

MAINE STATE LEGISLATURE

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L.D. 1511
(Filing No. H-215)

STATE OF MAINE
HOUSE OF REPRESENTATIVES
112TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1037, L.D. 1511, Bill, "AN ACT Concerning Unemployment Compensation Contributions by Home Knitting Businesses."

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

'26 MRSA §1043, sub-§11, ¶F, as amended by PL 1985, c. 74, is further amended to read:

F. The term "employment" shall not include:

(1) Service performed in the employ of this State, or of any political subdivision thereof, or of any instrumentality of this State or its political subdivisions, except as provided by this subsection;

(2) Service performed in the employ of the United States Government or an instrumentality of the United States immune under the Constitution of the United States from the contributions imposed by this chapter, except that on and after January 1, 1940 to the extent that the Congress of the United States has permitted states to require any instrumentalities of the United States to make payments into an unemployment compensation fund under a state unemployment compensation or employment security law, all of the provisions of this chapter shall be applicable to such instrumentalities and to services performed for such instrumentalities, in the same manner, to the same extent and on the same terms as to all other employers, employing units, individuals and

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1 services. If this State shall not be certi-
2 fied for any year by the Secretary of Labor
3 under section 3304 of the Federal Internal
4 Revenue Code, the payments required of such
5 instrumentalities with respect to such year
6 shall be refunded by the commissioner from
7 the fund in the same manner and within the
8 same period as is provided in section 1225,
9 subsection 5, with respect to contributions
10 erroneously collected;

11 (3) Service with respect to which unemploy-
12 ment compensation is payable under an unem-
13 ployment compensation system or employment
14 security system established by an Act of
15 Congress. The commissioner is authorized and
16 directed to enter into agreements with the
17 proper agencies under such Act of Congress,
18 which agreements shall become effective 10
19 days after publication thereof in the manner
20 provided in section 1082, subsection 2, for
21 regulations, to provide reciprocal treatment
22 to individuals who have, after acquiring po-
23 tential rights to benefits under this chap-
24 ter, acquired rights to unemployment compen-
25 sation under such Act of Congress, or who
26 have, after acquiring potential rights to
27 unemployment compensation under such Act of
28 Congress, acquired rights to benefits under
29 this chapter;

30 (4) Agricultural labor as defined in sub-
31 section 1, except as provided in paragraph
32 A-2;

33 (4-1) Agricultural labor in the harvesting
34 of apples, if performed by an individual who
35 is an alien, other than a citizen of a con-
36 tiguous country with which the United States
37 has an agreement with respect to unemploy-
38 ment compensation, admitted to the United
39 States to perform agricultural labor pursu-

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- 1 ant to the United States Immigration and
2 Nationality Act, Sections 214(c) and 101(a)
3 (15) (H);
- 4 (5) Domestic service in a private home, ex-
5 cept as provided in paragraph A-3;
- 6 (6) Service performed by an individual in
7 the employ of his son, daughter or spouse,
8 and service performed by a child under the
9 age of 18 in the employ of his father or
10 mother;
- 11 (6-1) Services performed by a student at-
12 tending an elementary or secondary school
13 while participating in a cooperative program
14 of education and occupational training;
- 15 (9) Service performed with respect to which
16 unemployment compensation is payable under
17 the Railroad Unemployment Insurance Act (52
18 Stat. 1094);
- 19 (10) Services performed in the employ of
20 any other state, or any political subdivi-
21 sion thereof, or any instrumentality of any
22 one or more of the foregoing which is wholly
23 owned by one or more states or political
24 subdivisions; and any services performed in
25 the employ of any instrumentality of one or
26 more other states or their political subdivi-
27 sions to the extent that the instrumentality
28 is, with respect to such service, immune
29 under the Constitution of the United States
30 from the tax imposed by section 3301 of the
31 Federal Internal Revenue Code; except as
32 provided in paragraph A-1, subparagraph (1);
- 33 (11) Service performed in any calendar
34 quarter in the employ of any organization
35 exempt from income tax under section 501(a)
36 of the Federal Internal Revenue Code, other

