

# HOUSE BILL No. 6320

November 4, 2004, Introduced by Reps. LaJoy and Bieda and referred to the Committee on Employment Relations, Training and Safety.

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)—~~  
3 ~~which~~ **that** in each of 20 different calendar weeks within a  
4 calendar year, whether or not the weeks were consecutive, has or  
5 had in employment 1 or more individuals irrespective of whether  
6 the same individual was employed in each week, or ~~—(ii)—~~ by which  
7 total remuneration of \$1,000.00 or more for employment was paid  
8 or payable within the calendar year.

9       (2) ~~—(a)— Any~~ **An** individual, legal entity, or employing unit  
10 ~~—which acquired the organization, trade, or business, or 75% or~~  
11 ~~more of the~~ **that acquires components of a business as a**

1 successor in either of the following circumstances:

2 (a) As a transferee of 10% or more of the employees, payroll,  
3 trade, inventory, services, or other assets ~~thereof, of another~~  
4 ~~which~~ of a transferor that, at the time of the acquisition, was  
5 an employer subject to this act.

6 (b) ~~Any individual, legal entity, or employing unit~~  
7 ~~described as~~ As a transferee of a transfer of business as  
8 described in section 22(c).

9 (3) Any employing unit ~~which having~~ that has become an  
10 employer under ~~subdivisions~~ subdivision (1), (2), (4), (5),  
11 (6), (7), or (9) but has not, under sections 24 and 25, ceased to  
12 be an employer subject to this act.

13 (4) For the effective period of its election pursuant to  
14 section 25, any other employing unit ~~which~~ that has elected to  
15 become fully subject to this act.

16 (5) (a) ~~Beginning January 1, 1978, an~~ An employing unit  
17 ~~which~~ that for some portion of a day in each of 20 different  
18 calendar weeks, whether or not the weeks were consecutive, in  
19 either the current or the preceding calendar year, employed 10 or  
20 more individuals performing agricultural service, regardless of  
21 whether the individuals were employed at the same moment of time,  
22 or ~~which~~ that, during any calendar quarter in either the  
23 current or the preceding calendar year, paid remuneration in cash  
24 of \$20,000.00 or more to employees performing agricultural  
25 service.

26 (b) For the purposes of this subdivision, an individual who  
27 is 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  
14 as 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  
17 having paid cash remuneration to the individual in an amount  
18 equal to the amount of cash remuneration paid to the individual  
19 by the crew leader, either on ~~his~~ **the crew leader's** own behalf  
20 or on behalf of the farm operator, for the agricultural service  
21 performed for the 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  
25 a farm operator.

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

1 **crew leader** 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  
8 the preceding calendar year. An employing unit that is  
9 determined to be an employer under this subdivision shall not be  
10 considered an employer of other covered services unless it meets  
11 the test of being an employer under another subdivision of this  
12 section.

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

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

26 (9) Notwithstanding subdivision (1), after December 31, 1977,  
27 an employer means any employing unit for which services are

1 performed as defined in section 42(8) or (9).

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

7 Enacting section 1. This amendatory act does not take  
8 effect unless all of the following bills of the 92nd Legislature  
9 are enacted into law:

10 (a) Senate Bill No. \_\_\_\_\_ or House Bill No. 6316 (request  
11 no. 07154'04).

12 (b) Senate Bill No. \_\_\_\_\_ or House Bill No. 6317 (request  
13 no. 07155'04).

14 (c) Senate Bill No. \_\_\_\_\_ or House Bill No. 6318 (request  
15 no. 07156'04).

16 (d) Senate Bill No. \_\_\_\_\_ or House Bill No. 6319 (request  
17 no. 07157'04).