

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 91, As Amended

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

RELATING TO EMPLOYMENT SECURITY LAW; AMENDING SECTION 72-1316A, IDAHO CODE,  
TO FURTHER DEFINE EXEMPT EMPLOYMENT AND TO MAKE A TECHNICAL CORRECTION;  
AND DECLARING AN EMERGENCY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 72-1316A, Idaho Code, be, and the same is hereby  
amended to read as follows:

72-1316A. EXEMPT EMPLOYMENT. "Exempt employment" means service per-  
formed:

(1) By an individual in the employ of his spouse or child.

(2) By a person under the age of twenty-one (21) years in the employ of  
his father or mother.

(3) By an individual under the age of twenty-two (22) years who is en-  
rolled as a student in a full-time program at an accredited nonprofit or pub-  
lic education institution for which credit at such institution is earned in a  
program which combines academic instruction with work experience. This sub-  
section shall not apply to service performed in a program established at the  
request of an employer or group of employers.

(4) In the employ of the United States government or an instrumentality  
of the United States exempt under the constitution of the United States from  
the contributions imposed by this chapter.

(5) In the employ of a governmental entity in the exercise of duties:

(a) As an elected official;

(b) As a member of a legislative body, or a member of the judiciary, of a  
state or political subdivision thereof;

(c) As a member of the state national guard or air national guard;

(d) As an employee serving on a temporary basis in case of fire, storm,  
snow, earthquake, flood, or similar emergency; ~~or~~

(e) In a position which, pursuant to the laws of this state, is desig-  
nated as (i) a major nontenured policymaking or advisory position, or  
(ii) a policymaking or advisory position which ordinarily does not re-  
quire more than eight (8) hours per week; or

(f) As an election official or election worker including, but not lim-  
ited to, a poll worker, an election judge, an election clerk or any other  
member of an election board, if the amount of remuneration received by  
the individual during the calendar year for services as an election of-  
ficial or election worker is less than one thousand dollars (\$1,000).

(6) By an inmate of a correctional, custodial or penal institution, if  
such services are performed for or within such institution.

(7) In the employ of:

(a) A church or convention or association of churches; or

1 (b) An organization which is operated primarily for religious purposes  
2 and which is operated, supervised, controlled, or principally sup-  
3 ported by a church, or convention or association of churches; or

4 (c) In the employ of an institution of higher education, if it is de-  
5 voted primarily to preparation of a student for the ministry or training  
6 candidates to become members of a religious order; or

7 (d) By a duly ordained, commissioned, or licensed minister of a church  
8 in the exercise of his ministry or by a member of a religious order in the  
9 exercise of duties required by such order.

10 (8) By a program participant in a facility that provides rehabilitation  
11 for individuals whose earning capacity is impaired by age, physical or men-  
12 tal limitation, or injury or provides remunerative work for individuals who,  
13 because of their impaired physical or mental capacity, cannot be readily ab-  
14 sorbed into the labor market.

15 (9) As part of an unemployment work relief program or as part of an un-  
16 employment work training program assisted or financed in whole or in part by  
17 any federal agency or an agency of a state or political subdivision thereof,  
18 by an individual receiving such work relief or work training.

19 (10) Service with respect to which unemployment insurance is payable  
20 under an unemployment insurance system established by an act of congress  
21 other than the social security act.

22 (11) As a student nurse in the employ of a hospital or nurses' training  
23 school by an individual who is enrolled and is regularly attending courses in  
24 a nurses' training school approved pursuant to state law, and service per-  
25 formed as an intern in the employ of a hospital by an individual who has com-  
26 pleted a course in a medical school approved pursuant to state law.

27 (12) By an individual under the age of eighteen (18) years ~~of age~~ in the  
28 delivery or distribution of newspapers or shopping news not including deliv-  
29 ery or distribution to any point for subsequent delivery or distribution.

30 (13) By an individual for a person as an insurance agent or as an insur-  
31 ance solicitor, if all such service performed by such individual for such  
32 person is performed for remuneration solely by way of commission.

33 (14) By an individual for a real estate broker as an associate real es-  
34 tate broker or as a real estate salesman, if all such service performed by  
35 such individual for such person is performed for remuneration solely by way  
36 of commission.

37 (15) Service covered by an election approved by the agency charged with  
38 the administration of any other state or federal unemployment insurance law,  
39 in accordance with an arrangement pursuant to section 72-1344, Idaho Code.

40 (16) In the employ of a school or college by a student who is enrolled and  
41 regularly attending classes at such school or college.

42 (17) In the employ of a hospital by a resident patient of such hospital.

43 (18) By a member of an AmeriCorps program.

44 (19) By an individual who is paid less than fifty dollars (\$50.00) per  
45 calendar quarter for performing work that is not in the course of the em-  
46 ployer's trade or business, and who is not regularly employed by such em-  
47 ployer to perform such service. For the purposes of this subsection, an in-  
48 dividual shall be deemed to be regularly employed by an employer during a  
49 calendar quarter only if:

1 (a) On each of some twenty-four (24) days during such quarter such in-  
2 dividual performs for such employer for some portion of the day service  
3 not in the course of the employer's trade or business; or

4 (b) Such individual was so employed by such employer in the performance  
5 of such service during the preceding calendar quarter.

6 (20) By an individual who is engaged in the trade or business of selling  
7 or soliciting the sale of consumer products in a private home or a location  
8 other than in a permanent retail establishment, provided the following cri-  
9 teria are met:

10 (a) Substantially all the remuneration, whether or not received in  
11 cash, for the performance of the services is directly related to sales  
12 or other output, including the performance of services, rather than to  
13 the number of hours worked; and

14 (b) The services performed by the individual are performed pursuant to  
15 a written contract between the individual and the person for whom the  
16 services are performed, and the contract provides that the individual  
17 shall not be treated as an employee for federal and state tax purposes.

18 Such exemption applies solely to the individual's engagement in the trade or  
19 business of selling or soliciting the sale of consumer products in a private  
20 home or location other than in a permanent retail establishment.

21 SECTION 2. An emergency existing therefor, which emergency is hereby  
22 declared to exist, this act shall be in full force and effect on and after its  
23 passage and approval.