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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 2248

02/27/2023

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The bill was read for the first time and referred to the Committee on Workforce Development Finance and Policy

1.1 A bill for an act
1.2 relating to unemployment; modifying the definition of noncovered employment;
1.3 amending Minnesota Statutes 2022, section 268.035, subdivision 20.

1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. Minnesota Statutes 2022, section 268.035, subdivision 20, is amended to read:

1.6 Subd. 20. **Noncovered employment.** "Noncovered employment" means:

1.7 (1) employment for the United States government or an instrumentality thereof, including
1.8 military service;

1.9 (2) employment for a state, other than Minnesota, or a political subdivision or
1.10 instrumentality thereof;

1.11 (3) employment for a foreign government;

1.12 (4) employment covered under the federal Railroad Unemployment Insurance Act;

1.13 (5) employment for a church or convention or association of churches, or a nonprofit
1.14 organization operated primarily for religious purposes that is operated, supervised, controlled,
1.15 or principally supported by a church or convention or association of churches;

1.16 (6) employment for an elementary or secondary school with a curriculum that includes
1.17 religious education that is operated by a church, a convention or association of churches,
1.18 or a nonprofit organization that is operated, supervised, controlled, or principally supported
1.19 by a church or convention or association of churches;

2.1 (7) employment for Minnesota or a political subdivision, or a nonprofit organization, of
2.2 a duly ordained or licensed minister of a church in the exercise of a ministry or by a member
2.3 of a religious order in the exercise of duties required by the order;

2.4 (8) employment for Minnesota or a political subdivision, or a nonprofit organization, of
2.5 an individual receiving rehabilitation of "sheltered" work in a facility conducted for the
2.6 purpose of carrying out a program of rehabilitation for individuals whose earning capacity
2.7 is impaired by age or physical or mental deficiency or injury or a program providing
2.8 "sheltered" work for individuals who because of an impaired physical or mental capacity
2.9 cannot be readily absorbed in the competitive labor market. This clause applies only to
2.10 services performed in a facility certified by the Rehabilitation Services Branch of the
2.11 department or in a day training or habilitation program licensed by the Department of Human
2.12 Services;

2.13 (9) employment for Minnesota or a political subdivision, or a nonprofit organization, of
2.14 an individual receiving work relief or work training as part of an unemployment work relief
2.15 or work training program financed in whole or in part by any federal agency or an agency
2.16 of a state or political subdivision thereof. This clause does not apply to programs that require
2.17 unemployment benefit coverage for the participants;

2.18 (10) employment for Minnesota or a political subdivision, as an elected official, a member
2.19 of a legislative body, or a member of the judiciary;

2.20 (11) employment as a member of the Minnesota National Guard or Air National Guard;

2.21 (12) employment for Minnesota or a political subdivision, or instrumentality thereof, of
2.22 an individual serving on a temporary basis in case of fire, flood, tornado, or similar
2.23 emergency;

2.24 (13) employment as an election official or election worker for Minnesota or a political
2.25 subdivision, if the compensation for that employment was less than \$1,000 in a calendar
2.26 year;

2.27 (14) employment for Minnesota that is a major policy-making or advisory position in
2.28 the unclassified service;

2.29 (15) employment for Minnesota in an unclassified position established under section
2.30 43A.08, subdivision 1a;

2.31 (16) employment for a political subdivision of Minnesota that is a nontenured major
2.32 policy making or advisory position;

3.1 (17) domestic employment in a private household, local college club, or local chapter
3.2 of a college fraternity or sorority, if the wages paid in any calendar quarter in either the
3.3 current or prior calendar year to all individuals in domestic employment totaled less than
3.4 \$1,000.

3.5 "Domestic employment" includes all service in the operation and maintenance of a
3.6 private household, for a local college club, or local chapter of a college fraternity or sorority
3.7 as distinguished from service as an employee in the pursuit of an employer's trade or business;

3.8 (18) employment of an individual by a son, daughter, or spouse, and employment of a
3.9 child under the age of 18 by the child's father or mother;

3.10 (19) employment of an inmate of a custodial or penal institution;

3.11 (20) employment for a school, college, or university, by a student who is enrolled and
3.12 whose primary relation to the school, college, or university is as a student. This does not
3.13 include an individual whose primary relation to the school, college, or university is as an
3.14 employee who also takes courses;

3.15 (21) employment of an individual who is enrolled as a student in a full-time program at
3.16 a nonprofit or public educational institution that maintains a regular faculty and curriculum
3.17 and has a regularly organized body of students in attendance at the place where its educational
3.18 activities are carried on, taken for credit at the institution, that combines academic instruction
3.19 with work experience, if the employment is an integral part of the program, and the institution
3.20 has so certified to the employer, except that this clause does not apply to employment in a
3.21 program established for or on behalf of an employer or group of employers;

3.22 (22) employment of a foreign college or university student who works on a seasonal or
3.23 temporary basis under the J-1 visa summer work travel program described in Code of Federal
3.24 Regulations, title 22, section 62.32;

3.25 (23) employment of university, college, or professional school students in an internship
3.26 or other training program with the city of St. Paul or the city of Minneapolis under Laws
3.27 1990, chapter 570, article 6, section 3;

3.28 (24) employment for a hospital by a patient of the hospital. "Hospital" means an institution
3.29 that has been licensed by the Department of Health as a hospital;

3.30 (25) employment as a student nurse for a hospital or a nurses' training school by an
3.31 individual who is enrolled and is regularly attending classes in an accredited nurses' training
3.32 school;

4.1 (26) employment as an intern for a hospital by an individual who has completed a
4.2 four-year course in an accredited medical school;

4.3 (27) employment as an insurance salesperson, by other than a corporate officer, if all
4.4 the wages from the employment is solely by way of commission. The word "insurance"
4.5 includes an annuity and an optional annuity;

4.6 (28) employment as an officer of a township mutual insurance company or farmer's
4.7 mutual insurance company under chapter 67A;

4.8 (29) employment of a corporate officer, if the officer directly or indirectly, including
4.9 through a subsidiary or holding company, owns 25 percent or more of the employer
4.10 corporation, and employment of a member of a limited liability company, if the member
4.11 directly or indirectly, including through a subsidiary or holding company, owns 25 percent
4.12 or more of the employer limited liability company;

4.13 (30) employment as a real estate salesperson, other than a corporate officer, if all the
4.14 wages from the employment is solely by way of commission;

4.15 (31) employment as a direct seller as defined in United States Code, title 26, section
4.16 3508;

4.17 (32) employment of an individual under the age of 18 in the delivery or distribution of
4.18 newspapers or shopping news, not including delivery or distribution to any point for
4.19 subsequent delivery or distribution;

4.20 (33) casual employment performed for an individual, other than domestic employment
4.21 under clause (17), that does not promote or advance that employer's trade or business;

4.22 (34) employment in "agricultural employment" unless it is "covered agricultural
4.23 employment" under subdivision 11; ~~or~~

4.24 (35) if employment during one-half or more of any pay period was covered employment,
4.25 all the employment for the pay period is covered employment; but if during more than
4.26 one-half of any pay period the employment was noncovered employment, then all of the
4.27 employment for the pay period is noncovered employment. "Pay period" means a period
4.28 of not more than a calendar month for which a payment or compensation is ordinarily made
4.29 to the employee by the employer; or

4.30 (36) employment of a foreign agricultural worker who works on a seasonal or temporary
4.31 basis under the H-2A visa temporary agricultural employment program described in Code
4.32 of Federal Regulations, title 20, section 655.