CHAPTER NO. <u>67</u>

HOUSE BILL NO. 159

INTRODUCED BY HARPER

BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

IN THE HOUSE

| January 13, 1979 | Introduced and referred to |
|------------------|----------------------------|
| | Committee on Labor and |
| | Employment Relations. |

- January 23, 1979 Committee recommend bill do pass as amended and be placed on Consent Calendar. Report adopted.
- January 24, 1979 Printed and placed on members' desks.
- January 26, 1979 Third reading Consent Calendar passed. Transmitted to second house.

IN THE SENATE

| January 27, 1979 | Introduced and referred to Committee on Labor and Employment Relations. |
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| February 22, 1979 | Committee recommend bill be concurred in. Report adopted. |
| February 27, 1979 | Second reading, concurred in. |
| March 1, 1979 | Third reading, concurred in. |

IN THE HOUSE

March 2, 1979

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Returned from second house, concurred in. Sent to enrolling.

Reported correctly enrolled.

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LC 0787/01

HOLDE BILL NO. 159 1 INTRODUCED BY ______ 2 BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY 3 4 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO EXEMPT FROM 6 UNEMPLOYMENT COMPENSATION COVERAGE CASUAL LABOR OF LESS THAN 7 \$50 PER QUARTER WHEN SUCH CASUAL LABOR IS NOT IN THE COURSE OF THE EMPLOYER'S TRADE OR BUSINESS AND WHEN THE INDIVIDUAL 8 IS NOT REGULARLY EMPLOYED BY SUCH EMPLOYER; AMENOING SECTION 9 10 39-51-204. MCA.* 11 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 13 Section 1. Section 39-51-204, MCA, is amended to read: 14 #39-51-204. Exclusions from definition of employment. (1) The term "employment" shall not include: 15 16 (a) agricultural labor, except as provided in 17 39-51-203(8); (b) domestic service in a private home, local college 18 club, or local chapter of a college fraternity or sorority, 19 except as provided in 39-51-203(9); 20 (c) service performed as an officer or member of the 21 crew of a vessel on the navigable waters of the United 22 23 States; (d) service performed by an individual in the employ 24

of his son, daughter, or spouse and service performed by a

1 child under the age of 18 in the employ of his father or 2 mother:

(e) service performed in the employ of any other state 3 4 or its political subdivisions or of the United States government or of an instrumentality of any other state or 5 states or their political subdivisions or of the United 6 States, except that national banks organized under the 7 national banking law shall not be entitled to exemption я under this subsection and shall be subject to this chapter 9 10 the same as state banks, provided that such service is excluded from employment as defined in the Federal 11 Unemployment Tax Act by section 3306(c)(7) of that act; 12

(f) service with respect to which unemployment 13 14 compensation is payable under an unemployment compensation system established by an act of congress, provided that the 15 16 division is hereby authorized and directed to enter into 17 agreements with the proper agencies under such act of congress, which agreements shall become effective 10 days 18 19 after publication thereof in the manner in 39-51-302 for general rules, to provide reciprocal treatment to 20 21 individuals who have, after acquiring potential rights to benefits under this chapter, acquired rights to unemployment 22 compensation under such act of congress or who have, after 23 acquiring potential rights to unemployment compensation 24 under such act of congress, acquired rights to benefits 25

-2- HB 159 INTRODUCED BILL

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1 under this chapter:

2 (q) services performed in the deliverv and 3 distribution of newspapers or shopping news from house to 4 house and business establishments by an individual under the age of 18 years, but not including the delivery or 5 distribution to any point or points for subsequent delivery 6 7 or distribution;

8 (h) services performed by real estate, securities, and 9 insurance salesmen paid solely by commissions and without 10 guarantee of minimum earnings;

