



Sen. Kyle McCarter

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1 AMENDMENT TO SENATE BILL 979

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 979 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Personnel Record Review Act is amended by  
5 changing Section 1 as follows:

6 (820 ILCS 40/1) (from Ch. 48, par. 2001)

7 Sec. 1. Definitions. As used in this Act:

8 (a) "Employee" has the meaning ascribed to that term in the  
9 Fair Labor Standards Act of 1938, 29 U.S.C. 203, and also  
10 includes ~~means~~ a person currently employed or subject to recall  
11 after layoff or leave of absence with a right to return at a  
12 position with an employer or a former employee who has  
13 terminated service within the preceding year.

14 (b) "Employer" means an individual, corporation,  
15 partnership, labor organization, unincorporated association,  
16 the State, an agency or a political subdivision of the State,

1 or any other legal, business, or commercial entity which has 5  
2 employees or more than 5 employees exclusive of the employer's  
3 parent, spouse or child or other members of his immediate  
4 family and includes an agent of the employer.

5 (c) "Employ" has the meaning ascribed to that term in the  
6 Fair Labor Standards Act of 1938, 29 U.S.C. 203.

7 (Source: P.A. 83-1339.)

8 Section 10. The Right to Privacy in the Workplace Act is  
9 amended by adding Section 3 as follows:

10 (820 ILCS 55/3 new)

11 Sec. 3. Definitions. As used in this Act:

12 "Employee" has the meaning ascribed to that term in the  
13 Fair Labor Standards Act of 1938, 29 U.S.C. 203.

14 "Employ" has the meaning ascribed to that term in the Fair  
15 Labor Standards Act of 1938, 29 U.S.C. 203.

16 Section 15. The Minimum Wage Law is amended by changing  
17 Section 3 as follows:

18 (820 ILCS 105/3) (from Ch. 48, par. 1003)

19 Sec. 3. As used in this Act:

20 (a) "Director" means the Director of the Department of  
21 Labor, and "Department" means the Department of Labor.

22 (b) "Wages" means compensation due to an employee by reason

1 of his employment, including allowances determined by the  
2 Director in accordance with the provisions of this Act for  
3 gratuities and, when furnished by the employer, for meals and  
4 lodging actually used by the employee.

5 (c) "Employer" includes any individual, partnership,  
6 association, corporation, limited liability company, business  
7 trust, governmental or quasi-governmental body, or any person  
8 or group of persons acting directly or indirectly in the  
9 interest of an employer in relation to an employee, for which  
10 one or more persons are gainfully employed on some day within a  
11 calendar year. An employer is subject to this Act in a calendar  
12 year on and after the first day in such calendar year in which  
13 he employs one or more persons, and for the following calendar  
14 year.

15 (c-1) "Employ" has the meaning ascribed to that term in the  
16 Fair Labor Standards Act of 1938, 29 U.S.C. 203.

17 (d) "Employee" has the meaning ascribed to that term in the  
18 Fair Labor Standards Act of 1938, 29 U.S.C. 203 ~~includes any~~  
19 ~~individual permitted to work by an employer in an occupation,~~  
20 but does not include any individual permitted to work:

21 (1) For an employer employing fewer than 4 employees  
22 exclusive of the employer's parent, spouse or child or  
23 other members of his immediate family.

24 (2) As an employee employed in agriculture or  
25 aquaculture (A) if such employee is employed by an employer  
26 who did not, during any calendar quarter during the

1 preceding calendar year, use more than 500 man-days of  
2 agricultural or aquacultural labor, (B) if such employee is  
3 the parent, spouse or child, or other member of the  
4 employer's immediate family, (C) if such employee (i) is  
5 employed as a hand harvest laborer and is paid on a piece  
6 rate basis in an operation which has been, and is  
7 customarily and generally recognized as having been, paid  
8 on a piece rate basis in the region of employment, (ii)  
9 commutes daily from his permanent residence to the farm on  
10 which he is so employed, and (iii) has been employed in  
11 agriculture less than 13 weeks during the preceding  
12 calendar year, (D) if such employee (other than an employee  
13 described in clause (C) of this subparagraph): (i) is 16  
14 years of age or under and is employed as a hand harvest  
15 laborer, is paid on a piece rate basis in an operation  
16 which has been, and is customarily and generally recognized  
17 as having been, paid on a piece rate basis in the region of  
18 employment, (ii) is employed on the same farm as his parent  
19 or person standing in the place of his parent, and (iii) is  
20 paid at the same piece rate as employees over 16 are paid  
21 on the same farm.

22 (3) In domestic service in or about a private home.

23 (4) As an outside salesman.

24 (5) As a member of a religious corporation or  
25 organization.

26 (6) At an accredited Illinois college or university

1 employed by the college or university at which he is a  
2 student who is covered under the provisions of the Fair  
3 Labor Standards Act of 1938, as heretofore or hereafter  
4 amended.

5 (7) For a motor carrier and with respect to whom the  
6 U.S. Secretary of Transportation has the power to establish  
7 qualifications and maximum hours of service under the  
8 provisions of Title 49 U.S.C. or the State of Illinois  
9 under Section 18b-105 (Title 92 of the Illinois  
10 Administrative Code, Part 395 - Hours of Service of  
11 Drivers) of the Illinois Vehicle Code.

12 The above exclusions from the term "employee" may be  
13 further defined by regulations of the Director.

14 (e) "Occupation" means an industry, trade, business or  
15 class of work in which employees are gainfully employed.

16 (f) "Gratuities" means voluntary monetary contributions to  
17 an employee from a guest, patron or customer in connection with  
18 services rendered.

19 (g) "Outside salesman" means an employee regularly engaged  
20 in making sales or obtaining orders or contracts for services  
21 where a major portion of such duties are performed away from  
22 his employer's place of business.

23 (h) "Day camp" means a seasonal recreation program in  
24 operation for no more than 16 weeks intermittently throughout  
25 the calendar year, accommodating for profit or under  
26 philanthropic or charitable auspices, 5 or more children under

1 18 years of age, not including overnight programs. The term  
2 "day camp" does not include a "day care agency", "child care  
3 facility" or "foster family home" as licensed by the Illinois  
4 Department of Children and Family Services.

5 (Source: P.A. 94-1025, eff. 7-14-06; 95-945, eff. 1-1-09.)

