



Sen. Andy Manar

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LRB098 16645 JLS 59160 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 Sections 225 and 245 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 newspapers or 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 (B-5) The employment status of individuals engaged in the

1 delivery of newspapers or shopping news shall be determined as
2 provided in this subsection. The term "employment" does not
3 include the delivery or distribution of newspapers or shopping
4 news if at least one of the following 5 elements is present:

5 (1) The individual performing the services gains the
6 profits and bears the losses of the services.

7 (2) The person or firm for whom the services are
8 performed does not represent the individual as an employee
9 to its customers.

10 (3) The individual hires his or her own helpers or
11 employees, without the need for approval from the person or
12 firm for whom the services are performed, and pays them
13 without reimbursement from that person or firm.

14 (4) The individual has the right to perform similar
15 services for others on whatever basis and whenever he or
16 she chooses.

17 (5) Once the individual leaves the premises of the
18 person or firm for whom the services are performed or the
19 printing plant, the individual operates free from the
20 direction and control of the person or firm, except as is
21 necessary for the person or firm to ensure quality control
22 of the newspapers or shopping news, including, but not
23 limited to, the condition of the newspapers or shopping
24 news upon delivery and the location and timing of delivery
25 of the newspapers or shopping news.

26 (C) Notwithstanding subsection (B-5), the ~~The~~ term

1 "employment" does not include the delivery or distribution of
2 newspapers or shopping news to the ultimate 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.

12 (3) Delivery or distribution to the ultimate consumer
13 does not include:

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

18 (ii) distribution for further distribution,
19 regardless of subsequent sale or resale.

20 (D) Subsections (B-5) and Subsection (C) shall not apply in
21 the case of any individual who provides delivery or
22 distribution services for a newspaper pursuant to the terms of
23 a collective bargaining agreement and shall not be construed to
24 alter or amend the application or interpretation of any
25 existing collective bargaining agreement. Further, subsections
26 (B-5) and ~~subsection~~ (C) shall not be construed as evidence of

1 the existence or non-existence of an employment relationship
2 under any other Sections of this Act or other existing laws.

3 (E) Subsections (B), (B-5), and (C) shall not apply to
4 services that are required to be covered as a condition of
5 approval of this Act by the United States Secretary of Labor
6 under Section 3304 (a)(6)(A) of the Federal Unemployment Tax
7 Act.

8 (Source: P.A. 87-1178.)

9 (820 ILCS 405/245) (from Ch. 48, par. 370)

10 Sec. 245. Coordination with Federal Unemployment Tax Act.
11 Notwithstanding any provisions of this Act to the contrary,
12 excepting the exemptions from the definition of employment
13 contained in Sections 212.1, 217.1, 217.2, 226, and 231 and
14 subsections (B), (B-5), and (C) ~~B and C~~ of Section 225:

15 A. The term "employer" includes any employing unit which is
16 an "employer" under the provisions of the Federal Unemployment
17 Tax Act, or which is required, pursuant to such Act, to be an
18 "employer" under this Act as a condition for the Federal
19 approval of this Act requisite to the full tax credit, against
20 the tax imposed by the Federal Act, for contributions paid by
21 employers pursuant to this Act.

22 B. The term "employment" includes any services performed
23 within the State which constitute "employment" under the
24 provisions of the Federal Unemployment Tax Act, or which are
25 required, pursuant to such Act, to be "employment" under this

1 Act as a condition for the Federal approval of this Act
2 requisite to the full tax credit, against the tax imposed by
3 the Federal Act, for contributions paid by employers pursuant
4 to this Act.

5 C. The term "wages" includes any remuneration for services
6 performed within this State which is subject to the payment of
7 taxes under the provisions of the Federal Unemployment Tax Act.
8 (Source: P.A. 89-252, eff. 8-8-95; 89-649, eff. 8-9-96.)".