



House of Representatives

General Assembly

File No. 364

January Session, 2013

House Bill No. 6432

House of Representatives, April 4, 2013

The Committee on Labor and Public Employees reported through REP. TERCYAK of the 26th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING HOMEMAKER SERVICES AND HOMEMAKER COMPANION AGENCIES.

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

1 Section 1. (NEW) (*Effective January 1, 2014*) For purposes of chapter
2 567 of the general statutes, a homemaker-companion agency, as
3 defined in section 20-670 of the general statutes, registry, as defined in
4 section 20-670 of the general statutes, or homemaker-home health aide
5 agency, as defined in section 19a-490 of the general statutes, shall be
6 deemed the employer of any individual such agency or registry
7 supplies or refers to a consumer to provide (1) homemaker services, as
8 defined in section 20-670 of the general statutes, (2) companion
9 services, as defined in section 20-670 of the general statutes, or (3)
10 homemaker-home health aide services, as defined in section 19a-490 of
11 the general statutes, and such agency or registry shall be liable for the
12 payment of unemployment contributions for such individual during
13 the duration of time he or she provides said services to the consumer.

14 Sec. 2. (NEW) (*Effective January 1, 2014*) For purposes of chapter 558

15 of the general statutes, a homemaker-companion agency, as defined in
16 section 20-670 of the general statutes, registry, as defined in section 20-
17 670 of the general statutes, or homemaker-home health aide agency, as
18 defined in section 19a-490 of the general statutes, shall be deemed the
19 employer of any individual such agency or registry supplies or refers
20 to a consumer to provide (1) homemaker services, as defined in section
21 20-670 of the general statutes, (2) companion services, as defined in
22 section 20-670 of the general statutes, or (3) homemaker-home health
23 aide services, as defined in section 19a-490 of the general statutes, and
24 such agency or registry shall be responsible for the payment of wages
25 to such individual during the duration of time he or she provides said
26 services to the consumer.

27 Sec. 3. (NEW) (*Effective January 1, 2014*) (a) As used in this section:

28 (1) "Homemaker-companion agency" means homemaker-
29 companion agency, as defined in section 20-670 of the general statutes;

30 (2) "Registry" means registry, as defined in section 20-670 of the
31 general statutes;

32 (3) "Homemaker-home health aide agency" means homemaker-
33 home health aide agency, as defined in section 19a-490 of the general
34 statutes;

35 (4) "Homemaker services" means homemaker services, as defined in
36 section 20-670 of the general statutes;

37 (5) "Companion services" means companion services, as defined in
38 section 20-670 of the general statutes;

39 (6) "Homemaker-home health aide services" means homemaker-
40 home health aide services, as defined in section 19a-490 of the general
41 statutes;

42 (7) "Consumer" means an individual receiving homemaker services,
43 companion services or homemaker-home health aide services from a
44 homemaker-companion agency, registry or homemaker-home health

45 aide agency; and

46 (8) "Covered provider" means a homemaker-companion agency,
47 registry, or homemaker-home health aide agency providing
48 homemaker services, companion services or homemaker-home health
49 aide services.

50 (b) For purposes of chapter 568 of the general statutes, any
51 individual a covered provider supplies or refers to a consumer to
52 provide homemaker services, companion services or homemaker-
53 home health aide services shall be deemed an employee of (1) such
54 covered provider, except as provided in subdivision (2) of this
55 subsection, and such covered provider, regardless of the number of
56 hours the individual works, shall be liable for compensation under
57 chapter 568 of the general statutes for such individual during the
58 duration of time he or she provides said services to the consumer, and
59 (2) such consumer solely for the purposes of subsection (a) of section
60 31-284 of the general statutes, and such consumer shall be deemed to
61 be in compliance with subsection (b) of said section, except that the
62 requirements of subsection (b) of said section 31-284 shall be the
63 responsibility of the covered provider.

