the messenger service business provides certain evidence that the driver is excluded from certain coverage; defining a certain term; and generally relating to the delivery of certain items by messenger service drivers under unemployment insurance law.

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 8–206(d)
Annotated Code of Maryland
(2008 Replacement Volume and 2010 Supplement)

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

Article – Labor and Employment

8–206.

(d) **(1) IN THIS SUBSECTION, “MESSENGER SERVICE BUSINESS” MEANS A BUSINESS THAT:**

(I) PRINCIPALLY AND PRIMARILY OFFERS AND PROVIDES TO THE PUBLIC OR COMMERCIAL ESTABLISHMENTS EXPEDITED, TIME CRITICAL, AND SAME DAY AS REQUESTED DELIVERY SERVICE;

(II) DOES NOT MAKE, PRODUCE, SELL, OR DISTRIBUTE WHAT IT DELIVERS; AND

(III) DOES NOT HAVE AN EXCLUSIVE CONTRACTUAL DELIVERY ARRANGEMENT WITH AN INDIVIDUAL OR A COMMERCIAL ESTABLISHMENT.

(2) Work that a messenger service driver performs for a person who is engaged in the messenger service business is not covered employment if the Secretary is satisfied that:

[(1)] **(I)** the driver and the person who is engaged in the messenger service business have entered into a written agreement that is currently in effect;

(II) THE WRITTEN AGREEMENT UNDER ITEM (I) OF THIS PARAGRAPH DOES NOT PROHIBIT THE DRIVER FROM PERFORMING FOR MORE THAN ONE PERSON WHO IS ENGAGED IN THE MESSENGER SERVICE BUSINESS;

(III) THE DRIVER IS FREE TO ACCEPT OR REJECT DELIVERY JOBS FROM THE PERSON WHO IS ENGAGED IN THE MESSENGER SERVICE BUSINESS;

[(2)] ~~(II)~~ **(IV)** the driver personally provides the vehicle;

[(3)] ~~(III)~~ **(V)** compensation is by commission only;

[(4)] ~~(IV)~~ **(VI)** the driver may set personal work hours; and

[(5)] ~~(V)~~ **(VII)** the written agreement states expressly and prominently that the driver knows:

[(i)] **1.** of the responsibility to pay estimated Social Security taxes and State and federal income taxes;

[(ii)] **2.** that the Social Security tax the driver must pay is higher than the Social Security tax the driver would pay otherwise; and

[(iii)] **3.** that the work is not covered employment.

~~**(2) (3) A MESSENGER SERVICE DRIVER FOR A MESSENGER SERVICE BUSINESS WHOSE WORK IS NOT COVERED EMPLOYMENT UNDER PARAGRAPH (1) (2) OF THIS SUBSECTION MAY DELIVER INDIVIDUALLY ADDRESSED MAIL, MESSAGES, DOCUMENTS IN PAPER OR MAGNETIC FORMAT, SUPPLIES, RECORDS, PARCELS, OR OTHER OBJECTS TO THE PUBLIC OR COMMERCIAL ESTABLISHMENTS ON FOOT, BY BICYCLE, OR BY MOTOR VEHICLE;**~~

(I) INDIVIDUALLY ADDRESSED MAIL, MESSAGES, AND DOCUMENTS IN PAPER OR MAGNETIC FORMAT; AND

(II) EMERGENCY MEDICAL SUPPLIES, RECORDS, PARCELS, OR SIMILAR ITEMS IF THE MESSENGER SERVICE BUSINESS PROVIDES TO THE SECRETARY EVIDENCE OF A WORKER STATUS DETERMINATION FROM THE INTERNAL REVENUE SERVICE OR OTHER EVIDENCE THAT THE MESSENGER SERVICE DRIVER IS EXCLUDED FROM COVERAGE UNDER THE FEDERAL UNEMPLOYMENT TAX ACT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2011.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 29, 2011.