

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Unemployment Insurance Act is amended by
5 changing Section 225 as follows:

6 (820 ILCS 405/225) (from Ch. 48, par. 335)

7 Sec. 225. This Section, and not Section 212 of this Act,
8 controls the determination of employment status for services
9 performed by individuals in the delivery or distribution of
10 shopping news.

11 (A) The term "employment" shall not include services
12 performed by an individual under the age of eighteen in the
13 delivery or distribution of newspapers or shopping news.

14 (B) The term "employment" does not include the performance
15 of freelance editorial or photographic work for a newspaper.

16 (C) The term "employment" does not include the delivery or
17 distribution of newspapers or shopping news to the ultimate
18 consumer if:

19 (1) substantially all of the remuneration for the
20 performance of the services is directly related to sales,
21 "per piece" fees, or other output, rather than to the
22 number of hours worked; and

23 (2) the services are performed under a written contract

1 between the individual and the person or firm for whom the
2 services are performed, and the contract provides that the
3 individual will not be treated as an employee for federal
4 tax purposes. The factors to be considered in the
5 determination of employment are limited to the following
6 taken in the disjunctive, not in the conjunctive. Not every
7 factor must be satisfied in order to determine that an
8 independent contractor relationship exists.

9 (a) The individual gains the profits and bears the
10 losses of the business enterprise.

11 (b) The employing unit does not represent the
12 individual as an employee of the firm to its customers.

13 (c) The individual hires his or her own helpers or
14 employees, without the employing unit's approval, and
15 pays them without reimbursement from the employing
16 unit.

17 (d) The individual has the right to perform similar
18 services for others on whatever basis and whenever he
19 or she chooses.

20 (e) Once the individual leaves the premises of the
21 newspaper or printing plant, the individual operates
22 free from the direction and control of the newspaper,
23 except as is necessary for the newspaper to ensure
24 quality control of the newspaper, including, but not
25 limited to, the condition of the newspapers upon
26 delivery and the location and timing of delivery of the

1 newspapers.

2 ~~(3)~~ Delivery or distribution to the ultimate consumer does
3 not include:

4 (i) delivery or distribution for sale or resale,
5 including, but not limited to, distribution to a
6 newsrack or newsbox, salesperson, newsstand or retail
7 establishment;

8 (ii) distribution for further distribution,
9 regardless of subsequent sale or resale.

10 (D) Subsection (C) shall not apply in the case of any
11 individual who provides delivery or distribution services for a
12 newspaper pursuant to the terms of a collective bargaining
13 agreement and shall not be construed to alter or amend the
14 application or interpretation of any existing collective
15 bargaining agreement. Further, subsection (C) shall not be
16 construed as evidence of the existence or non-existence of an
17 employment relationship under any other Sections of this Act or
18 other existing laws.

19 (E) Subsections (B) and (C) shall not apply to services
20 that are required to be covered as a condition of approval of
21 this Act by the United States Secretary of Labor under Section
22 3304 (a) (6) (A) of the Federal Unemployment Tax Act.

23 (Source: P.A. 87-1178.)