

REFERENCE TITLE: unemployment insurance; travel agents

State of Arizona
House of Representatives
Fiftieth Legislature
First Regular Session
2011

HB 2150

Introduced by
Representative Kavanagh

AN ACT

AMENDING SECTION 23-617, ARIZONA REVISED STATUTES; RELATING TO EMPLOYMENT SECURITY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 23-617, Arizona Revised Statutes, is amended to
3 read:

4 23-617. Exempt employment; definition

5 "Exempt employment" means employment not considered in determining
6 whether an employing unit constitutes an "employer" under this chapter and
7 includes:

8 1. Agricultural labor as defined in section 23-603 unless such labor
9 is performed for an employing unit which after December 31, 1977 either:

10 (a) For some portion of a day, but not necessarily simultaneously, in
11 each of twenty different calendar weeks, whether or not the weeks are or were
12 consecutive, in either the current or the preceding calendar year, employed
13 in agricultural labor at least ten individuals irrespective of whether the
14 same individuals were employed in each such day.

15 (b) In any calendar quarter in either the current or preceding
16 calendar year paid cash wages of twenty thousand dollars or more for
17 agricultural labor.

18 2. Domestic service in a private home, local college club, or local
19 chapter of a college fraternity or sorority unless performed after December
20 31, 1977, for an employing unit which in any calendar quarter in either the
21 current or preceding calendar year paid cash wages of one thousand dollars or
22 more to individuals employed in such service.

23 3. Service performed on or in connection with a vessel or aircraft
24 that is not an American vessel or American aircraft, if the employee is
25 employed on and in connection with such vessel or aircraft when outside the
26 United States.

27 4. Service performed by an individual in the employ of the
28 individual's son, daughter, or spouse, and service performed by an individual
29 under the age of twenty-one years in the employ of the individual's father or
30 mother.

31 5. Service performed in the employ of the United States government or
32 an instrumentality of the United States which is wholly or partially owned by
33 the United States or which is exempt from the tax imposed by section 3301 of
34 the federal internal revenue code, except that to the extent Congress shall
35 permit states to require instrumentalities of the United States to make
36 payments into an unemployment fund under a state unemployment compensation
37 law, all of the provisions of this chapter shall be applicable to such
38 instrumentalities, in the same manner, to the same extent and on the same
39 terms as to all other employers, employing units, individuals and services,
40 but if this state is not certified for any year by the secretary of labor of
41 the United States under section 3304 of the federal internal revenue code,
42 the payments required of such instrumentalities with respect to the year
43 shall be refunded by the department from the fund in the same manner and
44 within the same period as is provided in section 23-742 with respect to
45 contributions erroneously collected.

1 6. Service performed in the employ of another state, or any political
2 subdivision thereof, or an instrumentality of one or more thereof which is
3 wholly owned by one or more other states or political subdivisions and which
4 exercises only governmental as distinguished from proprietary functions, and
5 service performed in the employ of any political subdivisions of this or any
6 other state to the extent the instrumentality, with respect to such service,
7 is exempt under the Constitution of the United States from the tax imposed by
8 section 3301 of the federal internal revenue code, except that part of such
9 service performed in the employ of any of the foregoing which is "employment"
10 under section 23-615, paragraph 6. But any state, or a political subdivision
11 thereof, or instrumentality of any one or more of the foregoing which is
12 wholly owned by one or more states or political subdivisions may elect
13 coverage whether or not the service performed is governmental or proprietary
14 for any such state or political subdivision thereof or any instrumentality
15 thereof or any department thereof in the manner prescribed and subject to the
16 terms of section 23-725, and such election may exclude any services described
17 in section 23-615, paragraph 6, subdivision (d). This state or any
18 instrumentality or political subdivision of this state may appropriate funds
19 to pay contributions or payments in lieu of contributions as required by this
20 chapter.

21 7. Service with respect to which unemployment compensation is payable
22 under an unemployment compensation system established by an act of Congress.