11 (i) service performed in the employ of a school. 12 college, or university if such service is performed by a 13 student who is enrolled and is regularly attending classes 14 at such school, college, or university or by the spouse of 15 such a student if such spouse is advised, at the time such spouse commences to perform such service, that the 16 17 employment of such spouse to perform such service is 18 provided under a program to provide financial assistance to 19 such student by such school, college, or university and such 20 employment will not be covered by any program of 21 unemployment insurance:

22 (j) service performed by an individual under the age of 22 who is enrolled at a nonprofit or public educational 23 24 institution, which normally maintains a regular faculty and 25 curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, as a student in a full-time

program taken for credit at such institution which combines academic instruction with work experience if such service is 4 5 an integral part of such program and such institution has so certified to the employer, except that this subsection shall 6 7 not apply to service performed in a program established for 8 or on behalf of an employer or group of employers;

9 (k) service performed in the employ of a hospital if

such service is performed by a patient of the hospital#: 10

12 trade or business performed in any calendar quarter, unless

[]] casual labor not in the course of an employer's

13 the cash remuneration paid for such service is \$50 or more

14 and such service is not performed by an individual who is

15 regularly employed by such employer to perform such services.

16 (2) "Employment" shall not include elected public officials. 17

(3) For the purposes of 39-51-203(6), the term 18 19 "employment" does not apply to service performed:

20 (a) in the employ of a church or convention or association of churches or an organization which is operated 21 primarily for religious purposes and which is operated, 22 supervised, controlled, or principally supported by a church 23

or convention or association of churches; 24

(b) by a duly ordained, commissioned, or licensed 25

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minister of a church in the exercise of his ministry or by a
 member of a religious order in the exercise of duties
 required by such order;

(c) in the employ of a school which is not an 4 institution of higher education, prior to December 31, 1977; 5 6 (d) in a facility conducted for the purpose of 7 carrying out a program of rehabilitation for individuals 8 whose earning capacity is impaired by age or physical or 9 mental deficiency or injury or providing remunerative work for individuals who, because of their impaired physical or 10 11 mental capacity, cannot be readily absorbed in the competitive labor market by an individual receiving such 12 rehabilitation or remunerative work; 13

(e) as part of an unemployment work-relief or
work-training program assisted or financed in whole or in
part by a federal agency or any agency of a state or
political subdivision thereof by an individual receiving
such work relief or work training; or

(f) for a state prison or other state correctional or
custodial institution by an inmate of that institution.*

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46th Legislature

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HB 0159/02

Approved by Committee on Labor & Employment Relations

| 1 | HOUSE BILL NO. 159 |
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| 2 | INTRODUCED BY HARPER |
| 3 | BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY |
| 4 | |
| 5 | A BILL FOR AN ACT ENTITLED: "AN ACT TO EXEMPT FROM |
| 6 | UNEMPLOYMENT COMPENSATION COVERAGE CASUAL LABOR OF LESS THAN |
| 7 | \$50 PER QUARTER WHEN SUCH CASUAL LABOR IS NOT IN THE COURSE |
| 8 | OF THE EMPLOYER'S TRADE OR BUSINESS AND WHEN THE INDIVIDUAL |
| 9 | IS NOT REGULARLY EMPLOYED BY SUCH EMPLOYER; AMENDING SECTION |
| 10 | 39-51-204. MCA." |
| 11 | |
| 12 | BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: |
| 13 | Section 1. Section 39-51-204, MCA, is amended to read: |
| 14 | "39-51-204. Exclusions from definition of employment. |
| 15 | (1) The term "employment" shall not include: |
| 16 | (a) agricultural labor, except as provided in |
| 17 | 39-51-203(8); |
| 18 | (b) domestic service in a private home, local college |
| 19 | club+ or local chapter of a college fraternity or sorority+ |
| 20 | except as provided in 39-51-203(9); |
| 21 | (c) service performed as an officer or member of the |
| 22 | crew of a vessel on the navigable waters of the United |
| 23 | States; |
| 24 | (d) service performed by an individual in the employ |

