

destroyed the latter's right to a minimum wage. Id. at 259. In 1949, Congress expressly authorized the Labor Department to regulate, restrict or prohibit industrial homework. 29 U.S.C. §211(d). 1/ This authority apparently contains the same limitation that exists with respect to the Department's authority under other provisions of the Fair Labor Standards Act, namely, it only reaches employees "engaged in commerce". 29 U.S.C. §203(b). However, the Supreme Court has recognized that the purpose of the federal act, of which §211(d) is a part, is to extend federal control "throughout the farthest reaches of the channels of interstate commerce." Walling v. Jacksonville Paper Co., 317 U.S. 564, 567 (1943). And, "[n]o de minimus rule applies to the Act: any regular contact with commerce, no matter how small, will result in coverage." Marshall v. Victoria Transportation Co., Inc., 603 F.2d 1122, 1124 (5th Cir. 1979).

Until 1981, the ban on industrial homework extended to seven industries: women's apparel; jewelry manufacturing; knitted underwear; gloves and mittens; button and buckle manufacturing; handkerchief manufacturing; and embroideries. See 29 C.F.R. Part 530. 2/ However, effective November 9, 1981, the Labor Department exempted the knitted outerwear industry from the industrial homework ban but expressly declined to remove restrictions in other industries. 46 Fed.Red. 50348 (Oct. 9, 1981). 3/ Following hard on the heels of the lifting of the industrial homework ban in the knitted outerwear industry, a number of states imposed their own ban. This was the original purpose of Senate Bill 199.

As introduced, the bill imposed a State ban (with minor exceptions conforming to those in federal law) on "garment manufacturing" industrial homework -- a prohibition that appears to cut across several of the industries covered by the federal regulations, including the knitted outerwear industries and women's apparel. However, the bill was amended to define a "garment manufacturing employer" as a person who engages, as an owner or manager, in the business of garment manufacturing:

"AND WHO EMPLOYS MORE THAN 4 INDIVIDUALS. HOWEVER, AS TO ANY GARMENT MANUFACTURING EMPLOYER WHO EMPLOYS 4 OR FEWER INDIVIDUALS, THE PROVISIONS OF THIS SECTION AND SECTIONS 328(B) AND 328A OF THIS ARTICLE DO NOT APPLY, BUT ONLY IF THE GARMENT MANUFACTURING EMPLOYER DOES NOT SUBCONTRACT ANY WORK TO OTHER THAN THE 4 OR FEWER INDIVIDUALS EMPLOYED BY THE EMPLOYER. A 'GARMENT MANUFACTURING EMPLOYER' DOES NOT INCLUDE A PERSON WHO SELLS AT RETAIL, BY MAIL ORDER OR OTHERWISE, OVER 35 PERCENT OF THE ARTICLES OF WEARING APPAREL WHICH IT CUTS, SEWS, PROCESSES, REPAIRS, FINISHES, ASSEMBLES, OR OTHERWISE MAKES OR PREPARES FOR SALE ON AN ANNUAL BASIS. A 'GARMENT MANUFACTURING EMPLOYER' DOES NOT INCLUDE A NONPROFIT ORGANIZATION WHICH MANUFACTURES THE ENTIRE GARMENT FROM BEGINNING TO END BY MEANS OF CUTTING, SEWING, PROCESSING, FINISHING, ASSEMBLING, OR