

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

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

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

9 Enacting section 1. This amendatory act takes effect July 1,  
10 2005.

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

- 14 (a) Senate Bill No. 171.  
15 [(b) House Bill No. 4414.  
16 (c) House Bill No. 4415.]