

MAINE STATE LEGISLATURE

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RM
R 43

L.D. 1232

DATE: 5-7-99

(Filing No. H-502)

REPORT A
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STATE OF MAINE
HOUSE OF REPRESENTATIVES
119TH LEGISLATURE
FIRST REGULAR SESSION

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COMMITTEE AMENDMENT "A" to H.P. 875, L.D. 1232, Bill, "An Act to Clarify Free-lance Labor in an Employer/Employee Relationship"

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Amend the bill by striking out the title and substituting the following:

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'An Act to Amend the Definition of "Employment" in the Unemployment Compensation Law'

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Further amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

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'Sec. 1. 26 MRSA §1043, sub-§11, ¶F, as amended by PL 1997, c. 683, Pt. A, §14, is further amended by amending subparagraph (4-1) to read:

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(4-1) Agricultural labor ~~in the harvesting of apples,~~ if performed by an individual who is an alien, other than a citizen of a contiguous country with which the United States has an agreement with respect to unemployment compensation, admitted to the United States to perform agricultural labor pursuant to the United States Immigration and Nationality Act, Sections 214(c) and 101(a) (15) (H);

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Sec. 2. 26 MRSA §1043, sub-§11, ¶F, as amended by PL 1997, c. 683, Pt. A, §14, is further amended by amending subparagraphs (41) and (42) to read:

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(41) Services provided by a dance instructor to students of a dance studio when there is a contract

COMMITTEE AMENDMENT

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COMMITTEE AMENDMENT "A" to H.P. 875, L.D. 1232

between the instructor and the studio under which the instructor's services are not offered exclusively to the studio, the studio does not control the scheduling of the days and times of classes other than beginning and end dates, the instructor is paid by the class and not on an hourly or salary basis, the compensation rate is the result of negotiation between the instructor and the studio and the instructor is given the freedom to develop the curriculum; and

(42) Services performed by participants enrolled in programs or projects under the national service laws including the federal National and Community Service Act of 1990, as amended, 42 United States Code, Section 12501 et seq., and the federal Domestic Volunteer Service Act, as amended, 42 United States Code, Section 4950 et seq.; and

Sec. 3. 26 MRSA §1043, sub-§11, ¶F, as amended by PL 1997, c. 683, Pt. A, §14, is further amended by enacting subparagraph (43) to read:

(43) Services performed by a writer who furnishes items written for a publisher or publication that has no control over the writer, over whether items are submitted or over hours devoted to work and that pays only for those items accepted, as long as that employment is not subject to federal unemployment tax.

Sec. 4. Application. For purposes of enforcement of the Maine Revised Statutes, Title 26, chapter 13, that section of this Act that amends Title 26, section 1043, subsection 11, paragraph F, subparagraph (4-1) applies retroactively to January 1, 1996.'

Further amend the bill by inserting at the end before the summary the following:

FISCAL NOTE

The exclusion of services performed by certain writers and certain agricultural workers from the definition of "employment" for purposes of unemployment compensation is not expected to have a significant impact on the Unemployment Insurance Trust Fund.'

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SUMMARY

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This amendment, the majority report of the committee, refines the description of services by a free-lance journalist that will not be covered by unemployment compensation contributions or benefits. It also adds a section to provide that agricultural work performed by aliens under a federal program is not covered by unemployment contributions or benefits. These workers are not eligible to receive benefits, but, because of the narrow exemption in current law, their wages are subject to unemployment contribution taxes when they are doing work other than harvesting apples. The amendment also makes that change retroactive to January 1, 1996 for purposes of enforcement. The amendment also corrects technical errors and adds a fiscal note.