64 (c) The consumer's exemption from liability under subsection (a) of
65 section 31-284 of the general statutes, including any liability for third-
66 party lawsuits commenced pursuant to subsection (a) of section 31-293
67 of the general statutes, shall be extended to (1) members of the
68 consumer's immediate family or household, and (2) any individual
69 acting as a conservator of the person, as defined in section 45a-644 of
70 the general statutes or acting under other legal authority to make
71 decisions for the consumer regarding their medical or personal care.

72 Sec. 4. Subdivision (9) of section 31-275 of the general statutes is
73 repealed and the following is substituted in lieu thereof (*Effective*
74 *January 1, 2014*):

75 (9) (A) "Employee" means any person who:

76 (i) Has entered into or works under any contract of service or
77 apprenticeship with an employer, whether the contract contemplated
78 the performance of duties within or without the state;

79 (ii) Is a sole proprietor or business partner who accepts the
80 provisions of this chapter in accordance with subdivision (10) of this
81 section;

82 (iii) Is elected to serve as a member of the General Assembly of this
83 state;

84 (iv) Is a salaried officer or paid member of any police department or
85 fire department;

86 (v) Is a volunteer police officer, whether the officer is designated as
87 special or auxiliary, upon vote of the legislative body of the town, city
88 or borough in which the officer serves;

89 (vi) Is an elected or appointed official or agent of any town, city or
90 borough in the state, upon vote of the proper authority of the town,
91 city or borough, including the elected or appointed official or agent,
92 irrespective of the manner in which he or she is appointed or
93 employed. Nothing in this subdivision shall be construed as affecting
94 any existing rights as to pensions which such persons or their
95 dependents had on July 1, 1927, or as preventing any existing custom
96 of paying the full salary of any such person during disability due to
97 injury arising out of and in the course of his or her employment;

98 (vii) Is an officer or enlisted person of the National Guard or other
99 armed forces of the state called to active duty by the Governor while
100 performing his or her active duty service; or

101 (viii) Is elected to serve as a probate judge for a probate district
102 established in section 45a-2.

103 (B) "Employee" shall not be construed to include:

104 (i) Any person to whom articles or material are given to be treated

105 in any way on premises not under the control or management of the
 106 person who gave them out;

107 (ii) One whose employment is of a casual nature and who is
 108 employed otherwise than for the purposes of the employer's trade or
 109 business;

110 (iii) A member of the employer's family dwelling in his house; but,
 111 if, in any contract of insurance, the wages or salary of a member of the
 112 employer's family dwelling in his house is included in the payroll on
 113 which the premium is based, then that person shall, if he sustains an
 114 injury arising out of and in the course of his employment, be deemed
 115 an employee and compensated in accordance with the provisions of
 116 this chapter;

117 (iv) [Any] Except as provided in section 3 of this act, any person
 118 engaged in any type of service in or about a private dwelling provided
 119 he is not regularly employed by the owner or occupier over twenty-six
 120 hours per week;

121 (v) An employee of a corporation who is a corporate officer and
 122 who elects to be excluded from coverage under this chapter by notice
 123 in writing to his employer and to the commissioner; or

124 (vi) Any person who is not a resident of this state but is injured in
 125 this state during the course of his employment, unless such person (I)
 126 works for an employer who has a place of employment or a business
 127 facility located in this state at which such person spends at least fifty
 128 per cent of his employment time, or (II) works for an employer
 129 pursuant to an employment contract to be performed primarily in this
 130 state.

This act shall take effect as follows and shall amend the following sections:		
Section 1	January 1, 2014	New section
Sec. 2	January 1, 2014	New section
Sec. 3	January 1, 2014	New section

Sec. 4	<i>January 1, 2014</i>	31-275(9)
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LAB *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 14 \$	FY 15 \$
Labor Dept.	Unemployment Compensation Fund - Revenue Gain/Cost	Net Revenue Gain	Net Revenue Gain
Labor Dept.	Various - Revenue Gain	Potential	Potential

Municipal Impact: None

Explanation

The bill brings homemaker-companion agencies, registries, and homemaker-home health aide agencies under the unemployment compensation, wage, and workers' compensation laws.