6 Section 20. The Equal Pay Act of 2003 is amended by  
7 changing Section 5 as follows:

8 (820 ILCS 112/5)

9 Sec. 5. Definitions. As used in this Act:

10 "Director" means the Director of Labor.

11 "Department" means the Department of Labor.

12 "Employee" has the meaning ascribed to that term in the  
13 Fair Labor Standards Act of 1938, 29 U.S.C. 203 ~~means any~~  
14 ~~individual permitted to work by an employer.~~

15 "Employ" has the meaning ascribed to that term in the Fair  
16 Labor Standards Act of 1938, 29 U.S.C. 203.

17 "Employer" means an individual, partnership, corporation,  
18 association, business, trust, person, or entity for whom 4 or  
19 more employees are gainfully employed in Illinois and includes  
20 the State of Illinois, any state officer, department, or  
21 agency, any unit of local government, and any school district.

22 (Source: P.A. 93-6, eff. 1-1-04.)

23 Section 25. The Illinois Wage Payment and Collection Act is

1 amended by changing Section 2 as follows:

2 (820 ILCS 115/2) (from Ch. 48, par. 39m-2)

3 Sec. 2. For all employees, other than separated employees,  
4 "wages" shall be defined as any compensation owed an employee  
5 by an employer pursuant to an employment contract or agreement  
6 between the 2 parties, whether the amount is determined on a  
7 time, task, piece, or any other basis of calculation. Payments  
8 to separated employees shall be termed "final compensation" and  
9 shall be defined as wages, salaries, earned commissions, earned  
10 bonuses, and the monetary equivalent of earned vacation and  
11 earned holidays, and any other compensation owed the employee  
12 by the employer pursuant to an employment contract or agreement  
13 between the 2 parties. Where an employer is legally committed  
14 through a collective bargaining agreement or otherwise to make  
15 contributions to an employee benefit, trust or fund on the  
16 basis of a certain amount per hour, day, week or other period  
17 of time, the amount due from the employer to such employee  
18 benefit, trust, or fund shall be defined as "wage supplements",  
19 subject to the wage collection provisions of this Act.

20 As used in this Act, the term "employer" shall include any  
21 individual, partnership, association, corporation, limited  
22 liability company, business trust, employment and labor  
23 placement agencies where wage payments are made directly or  
24 indirectly by the agency or business for work undertaken by  
25 employees under hire to a third party pursuant to a contract

1 between the business or agency with the third party, or any  
2 person or group of persons acting directly or indirectly in the  
3 interest of an employer in relation to an employee, for which  
4 one or more persons is gainfully employed.

5 As used in this Act, the term "employee" has the meaning  
6 ascribed to that term in the Fair Labor Standards Act of 1938,  
7 29 U.S.C. 203. ~~shall include any individual permitted to work~~  
8 ~~by an employer in an occupation, but shall not include any~~  
9 ~~individual:~~

10 ~~(1) who has been and will continue to be free from~~  
11 ~~control and direction over the performance of his work,~~  
12 ~~both under his contract of service with his employer and in~~  
13 ~~fact; and~~

14 ~~(2) who performs work which is either outside the usual~~  
15 ~~course of business or is performed outside all of the~~  
16 ~~places of business of the employer unless the employer is~~  
17 ~~in the business of contracting with third parties for the~~  
18 ~~placement of employees; and~~

19 ~~(3) who is in an independently established trade,~~  
20 ~~occupation, profession or business.~~

21 As used in this Act, the term "employ" has the meaning  
22 ascribed to that term in the Fair Labor Standards Act of 1938,  
23 29 U.S.C. 203.

24 The following terms apply to an employer's use of payroll  
25 cards to pay wages to an employee under the requirements of  
26 this Act:



1 "Payroll card" means a card provided to an employee by an  
2 employer or other payroll card issuer as a means of accessing  
3 the employee's payroll card account.

4 "Payroll card account" means an account that is directly or  
5 indirectly established through an employer and to which  
6 deposits of a participating employee's wages are made.

7 "Payroll card issuer" means a bank, financial institution,  
8 or other entity that issues a payroll card to an employee under  
9 an employer payroll card program.

10 (Source: P.A. 98-862, eff. 1-1-15.)

11 Section 30. The One Day Rest In Seven Act is amended by  
12 changing Section 1 as follows:

13 (820 ILCS 140/1) (from Ch. 48, par. 8a)

14 Sec. 1.

15 The words and phrases mentioned in this section, as used in  
16 this Act, and in proceedings pursuant hereto shall, unless the  
17 same be inconsistent with the context, be construed as follows:

18 "Employer" shall mean a person, partnership, joint stock  
19 company or corporation, which employs any person to work, labor  
20 or exercise skill in connection with the operation of any  
21 business, industry, vocation or occupation.

22 "Employee" has the meaning ascribed to that term in the  
23 Fair Labor Standards Act of 1938, 29 U.S.C. 203.

24 "Employ" has the meaning ascribed to that term in the Fair

1 Labor Standards Act of 1938, 29 U.S.C. 203.

2 (Source: P.A. 78-917.)

3 Section 35. The School Visitation Rights Act is amended by  
4 changing Section 10 as follows:

5 (820 ILCS 147/10)

6 Sec. 10. Definitions. As used in this Act:

7 (a) "Employee" has the meaning ascribed to that term in the  
8 Fair Labor Standards Act of 1938, 29 U.S.C. 203, and also  
9 includes ~~means~~ a person who performs services for hire for an  
10 employer for:

11 (1) at least 6 consecutive months immediately  
12 preceding a request for leave under this Act; and

13 (2) an average number of hours per week equal to at  
14 least one-half the full-time equivalent position in the  
15 employer's job classification, as defined by the  
16 employer's personnel policies or practices or in  
17 accordance with a collective bargaining agreement, during  
18 those 6 months.

19 "Employee" includes all individuals meeting the above  
20 criteria but does not include an independent contractor.

21 (a-1) "Employ" has the meaning ascribed to that term in the  
22 Fair Labor Standards Act of 1938, 29 U.S.C. 203.

23 (b) "Employer" means any of the following: a State agency,  
24 officer, or department, a unit of local government, a school

1 district, an individual, a corporation, a partnership, an  
2 association, or a nonprofit organization.

3 (c) "Child" means a biological, adopted or foster child, a  
4 stepchild or a legal ward of an employee and who is enrolled in  
5 a primary or secondary public or private school in this State  
6 or a state which shares a common boundary with Illinois.