23 8. Service performed in any calendar quarter in the employ of an
24 organization exempt from income tax under section 501(a) (other than an
25 organization described in section 401(a)) or under section 521 of the federal
26 internal revenue code, if the remuneration for such service is less than
27 fifty dollars.

28 9. Service performed in the employ of a school, college or university,
29 if the service is performed either:

30 (a) By a student enrolled and regularly attending classes at the
31 school, college or university.

32 (b) By the spouse of such a student if the spouse is advised at the
33 time the spouse commences to perform such service that the employment is
34 provided under a program to provide financial assistance to the student by
35 the school, college or university and the employment will not be covered by
36 any program of unemployment compensation.

37 10. Service performed in the employ of a corporation, community chest
38 fund, or foundation, organized and operated exclusively for religious,
39 charitable, scientific, testing for public safety, literary, or educational
40 purposes, or for the prevention of cruelty to children or animals, no part of
41 the net earnings of which inures to the benefit of a private shareholder or
42 individual, no substantial part of the activities of which is carrying on
43 propaganda or otherwise attempting to influence legislation, and which does
44 not participate in or intervene in (including the publishing or distributing
45 of statements) any political campaign on behalf of any candidate for public

1 office; provided that services performed in the employ of an organization
2 operated for the primary purpose of carrying on a trade or business for
3 profit shall not be exempt on the ground that all of its profits are payable
4 to one or more organizations exempt under this paragraph, and further
5 provided that services exempt under this paragraph shall not include services
6 performed for an employing unit with respect to which the employing unit is
7 liable for any federal tax against which credit may be taken for
8 contributions required to be paid into a state unemployment compensation
9 fund, and further provided that services exempt under this paragraph shall
10 not include services which are "employment" under section 23-615,
11 paragraph 6.

12 11. Services performed as a student nurse in the employ of a hospital
13 or a nurses' training school by an individual enrolled and regularly
14 attending classes in a nurses' training school chartered or approved pursuant
15 to state law, and service performed as an interne in the employ of a hospital
16 by an individual who has completed a four years' course in a medical school
17 chartered or approved pursuant to state law.

18 12. Service performed by an individual for an employing unit as an
19 insurance producer, if all such service performed by the individual for such
20 employing unit is performed for remuneration solely by way of commission.

21 13. Service performed by an individual under the age of eighteen in the
22 delivery or distribution of newspapers or shopping news, not including
23 delivery or distribution to any point for subsequent delivery or
24 distribution, and service performed by an individual in, and at the time of,
25 the sale of newspapers or magazines to ultimate consumers under an
26 arrangement by which the newspapers or magazines are to be sold by the
27 individual at a fixed price, the individual's compensation being based on the
28 retention of the excess of such price over the amount at which the newspapers
29 or magazines are charged to the individual, whether or not the individual is
30 guaranteed a minimum amount of compensation for such service, or is entitled
31 to be credited with the unsold newspapers or magazines turned back.

32 14. Service performed by an individual for an employing unit as a
33 licensed real estate broker or a licensed cemetery broker or a licensed real
34 estate salesman or licensed cemetery salesman, if all such service performed
35 by the individual for such employing unit is performed for remuneration
36 solely by way of commission, except that any service performed as a real
37 estate broker, a cemetery broker, a real estate salesman or a cemetery
38 salesman for an employing unit to which ~~the provisions of~~ section 23-750
39 ~~apply~~ APPLIES is not exempt employment.

40 15. Service performed in the employ of a foreign government, including
41 service as a consular or other officer or employee or a nondiplomatic
42 representative.

43 16. Service performed in the employ of an instrumentality wholly owned
44 by a foreign government if both:

1 (a) The service is of a character similar to that performed in foreign
2 countries by employees of the United States government or of an
3 instrumentality thereof.

4 (b) The department finds that the United States secretary of state has
5 certified to the United States secretary of the treasury that the foreign
6 government with respect to whose instrumentality exemption is claimed grants
7 an equivalent exemption with respect to similar service performed in the
8 foreign country by employees of the United States government and of
9 instrumentalities thereof.

