



SPONSOR: Rep. Baumbach & Sen. Sturgeon
Reps. Griffith, Lambert, K. Williams; Sen. Walsh

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 258

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO DOMESTIC SERVICE EMPLOYEES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 901, Title 19 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

As used in this chapter:

(1) "Department" means the Department of Labor or its authorized representatives.

(2) "Employ" means to suffer or permit to work.

(3) "Employee" includes any individual employed by an employer but shall not ~~include~~include the following:

a. Any individual employed in ~~agriculture~~agriculture.

~~b. Any individual employed in domestic service in or about a private home;~~

~~e.b.~~ Any individual employed in a bona fide executive, administrative or professional capacity, or as an outside commission paid salesperson, not route driver, who customarily performs services away from the individual's employer's premises taking orders for goods or ~~services~~services.

~~d.c.~~ Any individual employed by the United ~~States~~States.

~~e.d.~~ Any individual engaged in the activities of an educational, charitable, religious or nonprofit organization where the employment relationship does not in fact exist or where the services are rendered to such organization ~~gratuitously~~gratuitously.

~~f.e.~~ Any individual employed in the catching, taking, propagating, harvesting, cultivating or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds or other aquatic forms of animal and vegetable life, or in the first processing, canning or packing such marine products at sea as an incident to or in conjunction with such fishing operations, including the going to and returning from work and loading and unloading when performed by any such ~~employee~~employee.

~~g.f.~~ Any individual under the age of 18 participating in and employed as a junior counselor or counselor in training (CIT) by a nonprofit organization in a summer camp program.

h.g. Any inmate in the custody of the Department of Correction and any inmate on work release who participates in the Prison Industries programs or other programs sponsored for inmates by the Department of Correction pursuant to Chapter 65 of Title 11 or other applicable Delaware law, unless said inmate is employed by an employer other than the State or a political subdivision thereof.

Section 2. Amend Part I, Title 19 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Chapter 9A. Domestic Service Workers.

§ 901A. Definition of terms.

(1) “Domestic work” means services of a household nature performed in or about a private home.

(2) “Domestic work employee” means an individual who performs domestic work. Domestic work employees may include, but are not limited to, individuals who perform live-in domestic work, companions, babysitters, cooks, waiters, butlers, valets, maids, housekeepers, nannies, nurses, janitors, laundresses, caretakers, handymen, gardeners, home health aides, personal care aides, and chauffeurs of automobiles for family use.

(3) “Employer” means as defined in § 901 of this title.

§ 902A. Overtime pay.

No employer may employ any domestic work employee in or about one or more private homes for a workweek longer than forty hours unless such employee receives compensation for any such employment in excess of eight hours in one workday or forty hours in one workweek at a rate not less than one and one-half times the regular rate at which the domestic work employee is employed.

Section 3. Amend § 2307, Title 19 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 2307. Applicability —~~Domestic servants and farm laborers.~~ Farm laborers.

(a) ~~This chapter shall not apply to any person employed as a household worker in a private home or household who earns less than \$750 in cash in any 3-month period from a single private home or household and any person employed as a casual worker in a private home or household who earns less than \$750 in cash in any 3-month period from a single private home or household.~~ [Repealed.]

SYNOPSIS

Section 1 of this Act removes domestic service workers from the definition of “employee” in Chapter 9, Title 19 of the Delaware Code pertaining to minimum wage. A domestic service worker who otherwise qualifies as an employee is entitled to a minimum wage under this Act.

Section 2 of this Act creates Chapter 9A of Title 19 of the Delaware Code, provides definitions pertaining to domestic work employees, and specifies that such employees are entitled to overtime of at least one and a half times their regular pay for working time that exceeds 8 hours in one day or 40 hours in one week.

Section 3 removes individuals who are employed in domestic work to the exception contained in Chapter 23, Title 19 of the Delaware Code pertaining to workers' compensation. A domestic service worker who otherwise qualifies as an employee rather than a contractor or other non-covered individual under Chapter 23, Title 19 of the Delaware Code is entitled to workers' compensation coverage under this Act.