7 (d) "School" means any public or private primary or  
8 secondary school or educational facility located in this State  
9 or a state which shares a common boundary with Illinois.

10 (e) "School administrator" means the principal or similar  
11 administrator who is responsible for the operations of the  
12 school.

13 (Source: P.A. 87-1240.)

14 Section 40. The Victims' Economic Security and Safety Act  
15 is amended by changing Section 10 as follows:

16 (820 ILCS 180/10)

17 Sec. 10. Definitions. In this Act, except as otherwise  
18 expressly provided:

19 (1) "Commerce" includes trade, traffic, commerce,  
20 transportation, or communication; and "industry or  
21 activity affecting commerce" means any activity, business,  
22 or industry in commerce or in which a labor dispute would  
23 hinder or obstruct commerce or the free flow of commerce,  
24 and includes "commerce" and any "industry affecting

1 commerce".

2 (2) "Course of conduct" means a course of repeatedly  
3 maintaining a visual or physical proximity to a person or  
4 conveying oral or written threats, including threats  
5 conveyed through electronic communications, or threats  
6 implied by conduct.

7 (3) "Department" means the Department of Labor.

8 (4) "Director" means the Director of Labor.

9 (5) "Domestic or sexual violence" means domestic  
10 violence, sexual assault, or stalking.

11 (6) "Domestic violence" means abuse, as defined in  
12 Section 103 of the Illinois Domestic Violence Act of 1986,  
13 by a family or household member, as defined in Section 103  
14 of the Illinois Domestic Violence Act of 1986.

15 (7) "Electronic communications" includes  
16 communications via telephone, mobile phone, computer,  
17 e-mail, video recorder, fax machine, telex, or pager, or  
18 any other electronic communication, as defined in Section  
19 12-7.5 of the Criminal Code of 2012.

20 (8) "Employ" has the meaning ascribed to that term in  
21 the Fair Labor Standards Act of 1938, 29 U.S.C. 203  
22 ~~includes to suffer or permit to work.~~

23 (9) Employee.

24 (A) In general. "Employee" has the meaning  
25 ascribed to that term in the Fair Labor Standards Act  
26 of 1938, 29 U.S.C. 203 ~~means any person employed by an~~

1           ~~employer.~~

2           (B) Basis. "Employee" includes a person employed  
3           as described in subparagraph (A) on a full or part-time  
4           basis, or as a participant in a work assignment as a  
5           condition of receipt of federal or State income-based  
6           public assistance.

7           (10) "Employer" means any of the following: (A) the  
8           State or any agency of the State; (B) any unit of local  
9           government or school district; or (C) any person that  
10          employs at least 15 employees.

11          (11) "Employment benefits" means all benefits provided  
12          or made available to employees by an employer, including  
13          group life insurance, health insurance, disability  
14          insurance, sick leave, annual leave, educational benefits,  
15          pensions, and profit-sharing, regardless of whether such  
16          benefits are provided by a practice or written policy of an  
17          employer or through an "employee benefit plan". "Employee  
18          benefit plan" or "plan" means an employee welfare benefit  
19          plan or an employee pension benefit plan or a plan which is  
20          both an employee welfare benefit plan and an employee  
21          pension benefit plan.

22          (12) "Family or household member", for employees with a  
23          family or household member who is a victim of domestic or  
24          sexual violence, means a spouse, parent, son, daughter,  
25          other person related by blood or by present or prior  
26          marriage, other person who shares a relationship through a

1 son or daughter, and persons jointly residing in the same  
2 household.

3 (13) "Parent" means the biological parent of an  
4 employee or an individual who stood in loco parentis to an  
5 employee when the employee was a son or daughter. "Son or  
6 daughter" means a biological, adopted, or foster child, a  
7 stepchild, a legal ward, or a child of a person standing in  
8 loco parentis, who is under 18 years of age, or is 18 years  
9 of age or older and incapable of self-care because of a  
10 mental or physical disability.

11 (14) "Perpetrator" means an individual who commits or  
12 is alleged to have committed any act or threat of domestic  
13 or sexual violence.

14 (15) "Person" means an individual, partnership,  
15 association, corporation, business trust, legal  
16 representative, or any organized group of persons.

17 (16) "Public agency" means the Government of the State  
18 or political subdivision thereof; any agency of the State,  
19 or of a political subdivision of the State; or any  
20 governmental agency.

21 (17) "Public assistance" includes cash, food stamps,  
22 medical assistance, housing assistance, and other benefits  
23 provided on the basis of income by a public agency or  
24 public employer.

25 (18) "Reduced work schedule" means a work schedule that  
26 reduces the usual number of hours per workweek, or hours

1 per workday, of an employee.

2 (19) "Repeatedly" means on 2 or more occasions.

3 (20) "Sexual assault" means any conduct proscribed by  
4 the Criminal Code of 1961 or the Criminal Code of 2012 in  
5 Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60,  
6 12-13, 12-14, 12-14.1, 12-15, and 12-16.

7 (21) "Stalking" means any conduct proscribed by the  
8 Criminal Code of 1961 or the Criminal Code of 2012 in  
9 Sections 12-7.3, 12-7.4, and 12-7.5.

10 (22) "Victim" or "survivor" means an individual who has  
11 been subjected to domestic or sexual violence.

12 (23) "Victim services organization" means a nonprofit,  
13 nongovernmental organization that provides assistance to  
14 victims of domestic or sexual violence or to advocates for  
15 such victims, including a rape crisis center, an  
16 organization carrying out a domestic violence program, an  
17 organization operating a shelter or providing counseling  
18 services, or a legal services organization or other  
19 organization providing assistance through the legal  
20 process.

21 (Source: P.A. 96-635, eff. 8-24-09; 96-1551, eff. 7-1-11;  
22 97-1150, eff. 1-25-13.)

23 Section 45. The Employee Classification Act is amended by  
24 changing Sections 5, 15, 20, and 25 as follows:

1 (820 ILCS 185/5)

2 Sec. 5. Definitions. As used in this Act:

3 "Construction" means any constructing, altering,  
4 reconstructing, repairing, rehabilitating, refinishing,  
5 refurbishing, remodeling, remediating, renovating, custom  
6 fabricating, maintenance, landscaping, improving, wrecking,  
7 painting, decorating, demolishing, and adding to or  
8 subtracting from any building, structure, highway, roadway,  
9 street, bridge, alley, sewer, ditch, sewage disposal plant,  
10 water works, parking facility, railroad, excavation or other  
11 structure, project, development, real property or improvement,  
12 or to do any part thereof, whether or not the performance of  
13 the work herein described involves the addition to, or  
14 fabrication into, any structure, project, development, real  
15 property or improvement herein described of any material or  
16 article of merchandise. Construction shall also include moving  
17 construction related materials on the job site to or from the  
18 job site.

