

SENATE BILL 403

K3

0lr0436
CF HB 1123

By: **Senators Carozza, Miller, Gallion, Hester, and West**

Introduced and read first time: January 27, 2020

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 3, 2020

CHAPTER _____

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 ~~at retail certain items~~ agricultural products that the employer
7 has produced; and 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 2019 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;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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

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

5 (4) is employed as an outside salesman;

6 (5) is compensated on a commission basis;

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

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

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

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

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

17 (i) the service is provided gratuitously; and

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

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

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

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

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

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

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

29 (i) the individual:

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

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

5 (ii) the individual:

6 1. is under the age of 17;

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

9 3. is paid at the same rate that an employee who is at least
10 17 years old is paid on the same farm; OR

11 **(15) IS EMPLOYED AT AN AGRICULTURAL STAND, A RETAIL FARM, OR A**
12 **FARMERS' MARKET THAT PRIMARILY SELLS ~~AT RETAIL PERISHABLE OR SEASONAL~~**
13 **~~FRESH FRUITS, VEGETABLES, OR HORTICULTURAL COMMODITIES~~ AGRICULTURAL**
14 **PRODUCTS THAT THE EMPLOYER HAS PRODUCED.**

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 October 1, 2020.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.