There is a net revenue gain to the Unemployment Compensation Fund associated with the bill's provisions. The revenue gain is associated with these businesses paying unemployment compensation taxes. This is partially offset by the payment of benefits to workers who would be eligible for benefits if the bill passed. The extent of the net revenue gain is unclear, as it is not known how many of these businesses are currently not paying unemployment taxes or how many workers the bill extends eligibility for unemployment benefits to.

There is an additional potential revenue gain to various Department of Labor funds, including the General Fund, associated with the bill's provisions regarding wage laws. The bill expands the population of businesses and workers over which wage laws apply. To the extent that this increases the number of fines levied, there would be a revenue

increase.

The Out Years

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

OLR Bill Analysis**HB 6432*****AN ACT CONCERNING HOMEMAKER SERVICES AND HOMEMAKER COMPANION AGENCIES.*****SUMMARY:**

This bill brings homemaker-companion agencies, registries, and homemaker-home health aide agencies under the unemployment compensation, wage, and workers' compensation laws. It designates the agencies and registries as the employers of the individuals they provide for homemaker, companion, and homemaker-home health aide services, making the agencies and registries responsible for meeting an employer's obligations under these laws (e.g. paying unemployment taxes, meeting minimum and overtime wage requirements, and obtaining workers' compensation insurance). Under current law, a consumer receiving these services could be required to meet these obligations as the employer of the, companion, or homemaker-health aide.

The bill also provides an employer's liability protection under workers' compensation law to the consumer receiving homemaker, companion, or homemaker-home health aide services from the agencies and registries.

EFFECTIVE DATE: January 1, 2014

HOMEMAKER AND COMPANION SERVICES

Under existing law and the bill, homemaker services are nonmedical, supportive services that ensure a safe and healthy environment in a person's home (e.g., assistance with personal hygiene, cooking, or household chores). Companion services are nonmedical, basic supervision services to ensure a person's well-being

and safety in his or her home.

Homemaker-companion agencies are public or private businesses that provide homemaker or companion services. Registries are businesses that supply or refer homemakers or companions to a consumer who (1) partially or totally compensates the homemaker or companion directly or (2) treats, refers to, or considers the homemaker or companion as an independent contractor.

HOMEMAKER HEALTH AIDE SERVICES

Under existing law and the bill, homemaker health aide services are in-home supportive services similar to homemaker services, but provided under a registered nurse's supervision. Homemaker-home health aide agencies are public or private organizations that provide homemaker-home health aide services. They do not include home health care agencies, which provide professional nursing services available 24 hours per day.

WORKERS' COMPENSATION LIABILITY

The bill requires homemaker-companion agencies, registries, and homemaker-home health aide agencies to provide workers' compensation insurance coverage for the individuals they provide to consumers, regardless of how many hours the person works (current law exempts people who work less than 26 hours in a private dwelling from workers' compensation coverage).

By law, an employee cannot sue his or her employer over a work-related injury if the employer maintained workers' compensation insurance for the employee. The bill provides this liability protection to a consumer receiving homemaker, companion, or homemaker-home health aide services from an agency or registry. It also extends this protection, including liability for third-party suits, to the consumer's (1) immediate family or household, (2) probate court appointed conservator, and (3) legally authorized medical or personal care decision maker. It is unclear if the agency or registry also receives this liability protection for providing workers' compensation insurance for

the homemaker, companion, or homemaker-home health aide.

BACKGROUND

Related Bill

SB 518, reported favorably by the Aging Committee and Labor and Public Employees Committee, establishes a task force to study if homemaker-companion registries should be required to pay for unemployment insurance and workers' compensation insurance for the homemaker-companions they provide to consumers.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable

Yea 6 Nay 4 (03/19/2013)