25 of his son, daughter, or spouse and service performed by a 1 child under the age of 18 in the employ of his father or 2 mother:

(e) service performed in the employ of any other state 3 or its political subdivisions or of the United States 4 5 government or of an instrumentality of any other state or 6 states or their political subdivisions or of the United States, except that national banks organized under the 7 8 national banking law shall not be entitled to exemption 9 under this subsection and shall be subject to this chapter 10 the same as state banks, provided that such service is 11 excluded from employment as defined in the Federal 12 Unemployment Tax Act by section 3306(c)(7) of that act;

13 (f) service with respect to which unemployment compensation is payable under an unemployment compensation 14 15 system established by an act of congress, provided that the 15 division is hereby authorized and directed to enter into 17 agreements with the proper agencies under such act of 18 congress, which agreements shall become effective 10 days 19 after publication thereof in the manner in 39-51-302 for 20 general rules, to provide reciprocal treatment to 21 individuals who have, after acquiring potential rights to 22 benefits under this chapter, acquired rights to unemployment 23 compensation under such act of congress or who have, after 24 acquiring potential rights to unemployment compensation 25 under such act of congress, acquired rights to benefits

> -2-CONSENT CALENDAR

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1 under this chapter;

2 (g) services performed in the delivery and
3 distribution of newspapers or shopping news from house to
4 house and business establishments by an individual under the
5 age of 18 years, but not including the delivery or
6 distribution to any point or points for subsequent delivery
7 or distribution;

8 (h) services performed by real estate: securities: and
 9 insurance salesmen paid solely by commissions and without
 10 guarantee of minimum earnings;

(i) service performed in the employ of a school+ 11 12 college, or university if such service is performed by a 13 student who is enrolled and is regularly attending classes 14 at such school, college, or university or by the spouse of 15 such a student if such spouse is advised, at the time such 16 spouse commences to perform such service, that the 17 employment of such spouse to perform such service is provided under a program to provide financial assistance to 18 19 such student by such school, college, or university and such 20 employment will not be covered by any program of 21 unemployment insurance;

(j) service performed by an individual under the age of 22 who is enrolled at a nonprofit or public educational institution, which normally maintains a regular faculty and curriculum and normally has a regularly organized body of

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| 1 | students in attendance at the place where its educational |
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| 2 | activities are carried on, as a student in a full-time |
| 3 | program taken for credit at such institution which combines |
| 4 | academic instruction with work experience if such service is |
| 5 | an integral part of such program and such institution has so |
| 6 | certified to the employer, except that this subsection shall |
| 7 | not apply to service performed in a program established for |
| 8 | or on behalf of an employer or group of employers; |
| 9 | (k) service performed in the employ of a hospital if |
| 10 | such service is performed by a patient of the hospitalw <u>:</u> |
| 11 | <pre>(ii) casual labor not in the course of an employer's</pre> |
| 12 | <u>trade or business performed in any calendar quarter. unless</u> |
| | the each remuneration and for each remules is \$50 or each |
| 13 | the cash repuneration paid for such service is \$50 or more |
| 13 | and_such_service_is not performed_by_an_individual_whois |
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| 14 | and such service is not performed by an individual who is |
| 14 15 | and such service is not parformed by an individual who is regularly employed by such employer to parform such service. |
| 14 15 16 | and such service is not performed by an individual who is regularly employed by such employer to perform such services {2} "Employment" shall not include elected public |
| 14 15 16 17 | and such service is not performed by an individual who is regularly employed by such employer to perform such service. {2} "Employment" shall not include elected public officials. |
| 14 15 16 17 18 | and such service is not performed by an individual who is regularly employed by such employer to perform such services {2} "Employment" shall not include elected public officials. {3} For the purposes of 39-51-203(6), the term |
| 14 15 16 17 18 19 | and such service is not performed by an individual who is regularly employed by such employer to perform such services {2} "Employment" shall not include elected public officials. {3} For the purposes of 39-51-203(6), the term "employment" does not apply to service performed: |
| 14 15 16 17 18 19 20 | and such service is not parformed by an individual who is regularly employed by such employer to parform such services (2) "Employment" shall not include elected public officials. (3) For the purposes of 39-51-203(6), the term "employment" does not apply to service performed: (a) in the employ of a church or convention or |
| 14 15 16 17 18 19 20 21 | and such service is not performed by an individual who is regularly employed by such employer to perform such services {2} "Employment" shall not include elected public officials. {3} For the purposes of 39-51-203(6), the term "employment" does not apply to service performed: {a} in the employ of a church or convention or association of churches or an organization which is operated |
| 14 15 16 17 18 19 20 21 22 | and such service is not performed by an individual who is regularly employed by such employer to perform such services {2} "Employment" shall not include elected public officials. {3} For the purposes of 39-51-203(6), the term "employment" does not apply to service performed: {a} in the employ of a church or convention or association of churches or an organization which is operated primarily for religious purposes and which is operated, |

