



# House of Representatives

General Assembly

**File No. 17**

February Session, 2006

Substitute House Bill No. 5370

*House of Representatives, March 15, 2006*

The Committee on Insurance and Real Estate reported through REP. O'CONNOR of the 35th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

**AN ACT CONCERNING THE EXEMPTION OF NEWSPAPER DISTRIBUTORS FROM THE UNEMPLOYMENT COMPENSATION LAW.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subdivision (5) of subsection (a) of section 31-222 of the  
2 general statutes is repealed and the following is substituted in lieu  
3 thereof (*Effective October 1, 2006*):

4 (5) No provision of this chapter, except section 31-254, shall apply to  
5 any of the following types of service or employment, except when  
6 voluntarily assumed, as provided in section 31-223:

7 (A) Service performed by an individual in the employ of [his] the  
8 individual's son, daughter or spouse, and service performed by a child  
9 under the age of eighteen in the employ of [his] the child's father or  
10 mother;

11 (B) Service performed in the employ of the United States

12 government, any other state, any town or city of any other state, or any  
13 political subdivision or instrumentality of any of them; except that, to  
14 the extent that the Congress of the United States permits states to  
15 require any instrumentalities of the United States to make  
16 contributions to an unemployment fund under a state unemployment  
17 compensation law, all of the provisions of this chapter shall be  
18 applicable to such instrumentalities and to services performed for such  
19 instrumentalities; provided, if this state is not certified for any year by  
20 the Secretary of Labor under Section 3304 of the Federal Internal  
21 Revenue Code, the contributions required of such instrumentalities  
22 with respect to such year shall be refunded by the administrator from  
23 the fund in the same manner and within the same period as is  
24 provided in sections 31-268, 31-269, 31-270 and 31-271 with respect to  
25 contributions erroneously collected;

26 (C) Service with respect to which unemployment compensation is  
27 payable under an unemployment compensation plan established by an  
28 Act of Congress, provided the administrator is authorized to enter into  
29 agreements with the proper agencies under such Act of Congress, to  
30 provide reciprocal treatment to individuals who have, after acquiring  
31 potential rights to benefits under this chapter, acquired rights to  
32 unemployment compensation under such Act of Congress, or who  
33 have, after acquiring potential rights to unemployment compensation  
34 under such Act of Congress, acquired rights to benefits under this  
35 chapter, and provided further, in computing benefits the administrator  
36 shall disregard all wages paid by employers who fall within the  
37 definition of "employer" in Section 1(a) of the Federal Railroad  
38 Unemployment Insurance Act;

39 (D) Service performed in this state or elsewhere with respect to  
40 which contributions are required and paid under an unemployment  
41 compensation law of any other state;

42 (E) Service not in the course of the employer's trade or business  
43 performed in any calendar quarter by an employee, unless the cash  
44 remuneration paid for such service is fifty dollars or more and such

45 service is performed by an individual who is regularly employed by  
46 such employer to perform such service. For purposes of this  
47 subparagraph, an individual shall be deemed to be regularly  
48 employed by an employer during a calendar quarter only if (i) on each  
49 of some twenty-four days during such quarter such individual  
50 performs for such employer for some portion of the day service not in  
51 the course of the employer's trade or business; or (ii) such individual  
52 was so employed by such employer in the performance of such service  
53 during the preceding calendar quarter;

54 (F) Service performed in any calendar quarter in the employ of any  
55 organization exempt from income tax under Section 501(a) of the  
56 Internal Revenue Code or under Section 521 of said code excluding  
57 any organization described in Section 401(a) of said code, if the  
58 remuneration for such service is less than fifty dollars;

59 (G) Service performed in the employ of a school, college, or  
60 university if such service is performed (i) by a student who is enrolled  
61 and is regularly attending classes at such school, college or university,  
62 or (ii) by the spouse of such a student, if such spouse is advised at the  
63 time such spouse commences to perform such service, that (I) the  
64 employment of such spouse to perform such service is provided under  
65 a program to provide financial assistance to such student by such  
66 school, college or university, and (II) such employment will not be  
67 covered by any program of unemployment insurance;

68 (H) Service performed as a student nurse in the employ of a hospital  
69 or a nurses' training school chartered pursuant to state law by an  
70 individual who is enrolled and is regularly attending classes in such  
71 nurses' training school, and service performed as an intern in the  
72 employ of a hospital by an individual who has completed a four years'  
73 course in a medical school chartered or approved pursuant to state  
74 law;