19 "Contractor" means any individual, sole proprietor,  
20 partnership, firm, corporation, limited liability company,  
21 association or other legal entity permitted by law to do  
22 business within the State of Illinois who engages in  
23 construction as defined in this Act.

24 "Contractor" includes a general contractor and a  
25 subcontractor.

26 "Department" means the Department of Labor.



1 "Director" means the Director of the Department of Labor.

2 "Employee" has the meaning ascribed to that term in the  
3 Fair Labor Standards Act of 1938, 29 U.S.C. 203.

4 "Employer" means any contractor that employs individuals  
5 deemed employees under ~~Section 10~~ of this Act; however,  
6 "employer" does not include (i) the State of Illinois or its  
7 officers, agencies, or political subdivisions or (ii) the  
8 federal government.

9 "Entity" means any contractor for which an individual is  
10 performing services and is not classified as an employee ~~under~~  
11 ~~Section 10 of this Act~~; however, "entity" does not include (i)  
12 the State of Illinois or its officers, agencies, or political  
13 subdivisions or (ii) the federal government.

14 "Interested party" means a person with an interest in  
15 compliance with this Act.

16 "Performing services" means the performance of any  
17 constructing, altering, reconstructing, repairing,  
18 rehabilitating, refinishing, refurbishing, remodeling,  
19 remediating, renovating, custom fabricating, maintenance,  
20 landscaping, improving, wrecking, painting, decorating,  
21 demolishing, and adding to or subtracting from any building,  
22 structure, highway, roadway, street, bridge, alley, sewer,  
23 ditch, sewage disposal plant, water works, parking facility,  
24 railroad, excavation or other structure, project, development,  
25 real property or improvement, or to do any part thereof,  
26 whether or not the performance of the work herein described

1 involves the addition to, or fabrication into, any structure,  
2 project, development, real property or improvement herein  
3 described of any material or article of merchandise.  
4 Construction shall also include moving construction related  
5 materials on the job site to or from the job site.

6 (Source: P.A. 98-106, eff. 1-1-14.)

7 (820 ILCS 185/15)

8 Sec. 15. Notice.

9 (a) The Department shall post a summary of the requirements  
10 of this Act in English, Spanish, and Polish on its official web  
11 site and on bulletin boards in each of its offices.

12 (b) An entity for whom one or more individuals perform  
13 services who are not classified as employees under ~~Section 10~~  
14 ~~of~~ this Act shall post and keep posted, in a conspicuous place  
15 on each job site where those individuals perform services and  
16 in each of its offices, a notice in English, Spanish, and  
17 Polish, prepared by the Department, summarizing the  
18 requirements of this Act. The Department shall furnish copies  
19 of summaries without charge to entities upon request.

20 (Source: P.A. 95-26, eff. 1-1-08.)

21 (820 ILCS 185/20)

22 Sec. 20. Failure to properly designate or classify  
23 individuals performing services as employees. It is a violation  
24 of this Act for an employer or entity not to designate an

1 individual as an employee under ~~Section 10 of~~ this Act unless  
2 the employer or entity satisfies the provisions of Section 10  
3 of this Act.

4 (Source: P.A. 95-26, eff. 1-1-08.)

5 (820 ILCS 185/25)

6 Sec. 25. Enforcement.

7 (a) Any interested party may file a complaint with the  
8 Department against an entity or employer covered under this Act  
9 if there is a reasonable belief that the entity or employer is  
10 in violation of this Act. It shall be the duty of the  
11 Department to enforce the provisions of this Act. The  
12 Department shall have the power to conduct investigations in  
13 connection with the administration and enforcement of this Act  
14 and any investigator with the Department shall be authorized to  
15 visit and inspect, at all reasonable times, any places covered  
16 by this Act and shall be authorized to inspect, at all  
17 reasonable times, documents related to the determination of  
18 whether an individual is an employee under ~~Section 10 of~~ this  
19 Act. The Director of Labor or his or her representative may  
20 compel, by subpoena, the attendance and testimony of witnesses  
21 and the production of books, payrolls, records, papers, and  
22 other evidence in any investigation and may administer oaths to  
23 witnesses. Within 120 days of the filing of a complaint, the  
24 Department shall notify the employer in writing of the filing  
25 of a complaint and provide the employer the location and

1 approximate date of the project or projects, affected  
2 contractors, and the nature of the allegations being  
3 investigated.

4 (b) Whenever the Department believes upon investigation  
5 that there has been a violation of any of the provisions of  
6 this Act or any rules or regulations promulgated under this  
7 Act, the Department may: (i) issue and cause to be served on  
8 any party an order to cease and desist from further violation  
9 of the Act, (ii) take affirmative or other action as deemed  
10 reasonable to eliminate the effect of the violation, (iii)  
11 collect the amount of any wages, salary, employment benefits,  
12 or other compensation denied or lost to the individual, and  
13 (iv) assess any civil penalty allowed by this Act.

14 (c) If, upon investigation, the Department finds cause to  
15 believe that Section 20 or Section 55 of this Act has been  
16 violated, the Department shall notify the employer, in writing,  
17 of its finding and any proposed relief due and penalties  
18 assessed and that the matter will be referred to an  
19 Administrative Law Judge to schedule a formal hearing in  
20 accordance with the Illinois Administrative Procedure Act.

21 (d) The employer has 28 calendar days from the date of the  
22 Department's findings to answer the allegations contained in  
23 the Department's findings. If an employer fails to answer all  
24 allegations contained in the Department's findings, any  
25 unanswered allegations or findings shall be deemed admitted to  
26 be true and shall be found true in the final decision issued by

1 the Administrative Law Judge. If, within 30 calendar days of  
2 the final decision issued by the Administrative Law Judge, the  
3 employer files a motion to vacate the Administrative Law  
4 Judge's final decision and demonstrates good cause for failing  
5 to answer the Department's allegations, and the Administrative  
6 Law Judge grants the motion, the employer shall be afforded an  
7 opportunity to answer and the matter shall proceed as if an  
8 original answer to the Department's findings had been filed.

