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2 87th General Assembly
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A Bill

SENATE BILL 17

4
5 By: Senator J. Jeffress
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For An Act To Be Entitled

8
9 AN ACT TO EXCLUDE BAIL BOND AGENTS COMPENSATED ON
10 A COMMISSION BASIS FROM THE DEFINITION OF
11 "EMPLOYMENT" UNDER THE DEPARTMENT OF WORKFORCE
12 SERVICES LAW; AND FOR OTHER PURPOSES.
13

Subtitle

14
15 AN ACT TO EXCLUDE BAIL BOND AGENTS
16 COMPENSATED ON A COMMISSION BASIS FROM
17 THE DEFINITION OF "EMPLOYMENT" UNDER THE
18 DEPARTMENT OF WORKFORCE SERVICES LAW.
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

23 SECTION 1. Arkansas Code § 11-10-210(f), concerning exclusions from
24 the definition of "employment", is amended to read as follows:

25 (f) The term "employment" shall not include:

26 (1) Service performed by an individual in agricultural labor,
27 except as provided in subdivision (a)(5) of this section. For purposes of
28 this subdivision (f)(1), the term "agricultural labor" means any service
29 performed which was agricultural labor as defined in this subsection ~~prior to~~
30 before January 1, 1972, and remunerated service performed:

31 (A) On a farm, in the employ of any person, in connection
32 with cultivating the soil, or in connection with raising or harvesting any
33 agricultural or horticultural commodity, including the raising, shearing,
34 feeding, caring for, training, and management of livestock, bees, poultry,
35 and furbearing animals and wildlife;

36 (B) In the employ of the owner or tenant or other operator



1 of a farm, in connection with the operation, management, conservation,
 2 improvement, or maintenance of the farm and its tools and equipment, or in
 3 salvaging timber or clearing land of brush and other debris left by a
 4 hurricane if the major part of the service is performed on a farm;

5 (C) In connection with the production or harvesting of any
 6 commodity defined as an agricultural commodity in section 15(g) of the
 7 Agricultural Marketing Act or in connection with the ginning of cotton, or in
 8 connection with the operation or maintenance of ditches, canals, reservoirs,
 9 waterways, not owned or operated for profit, used exclusively for supplying
 10 and storing water for farming purposes;

11 (D)(i) In the employ of the operator of a farm in
 12 handling, planting, drying, packing, packaging, freezing, grading, storing,
 13 or delivering to storage or to market or to a carrier for transportation to
 14 market, in its unmanufactured state, any agricultural or horticultural
 15 commodity, but only if the operator produced more than one-half ($\frac{1}{2}$) of the
 16 commodity with respect to which the service is performed;

17 (ii) In the employ of a group of operators of farms,
 18 or a cooperative organization of which the operators are members, in the
 19 performance of service described in subdivision (f)(1)(D)(i) of this section,
 20 but only if the operators produced more than one-half ($\frac{1}{2}$) of the commodity
 21 with respect to which the service is performed;

22 (iii) The provisions of subdivisions (f)(1)(D)(i)
 23 and (ii) of this section shall not be deemed to be applicable with respect to
 24 service performed in connection with commercial canning or commercial
 25 freezing or in connection with any agricultural or horticultural commodity
 26 after its delivery to a terminal market for distribution for consumption; or

27 (E) On a farm operated for profit if the service is not in
 28 the course of the employer's trade or business. As used in this subdivision
 29 (f)(1), the term "farm" includes stock, dairy, poultry, fruit, furbearing
 30 ~~animal~~ animals, and truck farms, plantations, ranches, nurseries, ranges,
 31 greenhouses or other similar structures used primarily for the raising of
 32 agricultural or horticultural commodities, and orchards;

33 (2) Domestic service in a private home, local college club, or
 34 local chapter of a college fraternity or sorority unless performed for an
 35 employing unit which paid cash remuneration of one thousand dollars (\$1,000)
 36 or more to individuals employed in domestic service in any calendar quarter

1 in the calendar year or the preceding calendar year;

2 (3) Service not in the course of the employer's trade or
3 business performed in any calendar quarter by an employee, unless the cash
4 remuneration paid for the service is fifty dollars (\$50.00) or more and the
5 service is performed by an individual who is regularly employed by the
6 employer to perform the service. For purposes of this section, an individual
7 shall be deemed to be regularly employed by an employer during a calendar
8 quarter only if:

9 (A) On each of some twenty-four (24) days during the
10 quarter, the individual performs for the employer for some portion of the day
11 service not in the course of the employer's trade or business; or

12 (B) The individual was regularly employed as determined
13 under subdivision (f)(3)(A) of this section by the employer in the
14 performance of the service during the preceding calendar quarter;

15 (4) Service performed on or in connection with a vessel or
16 aircraft not an American vessel or American aircraft if the employee is
17 employed on and in connection with the vessel or aircraft when outside the
18 United States;

19 (5) Service performed by an individual in the employ of his or
20 her son, daughter, or spouse, and service performed by a child under ~~the age~~
21 ~~of twenty-one (21) years~~ twenty-one (21) years of age in the employ of his or
22 her father or mother;

23 (6) Service performed in the employ of the United States
24 Government or of an instrumentality of the United States which is:

25 (A) Wholly or partially owned by the United States; or

26 (B) Exempt from the tax imposed by section 3301 of the
27 Federal Unemployment Tax Act by virtue of any provision of law which
28 specifically refers to that section or the corresponding section of prior law
29 in granting the exemption;

