

# HOUSE BILL 1364

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By: **Delegate McConkey**

Introduced and read first time: February 10, 2014

Assigned to: Rules and Executive Nominations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Wage and Hour Law – Exemptions – Employees Receiving Social**  
3 **Security Disability Insurance Benefits**

4 FOR the purpose of providing that the Maryland Wage and Hour Law does not apply  
5 to certain employees who receive federal Social Security disability insurance  
6 benefits; and generally relating to exemptions from the Maryland Wage and  
7 Hour Law.

8 BY repealing and reenacting, with amendments,  
9 Article – Labor and Employment  
10 Section 3–403  
11 Annotated Code of Maryland  
12 (2008 Replacement Volume and 2013 Supplement)

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

15 **Article – Labor and Employment**

16 3–403.

17 (a) This subtitle does not apply to an individual who:

18 (1) is employed in a capacity that the Commissioner defines, by  
19 regulation, to be administrative, executive, or professional;

20 (2) is employed in a nonadministrative capacity at an organized camp,  
21 including a resident or day camp;

22 (3) is under the age of 16 years and is employed no more than 20  
23 hours in a week;

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 (4) is employed as an outside salesman;
- 2 (5) is compensated on a commission basis;
- 3 (6) is at least 62 years old and is employed no more than 25 hours in a  
4 week;
- 5 (7) is a child, parent, spouse, or other member of the immediate family  
6 of the employer;
- 7 (8) is employed in a motion picture or drive-in theater;
- 8 (9) is employed as part of the training in a special education program  
9 for emotionally, mentally, or physically handicapped students under a public school  
10 system;
- 11 (10) is employed by an employer who is engaged in canning, freezing,  
12 packing, or first processing of perishable or seasonal fresh fruits, vegetables, or  
13 horticultural commodities, poultry, or seafood;
- 14 (11) engages in the activities of a charitable, educational, not for profit,  
15 or religious organization if:
- 16 (i) the service is provided gratuitously; and
- 17 (ii) there is, in fact, no employer-employee relationship; or
- 18 (12) is employed in a cafe, drive-in, drugstore, restaurant, tavern, or  
19 other similar establishment that:
- 20 (i) sells food and drink for consumption on the premises; and
- 21 (ii) has an annual gross income of \$250,000 or less.
- 22 (b) This subtitle does not apply to an individual who:
- 23 (1) is employed in agriculture if, during each quarter of the preceding  
24 calendar year, the employer used no more than 500 agricultural-worker days;
- 25 (2) is engaged principally in the range production of livestock; or
- 26 (3) is employed as a hand-harvest laborer and is paid on a piece-rate  
27 basis in an operation that, in the region of employment, has been and customarily and  
28 generally is recognized as having been paid on that basis, if:
- 29 (i) the individual:

1                   1.     commutes daily from the permanent residence of the  
2 individual to the farm where the individual is employed; and

3                   2.     during the preceding calendar year, was employed in  
4 agriculture less than 13 weeks; or

5                   (ii)    the individual:

6                   1.     is under the age of 17;

7                   2.     is employed on the same farm as a parent of the  
8 individual or a person standing in the place of the parent; and

9                   3.     is paid at the same rate that an employee who is at  
10 least 17 years old is paid on the same farm.

11           **(C)   THIS SUBTITLE DOES NOT APPLY TO AN EMPLOYEE WHO:**

12                   **(1)   IS RECEIVING FEDERAL SOCIAL SECURITY DISABILITY**  
13 **INSURANCE BENEFITS;**

14                   **(2)   NOTIFIES THE EMPLOYEE'S EMPLOYER THAT:**

15                   **(I)   THE APPLICATION OF THIS SUBTITLE TO THE**  
16 **EMPLOYEE WILL RESULT IN A LOSS OF THE FEDERAL SOCIAL SECURITY**  
17 **DISABILITY INSURANCE BENEFITS; AND**

18                   **(II)  THE EMPLOYEE ELECTS TO BE SUBJECT ONLY TO THE**  
19 **FEDERAL ACT; AND**

20                   **(3)   DOES NOT MAKE THE NOTIFICATION UNDER ITEM (2) OF THIS**  
21 **SUBSECTION UNDER DURESS.**

22           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
23 July 1, 2014.