

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 143

BY TRANSPORTATION AND DEFENSE COMMITTEE

AN ACT

RELATING TO THE EMPLOYMENT SECURITY LAW; AMENDING SECTION 72-1316A, IDAHO
CODE, TO PROVIDE AN ADDITIONAL CIRCUMSTANCE FOR EXEMPT EMPLOYMENT UNDER
THE STATE'S EMPLOYMENT SECURITY LAW.

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 enrolled as a student in a full-time program at an accredited nonprofit or public education institution for which credit at such institution is earned in a program which combines academic instruction with work experience. This subsection 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;
 - (e) In a position which, pursuant to the laws of this state, is designated as (i) a major nontenured policymaking or advisory position, or (ii) a policymaking or advisory position which ordinarily does not require more than eight (8) hours per week; or
 - (f) As an election official or election worker including, but not limited 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 official 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 in the deliv-
28 ery or distribution of newspapers or shopping news not including delivery or
29 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 (21) By a person who operates a motor vehicle that: (a) such person owns
22 or holds pursuant to a bona fide lease; and (b) is leased to a motor carrier as
23 defined in 49 U.S.C. section 13102, pursuant to a written contract, and in no
24 event will the motor carrier be determined to be the covered employer of such
25 person or the covered employer of an employee of such person.