

SENATE BILL No. 174

February 3, 2005, Introduced by Senator OLSHOVE and referred to the Committee on Commerce and Labor.

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:

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

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

(2) (a) Any individual, legal entity, or employing unit ~~which~~
~~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 to perform

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

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

22 (d) For the purposes of this subdivision, the term "crew
23 leader" means an individual who does all of the following:

24 (i) Furnishes individuals to perform agricultural service for a
25 farm operator.

26 (ii) Pays, either on ~~his~~ **THE INDIVIDUAL'S** own behalf or on
27 behalf of a farm operator, the individuals furnished by ~~him~~ **THE**

1 **INDIVIDUAL** for the agricultural service performed by them.

2 (iii) Has not entered into a written agreement with the farm
3 operator under which the crew leader is designated as an employee
4 of the farm operator.

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

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

21 (8) For purposes of this section, a week ~~which~~ **THAT** falls in
22 2 calendar years shall be considered to fall entirely within ~~that~~
23 **THE** calendar year ~~which~~ **THAT** contains the majority of days of that
24 week.

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

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

6 Enacting section 1. This amendatory act takes effect July 1,
7 2005.

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

11 (a) Senate Bill No. 171.

12
13 (b) Senate Bill No. 173.

14
15 (c) Senate Bill No. 172.