9 (e) A final decision of an Administrative Law Judge issued  
10 pursuant to this Section is subject to the provisions of the  
11 Administrative Review Law and shall be enforceable in an action  
12 brought in the name of the people of the State of Illinois by  
13 the Attorney General.

14 (Source: P.A. 98-106, eff. 1-1-14.)

15 (820 ILCS 185/10 rep.)

16 Section 50. The Employee Classification Act is amended by  
17 repealing Section 10.

18 Section 55. The Workers' Compensation Act is amended by  
19 changing Section 1 as follows:

20 (820 ILCS 305/1) (from Ch. 48, par. 138.1)

21 Sec. 1. This Act may be cited as the Workers' Compensation  
22 Act.

23 (a) The term "employer" as used in this Act means:

1           1. The State and each county, city, town, township,  
2 incorporated village, school district, body politic, or  
3 municipal corporation therein.

4           2. Every person, firm, public or private corporation,  
5 including hospitals, public service, eleemosynary, religious  
6 or charitable corporations or associations who has any person  
7 in service or under any contract for hire, express or implied,  
8 oral or written, and who is engaged in any of the enterprises  
9 or businesses enumerated in Section 3 of this Act, or who at or  
10 prior to the time of the accident to the employee for which  
11 compensation under this Act may be claimed, has in the manner  
12 provided in this Act elected to become subject to the  
13 provisions of this Act, and who has not, prior to such  
14 accident, effected a withdrawal of such election in the manner  
15 provided in this Act.

16           3. Any one engaging in any business or enterprise referred  
17 to in subsections 1 and 2 of Section 3 of this Act who  
18 undertakes to do any work enumerated therein, is liable to pay  
19 compensation to his own immediate employees in accordance with  
20 the provisions of this Act, and in addition thereto if he  
21 directly or indirectly engages any contractor whether  
22 principal or sub-contractor to do any such work, he is liable  
23 to pay compensation to the employees of any such contractor or  
24 sub-contractor unless such contractor or sub-contractor has  
25 insured, in any company or association authorized under the  
26 laws of this State to insure the liability to pay compensation

1 under this Act, or guaranteed his liability to pay such  
2 compensation. With respect to any time limitation on the filing  
3 of claims provided by this Act, the timely filing of a claim  
4 against a contractor or subcontractor, as the case may be,  
5 shall be deemed to be a timely filing with respect to all  
6 persons upon whom liability is imposed by this paragraph.

7 In the event any such person pays compensation under this  
8 subsection he may recover the amount thereof from the  
9 contractor or sub-contractor, if any, and in the event the  
10 contractor pays compensation under this subsection he may  
11 recover the amount thereof from the sub-contractor, if any.

12 This subsection does not apply in any case where the  
13 accident occurs elsewhere than on, in or about the immediate  
14 premises on which the principal has contracted that the work be  
15 done.

16 4. Where an employer operating under and subject to the  
17 provisions of this Act loans an employee to another such  
18 employer and such loaned employee sustains a compensable  
19 accidental injury in the employment of such borrowing employer  
20 and where such borrowing employer does not provide or pay the  
21 benefits or payments due such injured employee, such loaning  
22 employer is liable to provide or pay all benefits or payments  
23 due such employee under this Act and as to such employee the  
24 liability of such loaning and borrowing employers is joint and  
25 several, provided that such loaning employer is in the absence  
26 of agreement to the contrary entitled to receive from such

1 borrowing employer full reimbursement for all sums paid or  
2 incurred pursuant to this paragraph together with reasonable  
3 attorneys' fees and expenses in any hearings before the  
4 Illinois Workers' Compensation Commission or in any action to  
5 secure such reimbursement. Where any benefit is provided or  
6 paid by such loaning employer the employee has the duty of  
7 rendering reasonable cooperation in any hearings, trials or  
8 proceedings in the case, including such proceedings for  
9 reimbursement.

10 Where an employee files an Application for Adjustment of  
11 Claim with the Illinois Workers' Compensation Commission  
12 alleging that his claim is covered by the provisions of the  
13 preceding paragraph, and joining both the alleged loaning and  
14 borrowing employers, they and each of them, upon written demand  
15 by the employee and within 7 days after receipt of such demand,  
16 shall have the duty of filing with the Illinois Workers'  
17 Compensation Commission a written admission or denial of the  
18 allegation that the claim is covered by the provisions of the  
19 preceding paragraph and in default of such filing or if any  
20 such denial be ultimately determined not to have been bona fide  
21 then the provisions of Paragraph K of Section 19 of this Act  
22 shall apply.

23 An employer whose business or enterprise or a substantial  
24 part thereof consists of hiring, procuring or furnishing  
25 employees to or for other employers operating under and subject  
26 to the provisions of this Act for the performance of the work



1 of such other employers and who pays such employees their  
2 salary or wages notwithstanding that they are doing the work of  
3 such other employers shall be deemed a loaning employer within  
4 the meaning and provisions of this Section.

5 (a-1) The term "employ" as used in this Act has the meaning  
6 ascribed to that term in the Fair Labor Standards Act of 1938,  
7 29 U.S.C. 203.

8 (b) The term "employee" as used in this Act has the meaning  
9 ascribed to that term in the Fair Labor Standards Act of 1938,  
10 29 U.S.C. 203, and also includes ~~means~~:

11 1. Every person in the service of the State, including  
12 members of the General Assembly, members of the Commerce  
13 Commission, members of the Illinois Workers' Compensation  
14 Commission, and all persons in the service of the University of  
15 Illinois, county, including deputy sheriffs and assistant  
16 state's attorneys, city, town, township, incorporated village  
17 or school district, body politic, or municipal corporation  
18 therein, whether by election, under appointment or contract of  
19 hire, express or implied, oral or written, including all  
20 members of the Illinois National Guard while on active duty in  
21 the service of the State, and all probation personnel of the  
22 Juvenile Court appointed pursuant to Article VI of the Juvenile  
23 Court Act of 1987, and including any official of the State, any  
24 county, city, town, township, incorporated village, school  
25 district, body politic or municipal corporation therein except  
26 any duly appointed member of a police department in any city

1 whose population exceeds 500,000 according to the last Federal  
2 or State census, and except any member of a fire insurance  
3 patrol maintained by a board of underwriters in this State. A  
4 duly appointed member of a fire department in any city, the  
5 population of which exceeds 500,000 according to the last  
6 federal or State census, is an employee under this Act only  
7 with respect to claims brought under paragraph (c) of Section  
8 8.

