

# HOUSE BILL No. 4178

February 3, 2005, Introduced by Reps. Gonzales, Bieda, Farrah, Vagnozzi, Gleason, Condino, Clack, Murphy and Brown 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 the  
 6 same individual was employed in each week, or ~~—(ii)~~ by which total  
 7 remuneration of \$1,000.00 or more for employment was paid or  
 8 payable within the calendar year.

9           (2) ~~—(a) Any~~ **AN** individual, legal entity, or employing unit

1 ~~which acquired the organization, trade, or business, or 75% or more~~  
2 ~~of the~~ **THAT ACQUIRES COMPONENTS OF A BUSINESS AS A SUCCESSOR IN**  
3 **EITHER OF THE FOLLOWING CIRCUMSTANCES:**

4 **(A) AS A TRANSFEREE OF 10% OR MORE OF THE EMPLOYEES, PAYROLL,**  
5 **TRADE, INVENTORY, SERVICES, OR OTHER** ~~assets thereof, of another~~  
6 ~~which~~ **OF A TRANSFEROR THAT,** at the time of the acquisition, was an  
7 employer subject to this act.

8 ~~(b) Any individual, legal entity, or employing unit described~~  
9 ~~as~~ **AS a transferee OF A TRANSFER OF BUSINESS AS DESCRIBED** in  
10 section 22(c).

11 ~~(3) Any employing unit which having~~ **THAT HAS** become an  
12 employer under ~~subdivisions~~ **SUBDIVISION** (1), (2), (4), (5), (6),  
13 (7), or (9) **BUT** has not, under sections 24 and 25, ceased to be an  
14 employer subject to this act.

15 ~~(4) For the effective period of its election pursuant to~~  
16 **UNDER** section 25, any other employing unit ~~which~~ **THAT** has elected  
17 to become fully subject to this act.

18 ~~(5) (a) Beginning January 1, 1978, an~~ **AN** employing unit  
19 ~~which~~ **THAT** for some portion of a day in each of 20 different  
20 calendar weeks, whether or not the weeks were consecutive, in  
21 either the current or the preceding calendar year, employed 10 or  
22 more individuals performing agricultural service, regardless of  
23 whether the individuals were employed at the same moment of time,  
24 or ~~which~~ **THAT**, during any calendar quarter in either the current  
25 or the preceding calendar year, paid remuneration in cash of  
26 \$20,000.00 or more to employees performing agricultural service.

27 **(b) For the purposes of this subdivision, an individual who is**

1 a member of a crew furnished by a crew leader to perform  
2 agricultural service for any farm operator shall be treated as an  
3 employee of that crew leader if the crew leader holds a valid  
4 certificate of registration under the ~~farm labor contractor~~  
5 ~~registration act of 1963, 7 U.S.C. 2041 to 2055~~ **MIGRANT AND**  
6 **SEASONAL AGRICULTURAL WORKER PROTECTION ACT, 29 USC 1801 TO 1872;**  
7 or substantially all the members of the crew operate or maintain  
8 tractors, mechanized harvesting or crop-dusting equipment, or any  
9 other mechanized equipment, which is provided by the crew leader;  
10 and if the crew leader is not an employee of the farm operator  
11 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 to perform  
14 agricultural service for a farm operator and who is not treated as  
15 an employee of the crew leader under paragraph (b), the farm  
16 operator and not the crew leader shall be treated as the employer  
17 of the individual, and the farm operator shall be treated as having  
18 paid cash remuneration to the individual in an amount equal to the  
19 amount of cash remuneration paid to the individual by the crew  
20 leader, either on ~~his~~ **THE CREW LEADER'S** own behalf or on behalf  
21 of the farm operator, for the agricultural service performed for  
22 the farm operator.

23 (d) For the purposes of this subdivision, the term "crew  
24 leader" means an individual who does all of the following:

25 (i) Furnishes individuals to perform agricultural service for a  
26 farm operator.

27 (ii) Pays, either on ~~his~~ **THE CREW LEADER'S** own behalf or on

1 behalf of a farm operator, the individuals furnished by ~~him~~ **THE**  
2 **CREW LEADER** for the agricultural service performed by them.

3 (iii) Has not entered into a written agreement with the farm  
4 operator under which the crew leader is designated as an employee  
5 of the farm operator.

6 (6) ~~Beginning January 1, 1978, an~~ **AN** employing unit ~~which~~  
7 **THAT** paid cash remuneration of \$1,000.00 or more for domestic  
8 service in any calendar quarter in the current calendar year or the  
9 preceding calendar year. An employing unit that is determined to be  
10 an employer under this subdivision shall not be considered an  
11 employer of other covered services unless it meets the test of  
12 being an employer under another subdivision of this section.

13 (7) Any employing unit not an employer by reason of any other  
14 ~~paragraph~~ **PROVISION** of this section for which services in  
15 employment are performed with respect to which ~~such~~ **THE** employing  
16 unit is liable for any federal tax against which credit may be  
17 taken for contributions required to be paid into a state  
18 unemployment compensation fund; but services performed for ~~such~~  
19 **THAT** 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~~ **THAT** falls in  
23 2 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~~ **INCLUDES** any employing unit for which services

1 are 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), the provisions of  
4 subdivisions (5) and (6) shall first apply with respect to  
5 remuneration paid after December 31, 1977, for services performed  
6 after that date.

7 Enacting section 1. This amendatory act does not take effect  
8 unless all of the following bills of the 93rd Legislature are  
9 enacted into law:

10 (a) Senate Bill No.\_\_\_\_ or House Bill No. 4174(request no.  
11 01676'05).

12 (b) Senate Bill No.\_\_\_\_ or House Bill No. 4175(request no.  
13 01677'05).

14 (c) Senate Bill No.\_\_\_\_ or House Bill No. 4176(request no.  
15 01678'05).

16 (d) Senate Bill No.\_\_\_\_ or House Bill No. 4177(request no.  
17 01679'05).