

SUBSTITUTE FOR
SENATE BILL NO. 174

A bill to amend 1936 (Ex Sess) PA 1, entitled
"Michigan employment security act,"
by amending section 41 (MCL 421.41).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 41. "Employer" means any of the following:

2 (1) ~~Beginning January 1, 1969, an~~ **AN** employing unit ~~(i) which~~
3 **THAT** in each of 20 different calendar weeks within a calendar year,
4 whether or not the weeks were consecutive, has or had in employment
5 1 or more individuals irrespective of whether the same individual
6 was employed in each week, or ~~(ii)~~ by which total remuneration of
7 \$1,000.00 or more for employment was paid or payable within the
8 calendar year.

9 (2) (a) Any individual, legal entity, or employing unit ~~which~~
10 ~~acquired~~ **THAT ACQUIRES** the organization, trade, or business, or

1 75% or more of the assets ~~thereof,~~ of another **ORGANIZATION, TRADE,**
 2 **OR BUSINESS,** which at the time of the acquisition was an employer
 3 subject to this act.

4 (b) Any individual, legal entity, or employing unit ~~described~~
 5 ~~as a transferee in section 22(c)~~ **THAT BECOMES A TRANSFEREE OF**
 6 **BUSINESS ASSETS BY ANY MEANS OTHERWISE THAN IN THE ORDINARY COURSE**
 7 **OF TRADE FROM AN EMPLOYER, IF THERE IS SUBSTANTIALLY COMMON**
 8 **OWNERSHIP, MANAGEMENT, OR CONTROL OF THE TRANSFEROR AND TRANSFEREE**
 9 **AT THE TIME OF TRANSFER.**

10 (3) Any employing unit ~~which having~~ **THAT HAS** become an
 11 employer under ~~subdivisions~~ **SUBDIVISION** (1), (2), (4), (5), (6), (7),
 12 or (9) **BUT** has not, under ~~sections~~ **SECTION** 24 and ~~OR~~ 25, ceased
 13 to be an employer subject to this act.

14 (4) For the effective period of its election pursuant to
 15 section 25, any other employing unit ~~which~~ **THAT** has elected to
 16 become fully subject to this act.

17 (5) (a) ~~Beginning January 1, 1978, an~~ **AN** employing unit ~~which~~
 18 **THAT** for some portion of a day in each of 20 different calendar
 19 weeks, whether or not the weeks were consecutive, in either the
 20 current or the preceding calendar year, employed 10 or more
 21 individuals performing agricultural service, regardless of whether
 22 the individuals were employed at the same moment of time, or ~~which~~
 23 **THAT,** during any calendar quarter in either the current or the
 24 preceding calendar year, paid remuneration in cash of \$20,000.00 or
 25 more to employees performing agricultural service.

26 (b) For the purposes of this subdivision an individual who is
 27 a member of a crew furnished by a ~~crew leader~~ **FARM LABOR CONTRACTOR**

1 to perform agricultural service for any farm operator shall be
 2 treated as an employee of that ~~crew leader~~ **FARM LABOR CONTRACTOR** if
 3 the ~~crew leader~~ **FARM LABOR CONTRACTOR** holds a valid certificate of
 4 registration under the ~~farm labor contractor registration act of~~
 5 ~~1963, 7 U.S.C. 2041 to 2055~~ **MIGRANT AND SEASONAL AGRICULTURAL**
 6 **WORKER PROTECTION ACT, 29 USC 1801 TO 1872**; or substantially all
 7 the members of the crew operate or maintain tractors, mechanized
 8 harvesting or crop-dusting equipment, or any other mechanized
 9 equipment, which is provided by the ~~crew leader~~ **FARM LABOR**
 10 **CONTRACTOR**; and if the ~~crew leader~~ **FARM LABOR CONTRACTOR** is not an
 11 employee of the farm operator within the meaning of this act.

12 (c) For the purposes of this subdivision, in the case of an
 13 individual who is furnished by a ~~crew leader~~ **FARM LABOR CONTRACTOR**
 14 to perform agricultural service for a farm operator and who is not
 15 treated as an employee of the ~~crew leader~~ **FARM LABOR CONTRACTOR**
 16 under paragraph (b), the farm operator and not the ~~crew leader~~ **FARM**
 17 **LABOR CONTRACTOR** shall be treated as the employer of the
 18 individual, and the farm operator shall be treated as having paid
 19 cash remuneration to the individual in an amount equal to the
 20 amount of cash remuneration paid to the individual by the ~~crew~~
 21 ~~leader~~ **FARM LABOR CONTRACTOR**, either on ~~his~~ **THE FARM LABOR**
 22 **CONTRACTOR'S** own behalf or on behalf of the farm operator, for the
 23 agricultural service performed for the farm operator.

24 (d) For the purposes of this subdivision, the term "~~crew~~
 25 ~~leader~~" **"FARM LABOR CONTRACTOR"** means an individual who does all of
 26 the following:

27 (i) Furnishes individuals to perform agricultural service for a

1 farm operator.

2 (ii) Pays, either on ~~his~~ **THE INDIVIDUAL'S** own behalf or on
3 behalf of a farm operator, the individuals furnished by ~~him~~ **THE**
4 **INDIVIDUAL** for the agricultural service performed by them.

5 (iii) Has not entered into a written agreement with the farm
6 operator under which the ~~crew leader~~ **FARM LABOR CONTRACTOR** is
7 designated as an employee of the farm operator.

8 (6) ~~Beginning January 1, 1978, an~~ **AN** employing unit ~~which~~
9 **THAT** paid cash remuneration of \$1,000.00 or more for domestic
10 service in any calendar quarter in the current calendar year or the
11 preceding calendar year. An employing unit that is determined to be
12 an employer under this subdivision shall not be considered an
13 employer of other covered services unless it meets the test of
14 being an employer under another subdivision of this section.

15 (7) Any employing unit not an employer by reason of any other
16 paragraph of this section for which services in employment are
17 performed with respect to which ~~such~~ **THE** employing unit is liable
18 for any federal tax against which credit may be taken for
19 contributions required to be paid into a state unemployment
20 compensation fund; but services performed for ~~such~~ **THE** employing
21 unit shall constitute employment for the purposes of this act only
22 to the extent that ~~such~~ **THOSE** services constitute employment with
23 respect to which ~~such~~ **THE** federal tax is payable.

24 (8) For purposes of this section, a week ~~which~~ **THAT** falls in
25 2 calendar years shall be considered to fall entirely within ~~that~~
26 **THE** calendar year ~~which~~ **THAT** contains the majority of days of that
27 week.

Senate Bill No. 174 (S-1) as amended March 9, 2005

(9) Notwithstanding subdivision (1), after December 31, 1977,
~~an "employer" means~~ **INCLUDES** any employing unit for which
services are performed as defined in section 42(8) or (9).

(10) For the purpose of determining the amount of
contributions due pursuant to section 44(2), the provisions of
subdivisions (5) and (6) shall first apply with respect to
remuneration paid after December 31, 1977, for services performed
after that date.

Enacting section 1. This amendatory act takes effect July 1,
2005.

Enacting section 2. This amendatory act does not take effect
unless all of the following bills of the 93rd Legislature are
enacted into law:

(a) Senate Bill No. 171.

[(b) House Bill No. 4414.]

(c) House Bill No. 4415.]