9 One employed by a contractor who has contracted with the  
10 State, or a county, city, town, township, incorporated village,  
11 school district, body politic or municipal corporation  
12 therein, through its representatives, is not considered as an  
13 employee of the State, county, city, town, township,  
14 incorporated village, school district, body politic or  
15 municipal corporation which made the contract.

16 2. Every person in the service of another under any  
17 contract of hire, express or implied, oral or written,  
18 including persons whose employment is outside of the State of  
19 Illinois where the contract of hire is made within the State of  
20 Illinois, persons whose employment results in fatal or  
21 non-fatal injuries within the State of Illinois where the  
22 contract of hire is made outside of the State of Illinois, and  
23 persons whose employment is principally localized within the  
24 State of Illinois, regardless of the place of the accident or  
25 the place where the contract of hire was made, and including  
26 aliens, and minors who, for the purpose of this Act are

1 considered the same and have the same power to contract,  
2 receive payments and give quittances therefor, as adult  
3 employees.

4 3. Every sole proprietor and every partner of a business  
5 may elect to be covered by this Act.

6 An employee or his dependents under this Act who shall have  
7 a cause of action by reason of any injury, disablement or death  
8 arising out of and in the course of his employment may elect to  
9 pursue his remedy in the State where injured or disabled, or in  
10 the State where the contract of hire is made, or in the State  
11 where the employment is principally localized.

12 However, any employer may elect to provide and pay  
13 compensation to any employee other than those engaged in the  
14 usual course of the trade, business, profession or occupation  
15 of the employer by complying with Sections 2 and 4 of this Act.  
16 Employees are not included within the provisions of this Act  
17 when excluded by the laws of the United States relating to  
18 liability of employers to their employees for personal injuries  
19 where such laws are held to be exclusive.

20 The term "employee" does not include persons performing  
21 services as real estate broker, broker-salesman, or salesman  
22 when such persons are paid by commission only.

23 (c) "Commission" means the Industrial Commission created  
24 by Section 5 of "The Civil Administrative Code of Illinois",  
25 approved March 7, 1917, as amended, or the Illinois Workers'  
26 Compensation Commission created by Section 13 of this Act.

1 (d) To obtain compensation under this Act, an employee  
2 bears the burden of showing, by a preponderance of the  
3 evidence, that he or she has sustained accidental injuries  
4 arising out of and in the course of the employment.

5 (Source: P.A. 97-18, eff. 6-28-11; 97-268, eff. 8-8-11; 97-813,  
6 eff. 7-13-12.)

7 Section 60. The Workers' Occupational Diseases Act is  
8 amended by changing Section 1 as follows:

9 (820 ILCS 310/1) (from Ch. 48, par. 172.36)

10 Sec. 1. This Act shall be known and may be cited as the  
11 "Workers' Occupational Diseases Act".

12 (a) The term "employer" as used in this Act shall be  
13 construed to be:

14 1. The State and each county, city, town, township,  
15 incorporated village, school district, body politic, or  
16 municipal corporation therein.

17 2. Every person, firm, public or private corporation,  
18 including hospitals, public service, eleemosynary,  
19 religious or charitable corporations or associations, who  
20 has any person in service or under any contract for hire,  
21 express or implied, oral or written.

22 3. Where an employer operating under and subject to the  
23 provisions of this Act loans an employee to another such  
24 employer and such loaned employee sustains a compensable

1 occupational disease in the employment of such borrowing  
2 employer and where such borrowing employer does not provide  
3 or pay the benefits or payments due such employee, such  
4 loaning employer shall be liable to provide or pay all  
5 benefits or payments due such employee under this Act and  
6 as to such employee the liability of such loaning and  
7 borrowing employers shall be joint and several, provided  
8 that such loaning employer shall in the absence of  
9 agreement to the contrary be entitled to receive from such  
10 borrowing employer full reimbursement for all sums paid or  
11 incurred pursuant to this paragraph together with  
12 reasonable attorneys' fees and expenses in any hearings  
13 before the Illinois Workers' Compensation Commission or in  
14 any action to secure such reimbursement. Where any benefit  
15 is provided or paid by such loaning employer, the employee  
16 shall have the duty of rendering reasonable co-operation in  
17 any hearings, trials or proceedings in the case, including  
18 such proceedings for reimbursement.

19 Where an employee files an Application for Adjustment  
20 of Claim with the Illinois Workers' Compensation  
21 Commission alleging that his or her claim is covered by the  
22 provisions of the preceding paragraph, and joining both the  
23 alleged loaning and borrowing employers, they and each of  
24 them, upon written demand by the employee and within 7 days  
25 after receipt of such demand, shall have the duty of filing  
26 with the Illinois Workers' Compensation Commission a

1 written admission or denial of the allegation that the  
2 claim is covered by the provisions of the preceding  
3 paragraph and in default of such filing or if any such  
4 denial be ultimately determined not to have been bona fide  
5 then the provisions of Paragraph K of Section 19 of this  
6 Act shall apply.

7 An employer whose business or enterprise or a  
8 substantial part thereof consists of hiring, procuring or  
9 furnishing employees to or for other employers operating  
10 under and subject to the provisions of this Act for the  
11 performance of the work of such other employers and who  
12 pays such employees their salary or wage notwithstanding  
13 that they are doing the work of such other employers shall  
14 be deemed a loaning employer within the meaning and  
15 provisions of this Section.

16 (a-1) The term "employ" as used in this Act has the meaning  
17 ascribed to that term in the Fair Labor Standards Act of 1938,  
18 29 U.S.C. 203.

19 (b) The term "employee" as used in this Act has the meaning  
20 ascribed to that term in the Fair Labor Standards Act of 1938,  
21 29 U.S.C. 203, and also includes, shall be construed to mean:

22 1. Every person in the service of the State, county,  
23 city, town, township, incorporated village or school  
24 district, body politic or municipal corporation therein,  
25 whether by election, appointment or contract of hire,  
26 express or implied, oral or written, including any official

1 of the State, or of any county, city, town, township,  
2 incorporated village, school district, body politic or  
3 municipal corporation therein and except any duly  
4 appointed member of the fire department in any city whose  
5 population exceeds 500,000 according to the last Federal or  
6 State census, and except any member of a fire insurance  
7 patrol maintained by a board of underwriters in this State.  
8 One employed by a contractor who has contracted with the  
9 State, or a county, city, town, township, incorporated  
10 village, school district, body politic or municipal  
11 corporation therein, through its representatives, shall  
12 not be considered as an employee of the State, county,  
13 city, town, township, incorporated village, school  
14 district, body politic or municipal corporation which made  
15 the contract.

