

HOUSE BILL 841

K3
HB 1123/20 – ECM

11r2625
CF SB 502

By: **Delegate Otto**

Introduced and read first time: January 29, 2021

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Labor and Employment – Maryland Wage and Hour Law – Agricultural Stands,**
3 **Retail Farms, and Farmers’ Markets**

4 FOR the purpose of establishing an exemption from the Maryland Wage and Hour Law for
5 an individual employed at an agricultural stand, a retail farm, or a farmers’ market
6 that primarily sells agricultural products that the employer has produced; and
7 generally relating to the Maryland Wage and Hour Law.

8 BY repealing and reenacting, with amendments,
9 Article – Labor and Employment
10 Section 3–403
11 Annotated Code of Maryland
12 (2016 Replacement Volume and 2020 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
14 That the Laws of Maryland read as follows:

15 **Article – Labor and Employment**

16 3–403.

17 This subtitle does not apply to an individual who:

18 (1) is employed in a capacity that the Commissioner defines, by regulation,
19 to be administrative, executive, or professional;

20 (2) is employed in a nonadministrative capacity at an organized camp,
21 including a resident or day camp;

22 (3) is under the age of 16 years and is employed no more than 20 hours in
23 a week;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (4) is employed as an outside salesman;

2 (5) is compensated on a commission basis;

3 (6) is a child, parent, spouse, or other member of the immediate family of
4 the employer;

5 (7) is employed in a drive-in theater;

6 (8) is employed as part of the training in a special education program for
7 emotionally, mentally, or physically handicapped students under a public school system;

8 (9) is employed by an employer who is engaged in canning, freezing,
9 packing, or first processing of perishable or seasonal fresh fruits, vegetables, or
10 horticultural commodities, poultry, or seafood;

11 (10) engages in the activities of a charitable, educational, nonprofit, or
12 religious organization if:

13 (i) the service is provided gratuitously; and

14 (ii) there is, in fact, no employer-employee relationship;

15 (11) is employed in a cafe, drive-in, drugstore, restaurant, tavern, or other
16 similar establishment that:

17 (i) sells food and drink for consumption on the premises; and

18 (ii) has an annual gross income of \$400,000 or less;

19 (12) is employed in agriculture if, during each quarter of the preceding
20 calendar year, the employer used no more than 500 agricultural-worker days;

21 (13) is engaged principally in the range production of livestock; [or]

22 (14) is employed as a hand-harvest laborer and is paid on a piece-rate basis
23 in an operation that, in the region of employment, has been and customarily and generally
24 is recognized as having been paid on that basis, if:

25 (i) the individual:

26 1. commutes daily from the permanent residence of the
27 individual to the farm where the individual is employed; and

28 2. during the preceding calendar year, was employed in
29 agriculture less than 13 weeks; or

(ii) the individual:

1. is under the age of 17;

2. is employed on the same farm as a parent of the individual
or a person standing in the place of the parent; and

3. is paid at the same rate that an employee who is at least
17 years old is paid on the same farm; **OR**

**(15) IS EMPLOYED AT AN AGRICULTURAL STAND, A RETAIL FARM, OR A
FARMERS' MARKET THAT PRIMARILY SELLS AGRICULTURAL PRODUCTS THAT THE
EMPLOYER HAS PRODUCED.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
October 1, 2021.