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1 than an organization described in section
2 401(a) or under section 521, of such Code,
3 if the remuneration for such service is less
4 than \$150;

5 (16) Service performed in the employ of a
6 foreign government, including service as a
7 consular or other officer or employee or a
8 nondiplomatic representative;

9 (17) Service performed in the employ of an
10 instrumentality wholly owned by a foreign
11 government:

12 (a) If the service is of a character
13 similar to that performed in foreign
14 countries by employees of the United
15 States Government or an instrumentality
16 thereof; and

17 (b) If the commissioner finds that the
18 United States Secretary of State has
19 certified to the United States Secre-
20 tary of the Treasury that the foreign
21 government, with respect to whose in-
22 strumentality exemption is claimed,
23 grants an equivalent exemption with re-
24 spect to similar service performed in
25 the foreign country by employees of the
26 United States Government and of instru-
27 mentalities thereof;

28 (18) Service performed as a student nurse
29 in the employ of a hospital or a nurses'
30 training school by an individual who is en-
31 rolled and is regularly attending classes in
32 a nurses' training school chartered or ap-
33 proved pursuant to state law; and service
34 performed as an intern in the employ of a
35 hospital by an individual who has completed
36 a 4 years' course in a medical school
37 chartered or approved pursuant to state law;

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- 1 (19) Service performed by an individual for
2 a person as a real estate broker, real es-
3 tate salesman, an insurance agent or as an
4 insurance solicitor, if all such service
5 performed by such individual for such person
6 is performed for remuneration solely by way
7 of commission;
- 8 (20) Service performed by an individual under
9 the age of 18 in the delivery or distri-
10 bution of newspapers or shopping news, not
11 including delivery or distribution to any
12 point for subsequent delivery or distribu-
13 tion;
- 14 (21) Service performed in the employ of any
15 organization which is excluded from the term
16 "employment" as defined in the Federal Unem-
17 ployment Tax Act solely by reason of section
18 3306(c)(7) or (8) if:
- 19 (a) Service performed in the employ of
20 a church or convention or association
21 of churches, or an organization which
22 is operated primarily for religious
23 purposes and which is operated, super-
24 vised, controlled or principally sup-
25 ported by a church or convention or as-
26 sociation of churches;
- 27 (b) Service performed by a duly or-
28 dained, commissioned or licensed minis-
29 ter of a church in the exercise of his
30 ministry or by a member of a religious
31 order in the exercise of duties re-
32 quired by such order;
- 33 (c) Prior to January 1, 1978, service
34 performed in the employ of a school
35 primarily operated as an elementary,
36 secondary or preparatory school for

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1 higher education, which is not an in-
2 stitution of higher education;

3 (d) Service performed in a facility
4 conducted for the purpose of carrying
5 out a program of rehabilitation for in-
6 dividuals whose earning capacity is im-
7 paired by age or physical or mental de-
8 ficiency or injury or providing remu-
9 nerative work for individuals who, be-
10 cause of their impaired physical or
11 mental capacity, cannot be readily ab-
12 sorbed in the competitive labor market
13 by an individual receiving such reha-
14 bilitation or remunerative work;

15 (e) Service performed as part of an
16 unemployment work-relief or work-
17 training program assisted or financed
18 in whole or in part by any federal
19 agency or an agency of a state or po-
20 litical subdivision thereof by an indi-
21 vidual receiving such work-relief or
22 work-training;

23 (f) Service performed in the employ of
24 a hospital as defined in subsection 26
25 by a patient of such hospital;

26 (g) Services performed prior to Janu-
27 ary 1, 1978, for a hospital in a state
28 prison or other state correctional in-
29 stitution by an inmate of such prison
30 or correctional institution and after
31 December 31, 1977, by an inmate of a
32 custodial or penal institution;

