

HARRY HUGHES, Governor

2321

under Senate Bill 199, those employers within the exclusion would be exempt from the State ban on industrial homework in those areas of "garment manufacturing" still subject to federal regulation. The federal regulations contain no such exemptions, and the Attorney General has advised me that Senate Bill 199 cannot be read to permit or sanction that which federal law expressly prohibits. A copy of the Opinion of the Attorney General is attached and should be considered a part of this message.

Regardless of whether the bill could be read consistently with federal law, the existence of such provisions in Maryland law could result in confusion and could deceptively induce persons, in reliance on Maryland law, to violate the federal industrial homework ban.

For these reasons, I have decided to veto Senate Bill 199.

Sincerely,
Harry Hughes
Governor

May 26, 1983

Honorable Harry Hughes
Governor of Maryland
State House
Annapolis, Maryland 21401

Re: Senate Bill 199

Dear Governor Hughes:

We have reviewed for constitutionality and legal sufficiency Senate Bill 199, which seeks to regulate certain forms of industrial homework engaged in by garment manufacturers. For reasons more fully detailed below, it is our opinion that because of amendments to key provisions of the bill, Senate Bill 199 was apparently intended to sanction conduct violative of federal law and regulations of the Department of Labor. Even if construed so as not to conflict with the federal scheme, the bill, if signed, nevertheless would result in an invitation to violate federal law. For these reasons, we do not approve the bill.

Industrial homework has been the subject of strict federal controls for more than 40 years. In the early 1940's, the Labor Department banned industrial homework (with minor exceptions) in selected industries as "a necessary means" to make effective minimum wage orders. Gemsco v. Walling, 324 U.S. 244, 245 (1945). This prohibition, which was upheld by the Supreme Court, Id., was imposed on the basis of findings that minimum wages could not otherwise be maintained in such industries, Id. at 249, and that low paid homeworkers, by competing with factory workers,