30 (7) Service performed in the employ of any political subdivision
31 of the state or any instrumentality of any political subdivision ~~which~~ that
32 is wholly owned by one (1) or more political subdivisions of the state;

33 (8) Service performed by an individual for any political caucus,
34 committee, headquarters, or other ~~groups~~ group of like nature not established
35 on a permanent basis;

36 (9) Service performed by an individual as an employee or

1 employee representative as defined in section 1 of the Railroad Unemployment
2 Insurance Act;

3 (10)(A) Service performed in any calendar quarter in the employ
4 of any organization exempt from income tax under section 501(a) of the
5 Internal Revenue Code of 1954, other than an organization described in
6 section 401(a) or under section 521 of the Internal Revenue Code of 1954 if
7 the remuneration for the service is less than fifty dollars (\$50.00);

8 (B) Service performed by an individual under ~~the age of~~
9 ~~twenty-two (22) years~~ twenty-two (22) years of age who is enrolled at a
10 nonprofit or public educational institution ~~which~~ that normally maintains a
11 regular faculty and curriculum and normally has a regularly organized body of
12 students in attendance at the place where its educational activities are
13 carried on as a student in a full-time program, taken for credit at the
14 institution, which combines academic instruction with work experience, if the
15 service is an integral part of the program and the institution has so
16 certified to the employer, except that this subdivision shall not apply to
17 service performed in a program established for or on behalf of an employer or
18 group of employers;

19 (C) Service performed in the employ of a school, college,
20 or university if the service is performed by a student who is enrolled and is
21 regularly attending classes at the school, college, or university; or

22 (D) Service performed in the employ of a hospital if the
23 service is performed by a patient of the hospital as defined in § 11-10-221;

24 (11) Service performed in the employ of a foreign government,
25 including service as a consular or other officer or employee or a
26 nondiplomatic representative;

27 (12) Service performed in the employ of an instrumentality
28 wholly owned by a foreign government:

29 (A) If the service is of a character similar to that
30 performed in foreign countries by employees of the United States Government
31 or of an instrumentality thereof; and

32 (B) If the United States Secretary of State ~~shall certify~~
33 certifies to the United States Secretary of the Treasury that the foreign
34 government, with respect to whose instrumentality exemption is claimed,
35 grants an equivalent exemption with respect to similar service performed in
36 the foreign country by employees of the United States Government and of

1 instrumentalities thereof;

2 (13) Service performed as a student nurse in the employ of a
3 hospital or a nurses' training school by an individual who is enrolled and is
4 regularly attending classes in a nurses' training school chartered or
5 approved ~~pursuant to~~ by state law and service performed as an intern in the
6 employ of a hospital by an individual who has completed a four-year course in
7 a medical school chartered or approved ~~pursuant to~~ by state law;

8 (14) Service performed by an individual for any person or
9 employing unit as an insurance agent or as an insurance solicitor if all
10 service performed by the individual for the person or employing unit is
11 performed for remuneration solely by way of commission;

12 (15) Any service performed by an individual for any person or
13 employing unit as a real estate agent or as a real estate solicitor or
14 salesman if all service performed by the individual for the person or
15 employing unit is performed for remuneration solely by way of commission;

16 (16)(A) Service performed by an individual in the delivery or
17 distribution of newspapers or shopping news, not including delivery or
18 distribution to any point for subsequent delivery or distribution, provided
19 that the service does not constitute employment performed by an employee
20 under the Federal Unemployment Tax Act;

21 (B) Service performed by an individual in, and at the time
22 of, the sale of newspapers or magazines to ultimate consumers, under an
23 arrangement under which the newspapers or magazines are to be sold by him or
24 her at a fixed price, his or her compensation being based on the retention of
25 the excess of the price over the amount at which the newspapers or magazines
26 are charged to him or her, whether or not he or she is guaranteed a minimum
27 amount of compensation for the service or is entitled to be credited with the
28 unsold newspapers or magazines turned back;

29 (17) Service performed in the employ of an international
30 organization;

31 (18) Service performed by an individual in or as an officer or
32 member of the crew of a vessel while it is engaged in the catching, taking,
33 harvesting, cultivating, or farming of any kind of fish, shellfish,
34 crustacea, sponges, seaweed, or other aquatic forms of animal and vegetable
35 life, including service performed by any such individual as an ordinary
36 incident to any such activity, except:

1 (A) Service performed in connection with the catching or
2 taking of salmon or halibut for commercial purposes; and

3 (B) Service performed on or in connection with a vessel of
4 more than ten (10) net tons, determined in the manner provided for
5 determining the register tonnage of merchant vessels under the laws of the
6 United States;

7 (19) Service ~~which~~ that is performed by a nonresident alien
8 individual for the period that he or she is temporarily present in the United
9 States as a ~~non-immigrant~~ nonimmigrant under subparagraph (F) or (J) of
10 section 101(a)(15) of the Immigration and Nationality Act and which is
11 performed to carry out the purpose specified in subparagraph (F) or (J), as
12 the case may be; ~~or~~

13 (20) Service performed by a person committed to a penal
14 institution; or

15 (21) Service performed by an individual for a person or
16 employing unit as a bail bond agent if all service performed by the
17 individual for the person or employing unit is performed for remuneration
18 solely by way of commission.