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minister of a church in the exercise of his ministry or by a
 member of a religious order in the exercise of duties
 required by such order;

4 (c) in the employ of a school which is not an 5 institution of higher education, prior to December 31, 1977; (d) in a facility conducted for the purpose of 6 7 carrying out a program of rehabilitation for individuals 8 whose earning capacity is impaired by age or physical or 9 mental deficiency or injury or providing remunerative work for individuals who, because of their impaired physical or 10 11 mental capacity, cannot be readily absorbed in the 12 competitive labor market by an individual receiving such 13 renabilitation or remunerative work;

(e) as part of an unemployment work-relief or
work-training program assisted or financed in whole or in
part by a federal agency or any agency of a state or
political subdivision thereof by an individual receiving
such work relief or work training; or

(f) for a state prison or other state correctional or
 custodial institution by an inmate of that institution."

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HB 0159/03

| 1 | HOUSE BILL NO. 159 | L | chi |
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| 2 | INTRODUCED BY HARPER | 2 | sot |
| 3 | BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY | 3 | |
| 4 | | 4 | or |
| 5 | A BILL FOR AN ACT ENTITLED: "AN ACT TO EXEMPT FROM | 5 | gov |
| 6 | UNEMPLOYMENT COMPENSATION COVERAGE CASUAL LABOR OF LESS THAN | 6 | sta |
| 7 | \$50 PER QUARTER WHEN SUCH CASUAL LABOR IS NOT IN THE COURSE | 7 | Sta |
| 8 | OF THE EMPLOYER'S TRADE OR BUSINESS AND WHEN THE INDIVIDUAL | 8 | nat |
| 9 | IS NOT REGULARLY EMPLOYED BY SUCH EMPLOYER; AMENDING SECTION | 9 | und |
| 10 | 39-51-204, MCA." | 10 | the |
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| 12 | BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: | 12 | Une |
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| 16 | (a) agricultural labor, except as provided in | 16 | div |
| 17 | 39-51-203{8}; | 17 | agri |
| 18 | (b) domestic service in a private home, local college | 18 | con |
| 19 | club, or local chapter of a college fraternity or sorority. | 19 | afte |
| 20 | except as provided in 39-51-203(9); | 20 | gen |
| 21 | (c) service performed as an officer or member of the | 21 | ind |
| 22 | crew of a vessel on the navigable waters of the United | 22 | ben |
| 23 | States; | 23 | COM |
| 24 | (d) service performed by an individual in the employ | 24 | acq |
| 25 | of his son, daughter, or spouse and service performed by a | 25 | unde |
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1 child under the age of 18 in the employ of his father or 2 mother;

