



Rep. Frank J. Mautino

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LRB098 16645 JLS 57003 a

1 AMENDMENT TO HOUSE BILL 4733

2 AMENDMENT NO. _____. Amend House Bill 4733 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Unemployment Insurance Act is amended by
5 changing Section 225 as follows:

6 (820 ILCS 405/225) (from Ch. 48, par. 335)

7 Sec. 225. This Section, and not Section 212 of this Act,
8 controls the determination of employment status for services
9 performed by individuals in the delivery or distribution of
10 shopping news.

11 (A) The term "employment" shall not include services
12 performed by an individual under the age of eighteen in the
13 delivery or distribution of newspapers or shopping news.

14 (B) The term "employment" does not include the performance
15 of freelance editorial or photographic work for a newspaper.

16 (C) The term "employment" does not include the delivery or

1 distribution of newspapers or shopping news to the ultimate
2 consumer if:

3 (1) substantially all of the remuneration for the
4 performance of the services is directly related to sales,
5 "per piece" fees, or other output, rather than to the
6 number of hours worked; and

7 (2) the services are performed under a written contract
8 between the individual and the person or firm for whom the
9 services are performed, and the contract provides that the
10 individual will not be treated as an employee for federal
11 tax purposes. The factors to be considered in the
12 determination of employment are limited to the following
13 taken in the disjunctive, not in the conjunctive. Not every
14 factor must be satisfied in order to determine that an
15 independent contractor relationship exists.

16 (a) The individual gains the profits and bears the
17 losses of the business enterprise.

18 (b) The employing unit does not represent the
19 individual as an employee of the firm to its customers.

20 (c) The individual hires his or her own helpers or
21 employees, without the employing unit's approval, and
22 pays them without reimbursement from the employing
23 unit.

24 (d) The individual has the right to perform similar
25 services for others on whatever basis and whenever he
26 or she chooses.

1 (e) Once the individual leaves the premises of the
2 newspaper or printing plant, the individual operates
3 free from the direction and control of the newspaper,
4 except as is necessary for the newspaper to ensure
5 quality control of the newspaper, including, but not
6 limited to, the condition of the newspapers upon
7 delivery and the location and timing of delivery of the
8 newspapers.

9 ~~(3)~~ Delivery or distribution to the ultimate consumer does
10 not include:

11 (i) delivery or distribution for sale or resale,
12 including, but not limited to, distribution to a
13 newsrack or newsbox, salesperson, newsstand or retail
14 establishment;

15 (ii) distribution for further distribution,
16 regardless of subsequent sale or resale.

17 (D) Subsection (C) shall not apply in the case of any
18 individual who provides delivery or distribution services for a
19 newspaper pursuant to the terms of a collective bargaining
20 agreement and shall not be construed to alter or amend the
21 application or interpretation of any existing collective
22 bargaining agreement. Further, subsection (C) shall not be
23 construed as evidence of the existence or non-existence of an
24 employment relationship under any other Sections of this Act or
25 other existing laws.

26 (E) Subsections (B) and (C) shall not apply to services

1 that are required to be covered as a condition of approval of
2 this Act by the United States Secretary of Labor under Section
3 3304 (a) (6) (A) of the Federal Unemployment Tax Act.
4 (Source: P.A. 87-1178.)"