

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 OTHERWISE MAKING THE ENTIRE GARMENT, OTHER THAN THE MATERIALS, FOR SALE OR RESALE AT WHOLESALE OR RETAIL."

It is apparent that the purpose of this change was to sanction industrial homework in Maryland in these exempted areas. However, the federal regulations banning industrial homework in the covered industries contain no exemption for employers of four or fewer employees and apply to employees regardless of whether they might technically be considered "subcontractors". See n. 2, *supra*. Moreover, the regulations do not exempt "cottage industries," *viz.* employers who sell over 35 percent of the wearing apparel they make, nor do they contain any sort of blanket exemption for non-profit organizations. Thus, despite their apparent intention to do so, these provisions of Senate Bill 199 cannot be read to permit or sanction what federal law expressly prohibits in the garment industries still subject to the industrial homework ban. 4/

Aside from what the amendments to Senate Bill 199 were intended to accomplish, and whether or not the bill can be read consistently with federal law, we think the existence of such provisions in Maryland law could result in confusion among