10 17. Service covered by an arrangement between the department and the
11 agency charged with the administration of any other state or federal
12 unemployment compensation law pursuant to which all services performed by an
13 individual for an employing unit during the period covered by the employing
14 unit's duly approved election are deemed to be performed entirely within such
15 agency's state.

16 18. Casual labor not in the course of the employer's trade or business.

17 19. Service performed by an individual for an employing unit as a
18 securities salesman, if all such service performed by the individual for such
19 employing unit is performed for remuneration solely by way of commission,
20 except that any service performed as a securities salesman for an employing
21 unit to which ~~the provisions of~~ section 23-750 ~~apply~~ APPLIES is not exempt
22 employment.

23 20. During any period in which it does not meet the definition of
24 employment in section 23-615, paragraph 8, service performed by an individual
25 who is enrolled at a nonprofit or public educational institution which
26 normally maintains a regular faculty and curriculum and normally has a
27 regularly organized body of students in attendance at the place where its
28 educational activities are carried on as a student in a full-time program,
29 taken for credit at such institution, which combines academic instruction
30 with work experience, if such service is an integral part of such program,
31 and such institution has so certified to the employer, except that this
32 paragraph shall not apply to service performed in a program established for
33 or on behalf of an employer or group of employers.

34 21. Service performed in the employ of a hospital if such service is
35 performed by a patient of the hospital.

36 22. Service performed by individuals solely to the extent that the
37 compensation includes commissions, overrides or profits realized on sales
38 primarily resulting from the in-person solicitation of orders for or making
39 sales of consumer goods in the home, except that any such service performed
40 by an individual for an employing unit to which ~~the provisions of~~ section
41 23-750 ~~apply~~ APPLIES is not exempt employment.

42 23. Services performed by an individual for an employing unit in the
43 preparation of tax returns and related schedules and documents, if all such
44 services are performed for remuneration solely by way of commissions,
45 independent of the control of the employing unit, other than that required by

1 the internal revenue service for correct preparation of such returns, except
2 that any such service performed by an individual for an employing unit to
3 which ~~the provisions of~~ section 23-750 ~~apply~~ APPLIES is not exempt
4 employment.

5 24. SERVICE PERFORMED BY AN INDIVIDUAL AS AN OUTSIDE SALES
6 REPRESENTATIVE FOR AN EMPLOYING UNIT THAT IS A FOR-PROFIT TRAVEL AGENCY, IF
7 SUBSTANTIALLY ALL OF THE SERVICE IS PERFORMED OUTSIDE OF ANY TRAVEL AGENCY
8 PREMISES AND ALL OF THE SERVICE PERFORMED BY THE INDIVIDUAL FOR THE EMPLOYING
9 UNIT IS PERFORMED FOR REMUNERATION SOLELY BY WAY OF COMMISSION, EXCEPT THAT
10 THIS PARAGRAPH DOES NOT APPLY TO COMPENSATION PAYABLE BASED ON SERVICE AS
11 SPECIFIED IN 26 UNITED STATES CODE SECTIONS 3304(a)(6)(A) AND 3309(d). FOR
12 THE PURPOSES OF THIS PARAGRAPH, "OUTSIDE SALES REPRESENTATIVE" MEANS AN
13 INDIVIDUAL WHOSE SERVICES TO A FOR-PROFIT TRAVEL AGENCY ARE PERFORMED UNDER
14 THE TRAVEL AGENCY'S ACCREDITATION FROM A NATIONAL AIRLINES REPORTING
15 CORPORATION OR AN ENDORSEMENT FROM AN INTERNATIONAL AIRLINES TRAVEL AGENT
16 NETWORK.

17 Sec. 2. Emergency

18 This act is an emergency measure that is necessary to preserve the
19 public peace, health or safety and is operative immediately as provided by
20 law.