

CONGRESSIONAL RECORD

HR. REP. 98-570(I)

THE DEFINITION OF 'EMPLOYEE' ALSO EXCLUDES (AT SECTION 2(3)(C) OF THE ACT AS AMENDED) INDIVIDUALS WHO ARE EMPLOYED BY SUPPLIERS, TRANSPORTERS AND VENDORS AND WHO ARE TEMPORARILY ON THE PREMISES OF THE EMPLOYER. ONLY EMPLOYEES OF SUCH VENDORS, SUPPLIERS AND TRANSPORTERS TEMPORARILY DOING BUSINESS ON THE EMPLOYER'S PREMISES AND WHO ARE ENGAGED IN WORK WHICH WOULD NOT NORMALLY BE DONE BY EMPLOYEES OF THE EMPLOYER WOULD QUALIFY FOR THIS EXEMPTION. THE COMMITTEE HAS ADDED THIS LAST PROVISIO TO THE SENATE LANGUAGE ('(III) ARE NOT ENGAGED IN WORK NORMALLY PERFORMED BY EMPLOYEES OF THAT EMPLOYER UNDER THIS ACT ') SPECIFICALLY TO INSURE THAT SUBCONTRACTING IS NOT USED AS A DEVICE BY WHICH WORK, WHICH MIGHT BE PERFORMED BY COVERED EMPLOYEES, MAY BE DONE BY EMPLOYEES OF SUPPLIERS OR VENDORS IN ORDER TO EVADE THE COVERAGE OF THIS ACT.

ALL OF THE EXEMPTIONS FROM THE DEFINITION OF 'EMPLOYEE' FOUND IN SECTION 2(A) OF THE BILL ARE APPLICABLE ONLY TO THE EXTENT THAT THE EXEMPTED WORKERS WOULD BE COVERED BY THE WORKERS' COMPENSATION LAW OF THE STATE IN WHICH THEY ARE EMPLOYED. IF THE STATE LAW DOES NOT COVER SUCH WORKERS FOR ANY REASON, THEY WOULD REMAIN UNDER THE COVERAGE OF THE LONGSHORE ACT.

THE COMMITTEE UNDERSCORES THAT THESE EXCLUSIONS FROM THE DEFINITION OF 'EMPLOYEE' CONTAINED IN THE AMENDMENTS TO SECTION 2(3) OF THE ACT, AND THE AMENDMENTS TO SECTION 3 OF THE ACT (DISCUSSED, BELOW) ARE INTENDED TO BE NARROWLY CONSTRUED. EXCEPT AS SPECIFICALLY DETAILED IN THOSE AMENDMENTS, IT IS THE INTENTION OF THE COMMITTEE NEITHER TO EXPAND NOR TO CONTRACT THE CURRENT COVERAGE OF THE LONGSHORE ACT. THIS COMMITTEE CONCURS WITH THE VIEW OF THE SENATE COMMITTEE ON LABOR AND HUMAN RESOURCES IN THIS REGARD, WHICH STATED ' . . . WITH THE COMMITTEE MAKING ONLY LIMITED CHANGES TO (THESE SECTIONS) OF THE ACT, IT IS OBVIOUS THAT A LARGE BODY OF DECISIONAL LAW RELATIVE TO TRADITIONAL MARITIME EMPLOYERS AND HARBOR WORKERS REMAINS UNDISTURBED. ' (SENATE COMMITTEE ON EDUCATION AND LABOR, REPORT TO ACCOMPANY S. 38, REPORT NO. 98-81, 98TH CONGRESS, FIRST SESSION, P. 26.)

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