33 (h) Service performed in the employ of
34 a school, college or university, if
35 such service is performed by a student
36 who is enrolled and is regularly at-
37 tending classes at such school, college

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- 1 or university; or
- 2 (i) Prior to January 1, 1978, service
3 performed in the employ of a school
4 which is not an institution of higher
5 education; after December 31, 1977,
6 service performed in the employ of a
7 governmental entity referred to in par-
8 agraph A-1, subparagraph (1) if such
9 service is performed by an individual
10 in the exercise of duties:
- 11 (i) As an elected official;
- 12 (ii) As a member of a legislative
13 body, or a member of the judi-
14 ciary, of a state or political
15 subdivision thereof;
- 16 (iii) As a member of the State
17 National Guard or Air National
18 Guard;
- 19 (iv) As an employee serving on a
20 temporary basis in case of fire,
21 storm, snow, earthquake, flood or
22 similar emergency; or
- 23 (v) In a position which, under or
24 pursuant to the laws of this
25 State, is designated as a major
26 nontenured policymaking or advis-
27 ory position, or a policymaking or
28 advisory position the performance
29 of the duties of which ordinarily
30 does not require more than 8 hours
31 per week;
- 32 (29) Services performed by a hairdresser
33 who holds a booth license and operates with-
34 in another hairdressing establishment if op-
35 erated under a booth rental agreement or

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- 1 other rental agreement;
- 2 (30) Services performed by a barber who
3 holds a booth license and operates within
4 another barbering establishment if operated
5 under a booth rental agreement or other
6 rental agreement;
- 7 (31) Services performed by a contract
8 interviewer engaged in marketing research or
9 public opinion interviewing, when such
10 interviewing is conducted in the field or
11 over the telephone on premises not used or
12 controlled by the person for whom such con-
13 tract services are being provided;
- 14 (32) After December 31, 1981, services per-
15 formed by an individual on a boat engaged in
16 catching fish or other forms of aquatic ani-
17 mal life, unless those services would be in-
18 cluded in the definition of "employment" for
19 federal unemployment tax purposes under the
20 Federal Unemployment Act, United States
21 Code, Title 26, Section 3306(c), as it may
22 be amended;
- 23 (a) Such individual does not receive
24 any cash remuneration, other than as
25 provided in division (b);
- 26 (b) Such individual receives a share
27 of the boat's, or the boats' in the
28 case of a fishing operation involving
29 more than one boat, catch of fish or
30 other forms of aquatic animal life or a
31 share of the proceeds from the sale of
32 such catch; and
- 33 (c) The amount of such individual's
34 share depends on the amount of the
35 boat's, or the boats' in the case of a
36 fishing operation involving more than

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1 one boat, catch of fish or other forms
2 of aquatic animal life, but only if the
3 operating crew of such boat, or each
4 boat from which the individual receives
5 a share in the case of a fishing opera-
6 tion involving more than one boat, is
7 normally made up of fewer than 7 indi-
8 viduals;

9 (33) Services performed by a member or
10 leader of a musical group, band or orchestra
11 or an entertainer when the services are per-
12 formed under terms of a contract entered in-
13 to by the leader or an agent of the musical
14 group, band, orchestra or entertainer with
15 an employing unit for whom the services are
16 being performed, provided the leader or
17 agent is not an employer by reason of sub-
18 section 9 or of section 1222, subsection 3;
19 **and**

20 (34) Services performed in the delivery or
21 distribution of periodicals to the ultimate
22 consumer by an individual who is compensated
23 by receiving or retaining a commission or
24 profit on the sale of the periodical; and

25 (35) Services performed by a homemaker in
26 the knitted outerwear industry as those
27 terms are defined, on the effective date of
28 this subparagraph, in the 29 Code of Federal
29 Regulations, Part 530, Section 530.1.'

30 STATEMENT OF FACT

31 This amendment rewrites the exemption for home
32 knitters so that it conforms with federal regulations
33 defining those individuals.

34 3816052285

Reported by the Committee on Labor
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Clerk of the House