3 (e) service performed in the employ of any other state 4 or its political subdivisions or of the United States 5 government or of an instrumentality of any other state or 6 states or their political subdivisions or of the United 7 States, except that national banks organized under the 8 national banking law shall not be entitled to exemption 9 under this subsection and shall be subject to this chapter 10 the same as state banks, provided that such service is 11 excluded from employment as defined in the Federal 12 Unemployment Tax Act by section 3306(c)(7) of that act;

13 (f) service with respect to which unemployment 14 compensation is payable under an unemployment compensation 15 system established by an act of congress, provided that the 16 division is hereby authorized and directed to enter into 17 agreements with the proper agencies under such act of 18 congress, which agreements shall become effective 10 days 19 after publication thereof in the manner in 39-51-302 for 20 general rules, to provide reciprocal treatment to 21 individuals who have, after acquiring potential rights to 22 benefits under this chapter, acquired rights to unemployment 23 compensation under such act of congress or who have, after 24 acquiring potential rights to unemployment compensation 25 under such act of congress, acquired rights to benefits

> -2- HOUSE CONSENT CALENDAR SENATE REFERENCE BILL

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1 under this chapter;

2 (g) services performed in the delivery and 3 distribution of newspapers or shopping news from house to 4 house and business establishments by an individual under the 5 age of 18 years, but not including the delivery or 6 distribution to any point or points for subsequent delivery 7 or distribution;

8 (h) services performed by real estate, securities, and
 9 insurance salesmen paid solely by commissions and without
 10 guarantee of minimum earnings;

11 (i) service performed in the employ of a school. 12 college, or university if such service is performed by a 13 student who is enrolled and is regularly attending classes 14 at such school, college, or university or by the spouse of 15 such a student if such spouse is advised, at the time such spouse commences to perform such service, that the 16 17 employment of such spouse to perform such service is provided under a program to provide financial assistance to 18 19 such student by such school, college, or university and such 20 employment will not be covered by any program of unemployment insurance: 21

(j) service performed by an individual under the age of 22 who is enrolled at a nonprofit or public educational institution, which normally maintains a regular faculty and curriculum and normally has a regularly organized body of

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students in attendance at the place where its educational 1 activities are carried on, as a student in a full-time 2 program taken for credit at such institution which combines 3 academic instruction with work experience if such service is an integral part of such program and such institution has so certified to the employer, except that this subsection shall 6 not apply to service performed in a program established for 7 or on behalf of an employer or group of employers; 8 (k) service performed in the employ of a hospital if 9 such service is performed by a patient of the hospitalwi 10 11 (1) casual labor not in the course of an employer's trade_or_business_performed_in_any_calendar_ouarter,__unless 12 13 the cash resuperation paid for such service is \$50 or more and such service is not performed by an individual who is 14 15 regularly employed by such employer to perfore such service. 16 (2) "Employment" shall not include elected public 17 officials. (3) For the purposes of 39-51-203(6), the term 18 19 "employment" does not apply to service performed: 20 (a) in the employ of a church or convention or 21 association of churches or an organization which is operated primarily for religious purposes and which is operated. 22 supervised, controlled, or principally supported by a church 23 or convention or association of churches; 24

25 (b) by a duly ordained, commissioned, or licensed

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minister of a church in the exercise of his ministry or by a
 member of a religious order in the exercise of duties
 required by such order;

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(c) in the employ of a school which is not an 4 5 institution of higher education, prior to December 31, 1977; (d) in a facility conducted for the purpose of 6 1 carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or 8 9 mental deficiency or injury or providing remunerative work 10 for individuals who, because of their impaired physical or mental capacity, cannot be readily absorbed in the 11 competitive labor market by an individual receiving such 12 rehabilitation or remunerative work; 13

14 (e) as part of an unemployment work-relief or 15 work-training program assisted or financed in whole or in 16 part by a federal agency or any agency of a state or 17 political subdivision thereof by an individual receiving 18 such work relief or work training; or

19 (f) for a state prison or other state correctional or
20 custodial institution by an inmate of that institution."

-End-

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