16 2. Every person in the service of another under any  
17 contract of hire, express or implied, oral or written, who  
18 contracts an occupational disease while working in the  
19 State of Illinois, or who contracts an occupational disease  
20 while working outside of the State of Illinois but where  
21 the contract of hire is made within the State of Illinois,  
22 and any person whose employment is principally localized  
23 within the State of Illinois, regardless of the place where  
24 the disease was contracted or place where the contract of  
25 hire was made, including aliens, and minors who, for the  
26 purpose of this Act, except Section 3 hereof, shall be

1 considered the same and have the same power to contract,  
2 receive payments and give quittances therefor, as adult  
3 employees. An employee or his or her dependents under this  
4 Act who shall have a cause of action by reason of an  
5 occupational disease, disablement or death arising out of  
6 and in the course of his or her employment may elect or  
7 pursue his or her remedy in the State where the disease was  
8 contracted, or in the State where the contract of hire is  
9 made, or in the State where the employment is principally  
10 localized.

11 (c) "Commission" means the Illinois Workers' Compensation  
12 Commission created by the Workers' Compensation Act, approved  
13 July 9, 1951, as amended.

14 (d) In this Act the term "Occupational Disease" means a  
15 disease arising out of and in the course of the employment or  
16 which has become aggravated and rendered disabling as a result  
17 of the exposure of the employment. Such aggravation shall arise  
18 out of a risk peculiar to or increased by the employment and  
19 not common to the general public.

20 A disease shall be deemed to arise out of the employment if  
21 there is apparent to the rational mind, upon consideration of  
22 all the circumstances, a causal connection between the  
23 conditions under which the work is performed and the  
24 occupational disease. The disease need not to have been  
25 foreseen or expected but after its contraction it must appear  
26 to have had its origin or aggravation in a risk connected with



1 the employment and to have flowed from that source as a  
2 rational consequence.

3 An employee shall be conclusively deemed to have been  
4 exposed to the hazards of an occupational disease when, for any  
5 length of time however short, he or she is employed in an  
6 occupation or process in which the hazard of the disease  
7 exists; provided however, that in a claim of exposure to atomic  
8 radiation, the fact of such exposure must be verified by the  
9 records of the central registry of radiation exposure  
10 maintained by the Department of Public Health or by some other  
11 recognized governmental agency maintaining records of such  
12 exposures whenever and to the extent that the records are on  
13 file with the Department of Public Health or the agency.

14 Any injury to or disease or death of an employee arising  
15 from the administration of a vaccine, including without  
16 limitation smallpox vaccine, to prepare for, or as a response  
17 to, a threatened or potential bioterrorist incident to the  
18 employee as part of a voluntary inoculation program in  
19 connection with the person's employment or in connection with  
20 any governmental program or recommendation for the inoculation  
21 of workers in the employee's occupation, geographical area, or  
22 other category that includes the employee is deemed to arise  
23 out of and in the course of the employment for all purposes  
24 under this Act. This paragraph added by Public Act 93-829 is  
25 declarative of existing law and is not a new enactment.

26 The employer liable for the compensation in this Act

1 provided shall be the employer in whose employment the employee  
2 was last exposed to the hazard of the occupational disease  
3 claimed upon regardless of the length of time of such last  
4 exposure, except, in cases of silicosis or asbestosis, the only  
5 employer liable shall be the last employer in whose employment  
6 the employee was last exposed during a period of 60 days or  
7 more after the effective date of this Act, to the hazard of  
8 such occupational disease, and, in such cases, an exposure  
9 during a period of less than 60 days, after the effective date  
10 of this Act, shall not be deemed a last exposure. If a miner  
11 who is suffering or suffered from pneumoconiosis was employed  
12 for 10 years or more in one or more coal mines there shall,  
13 effective July 1, 1973 be a rebuttable presumption that his or  
14 her pneumoconiosis arose out of such employment.

15 If a deceased miner was employed for 10 years or more in  
16 one or more coal mines and died from a respirable disease there  
17 shall, effective July 1, 1973, be a rebuttable presumption that  
18 his or her death was due to pneumoconiosis.

19 Any condition or impairment of health of an employee  
20 employed as a firefighter, emergency medical technician (EMT),  
21 emergency medical technician-intermediate (EMT-I), advanced  
22 emergency medical technician (A-EMT), or paramedic which  
23 results directly or indirectly from any bloodborne pathogen,  
24 lung or respiratory disease or condition, heart or vascular  
25 disease or condition, hypertension, tuberculosis, or cancer  
26 resulting in any disability (temporary, permanent, total, or

1 partial) to the employee shall be rebuttably presumed to arise  
2 out of and in the course of the employee's firefighting, EMT,  
3 EMT-I, A-EMT, or paramedic employment and, further, shall be  
4 rebuttably presumed to be causally connected to the hazards or  
5 exposures of the employment. This presumption shall also apply  
6 to any hernia or hearing loss suffered by an employee employed  
7 as a firefighter, EMT, EMT-I, A-EMT, or paramedic. However,  
8 this presumption shall not apply to any employee who has been  
9 employed as a firefighter, EMT, EMT-I, A-EMT, or paramedic for  
10 less than 5 years at the time he or she files an Application  
11 for Adjustment of Claim concerning this condition or impairment  
12 with the Illinois Workers' Compensation Commission. The  
13 rebuttable presumption established under this subsection,  
14 however, does not apply to an emergency medical technician  
15 (EMT), emergency medical technician-intermediate (EMT-I),  
16 advanced emergency medical technician (A-EMT), or paramedic  
17 employed by a private employer if the employee spends the  
18 preponderance of his or her work time for that employer engaged  
19 in medical transfers between medical care facilities or  
20 non-emergency medical transfers to or from medical care  
21 facilities. The changes made to this subsection by this  
22 amendatory Act of the 98th General Assembly shall be narrowly  
23 construed. The Finding and Decision of the Illinois Workers'  
24 Compensation Commission under only the rebuttable presumption  
25 provision of this paragraph shall not be admissible or be  
26 deemed res judicata in any disability claim under the Illinois

1 Pension Code arising out of the same medical condition;  
2 however, this sentence makes no change to the law set forth in  
3 Krohe v. City of Bloomington, 204 Ill.2d 392.