75 (I) Service performed by an individual [under the age of eighteen in  
76 the delivery or distribution of] as a direct seller, as defined in 26 USC  
77 3508, or who otherwise delivers or distributes newspapers or shopping

78 news, [not including delivery or distribution to any point for  
79 subsequent delivery or distribution] including directly related services  
80 such as soliciting customers and collecting receipts, provided (i) all or  
81 substantially all of the individual's pay for such service directly relates  
82 to sales or other output rather than to the number of hours worked,  
83 and (ii) the individual performs such service under a written contract  
84 which specifies that the individual will be an independent contractor  
85 who will not be treated as an employee for federal tax purposes;

86 (J) Service performed by an individual who is enrolled, at a  
87 nonprofit or public educational institution which normally maintains a  
88 regular faculty and curriculum and normally has a regularly organized  
89 body of students in attendance at the place where its educational  
90 activities are carried on, as a student in a full-time program, taken for  
91 credit at such institution, which combines academic instruction with  
92 work experience, if such service is an integral part of such program,  
93 and such institution has so certified to the employer, except that this  
94 subparagraph shall not apply to service performed in a program  
95 established for or on behalf of an employer or group of employers;

96 (K) Service performed by an individual as an insurance agent, other  
97 than an industrial life insurance agent, and service performed by an  
98 individual as a real estate salesperson, if all such service is performed  
99 for remuneration solely by way of commission;

100 (L) Service performed in the employ of a hospital, if such service is  
101 performed by a patient of the hospital, as defined in subsection (h) of  
102 this section;

103 (M) Service performed by an individual in the employ of any town,  
104 city or other political subdivision, provided such service is performed  
105 in lieu of payment of any delinquent tax payable to such town, city or  
106 other political subdivision; and

107 (N) Service performed by an individual as an outside sales  
108 representative of a for-profit travel agency if substantially all of such  
109 service is performed outside of any travel agency premises, and all

110 such service is performed for remuneration solely by way of  
111 commission. For purposes of this subparagraph, an "outside sales  
112 representative" means an individual whose services to a for-profit  
113 travel agency are performed under such travel agency's Airlines  
114 Reporting Corporation accreditation, or the International Airlines  
115 Travel Agent Network endorsement.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2006</i>	31-222(a)(5)

**INS**      *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 07 \$	FY 08 \$
Labor Dept.	Unemployment Compensation Fund - Revenue Loss	See Below	See Below

**Municipal Impact:** None

**Explanation**

The bill classifies a newspaper distributor, regardless of age, as an independent contractor instead of an employee, and exempts them from Connecticut’s unemployment compensation law. The exclusion means that these independent contractors cannot collect unemployment benefits. Since these independent contractors are not employees, the newspapers would not have to pay unemployment taxes, which would result in a revenue loss to the Unemployment Compensation Fund. The amount of the loss on a percentage basis of the fund is not significant.

**The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

**OLR Bill Analysis**  
**sHB 5370****AN ACT CONCERNING THE EXEMPTION OF NEWSPAPER DISTRIBUTORS FROM THE UNEMPLOYMENT COMPENSATION LAW.****SUMMARY:**

This bill treats newspaper distributors and delivery people, regardless of their age, as independent contractors instead of employees, excluding them from Connecticut's unemployment compensation law. (Newspaper distributors are exempt under federal tax law.) This means that the carrier cannot collect unemployment compensation benefits based on his work as a newspaper carrier and his employer does not have to pay unemployment compensation tax for him.

Under current law, the definition of "employment" for purposes of the unemployment compensation excludes services performed by an individual under age 18 in the delivery of newspapers. The bill (1) eliminates the age 18 restriction and (2) changes the exclusion to services performed by an individual who is a direct seller, as defined by federal tax law.

EFFECTIVE DATE: October 1, 2006

**DIRECT SELLER**

The bill exempts from unemployment compensation requirements the services of a person who delivers newspapers or shopping news, including directly related services (e.g., soliciting customers and collecting receipts), as long as (1) all or substantially all of his pay directly relates to sales or output instead of a number of hours worked and (2) he works pursuant to a written contract that specifies he is an independent contractor who will not be treated as an employee for federal tax purposes.

**COMMITTEE ACTION**

Insurance and Real Estate Committee

Joint Favorable Substitute

Yea 15 Nay 4 (03/07/2006)