4 The insurance carrier liable shall be the carrier whose  
5 policy was in effect covering the employer liable on the last  
6 day of the exposure rendering such employer liable in  
7 accordance with the provisions of this Act.

8 (e) "Disablement" means an impairment or partial  
9 impairment, temporary or permanent, in the function of the body  
10 or any of the members of the body, or the event of becoming  
11 disabled from earning full wages at the work in which the  
12 employee was engaged when last exposed to the hazards of the  
13 occupational disease by the employer from whom he or she claims  
14 compensation, or equal wages in other suitable employment; and  
15 "disability" means the state of being so incapacitated.

16 (f) No compensation shall be payable for or on account of  
17 any occupational disease unless disablement, as herein  
18 defined, occurs within two years after the last day of the last  
19 exposure to the hazards of the disease, except in cases of  
20 occupational disease caused by berylliosis or by the inhalation  
21 of silica dust or asbestos dust and, in such cases, within 3  
22 years after the last day of the last exposure to the hazards of  
23 such disease and except in the case of occupational disease  
24 caused by exposure to radiological materials or equipment, and  
25 in such case, within 25 years after the last day of last  
26 exposure to the hazards of such disease.

1 (Source: P.A. 98-291, eff. 1-1-14; 98-973, eff. 8-15-14.)

2 Section 65. The Unemployment Insurance Act is amended by  
3 changing Sections 211.4 and 212 as follows:

4 (820 ILCS 405/211.4) (from Ch. 48, par. 321.4)

5 Sec. 211.4. A. Notwithstanding any other provision of this  
6 Act, the term "employment" shall include service performed  
7 after December 31, 1977, by an individual in agricultural labor  
8 as defined in Section 214 when:

9 1. Such service is performed for an employing unit  
10 which (a) paid cash wages of \$20,000 or more during any  
11 calendar quarter in either the current or preceding  
12 calendar year to an individual or individuals employed in  
13 agricultural labor (not taking into account service in  
14 agricultural labor performed before January 1, 1980, by an  
15 alien referred to in paragraph 2); or (b) employed in  
16 agricultural labor (not taking into account service in  
17 agricultural labor performed before January 1, 1980, by an  
18 alien referred to in paragraph 2) 10 or more individuals  
19 within each of 20 or more calendar weeks (but not  
20 necessarily simultaneously and irrespective of whether the  
21 same individuals are or were employed in each such week),  
22 whether or not such weeks are or were consecutive, within  
23 either the current or preceding calendar year.

24 2. Such service is not performed in agricultural labor

1 if performed before January 1, 1980 or on or after the  
2 effective date of this amendatory Act of the 96th General  
3 Assembly, by an individual who is an alien admitted to the  
4 United States to perform service in agricultural labor  
5 pursuant to Sections 214(c) and 101(a)(15)(H) of the  
6 Immigration and Nationality Act.

7 B. For the purposes of this Section, any individual who is  
8 a member of a crew furnished by a crew leader to perform  
9 service in agricultural labor for any other employing unit  
10 shall be treated as performing service in the employ of such  
11 crew leader if (1) the leader holds a valid certificate of  
12 registration under the Farm Labor Contractor Registration Act  
13 of 1963, or substantially all the members of such crew operate  
14 or maintain tractors, mechanized harvesting or crop dusting  
15 equipment, or any other mechanized equipment, which is provided  
16 by the crew leader; and (2) the service of such individual is  
17 not in employment for such other employing unit within the  
18 meaning of ~~subsections A and C of~~ Section 212, and of Section  
19 213.

20 C. For the purposes of this Section, any individual who is  
21 furnished by a crew leader to perform service in agricultural  
22 labor for any other employing unit, and who is not treated as  
23 performing service in the employ of such crew leader under  
24 subsection B, shall be treated as performing service in the  
25 employ of such other employing unit, and such employing unit  
26 shall be treated as having paid cash wages to such individual

1 in an amount equal to the amount of cash wages paid to the  
2 individual by the crew leader (either on his own behalf or on  
3 behalf of such other employing unit) for the service in  
4 agricultural labor performed for such other employing unit.

5 D. For the purposes of this Section, the term "crew leader"  
6 means an individual who (1) furnishes individuals to perform  
7 service in agricultural labor for any other employing unit; (2)  
8 pays (either on his own behalf or on behalf of such other  
9 employing unit) the individuals so furnished by him for the  
10 service in agricultural labor performed by them; and (3) has  
11 not entered into a written agreement with such other employing  
12 unit under which an individual so furnished by him is  
13 designated as performing services in the employ of such other  
14 employing unit.

15 (Source: P.A. 96-1208, eff. 1-1-11.)

16 (820 ILCS 405/212) (from Ch. 48, par. 322)

17 Sec. 212. The term "employment" does not include services  
18 performed by an individual who has been proven in any  
19 proceeding where such issue is involved that his or her  
20 compensation is not subject to federal wage withholding. This  
21 Section shall become operative on January 1 following any year  
22 in which the Bond Obligation under the Illinois Unemployment  
23 Insurance Trust Fund Financing Act has been reduced to zero.  
24 Any Credit Agreement or Revenue Bond issued or refinanced under  
25 the Illinois Unemployment Insurance Trust Fund Financing Act

1 after the effective date of this amendatory Act of the 99th  
2 General Assembly shall be negotiated as if this Section is  
3 currently in effect.

4 ~~Service performed by an individual for an employing unit,~~  
5 ~~whether or not such individual employs others in connection~~  
6 ~~with the performance of such services, shall be deemed to be~~  
7 ~~employment unless and until it is proven in any proceeding~~  
8 ~~where such issue is involved that—~~

9 ~~A. Such individual has been and will continue to be free~~  
10 ~~from control or direction over the performance of such~~  
11 ~~services, both under his contract of service and in fact; and~~

12 ~~B. Such service is either outside the usual course of the~~  
13 ~~business for which such service is performed or that such~~  
14 ~~service is performed outside of all the places of business of~~  
15 ~~the enterprise for which such service is performed; and~~

16 ~~C. Such individual is engaged in an independently~~  
17 ~~established trade, occupation, profession, or business.~~

18 (Source: Laws 1951, p. 32.)".