

partly in response to that interpretation of the law, the General Assembly enacted Ch. 242, Acts of 1986 (H.B. 1087 (1986)), which, in an uncodified section, provided that Ch. 751, Acts of 1984, was intended "to cover additional employees and not to exclude from coverage any person then covered"; that Ch. 105, Acts of 1985, "was intended only to clarify that fact"; and that "[n]either Chapter 751 nor Chapter 105 was intended to exclude from coverage any category of worker covered under the provisions of Article 101, § 21(b)(8) of the Code as those provisions appeared prior to July 1, 1984 and July 1, 1985". The Labor and Employment Article Review Committee emphasizes that this revision is not intended to make any substantive change in the law.

In subsection (b)(1)(i) of this section, the words "any phase of", which formerly modified "soil, crop or animal management", are deleted as surplusage.

In subsection (b)(1)(ii) of this section, the word "or" is substituted for the former word "and" in both instances, to clarify that this title applies if the individual performs either construction or repair on fixtures or machinery.

The Labor and Employment Article Review Committee notes, for consideration by the General Assembly, that subsection (a)(3)(ii) of this section, which revises former Art. 101, § 21(b)(8)(iii), has been revised, consistent with the former law, as an exclusion from the defined term "migrant farm worker". However, as the Attorney General pointed out in the bill review letter for S.B. 869 of 1984 (Ch. 751, Acts of 1984), former Art. 101, § 21(b)(8)(iii) had no effect as an exclusion, since the former defined term "seasonal or migratory farm laborer" was used only once, to include services "whether or not performed by a seasonal or migratory farm laborer". The Attorney General noted, however, that the former exclusion must have been intended to serve some purpose. After review of the legislative history and various possible interpretations of former Art. 101, § 21(b)(8)(iii), the Attorney General concluded that the provision should be interpreted as an exclusion from coverage, rather than an exclusion from the definition of "seasonal or migratory farm laborer". In 1985 and 1986, the General Assembly enacted legislation intended to clarify the law. See Ch. 105, Acts of 1985 (H.B. 106 (1985)) and Ch. 242, Acts of 1986 (H.B. 1087 (1986)). While the legislative history of those enactments suggests that the General Assembly accepted the Attorney General's interpretation, neither enactment rewrote former § 21(b)(8) to correct the fundamental problem with the exclusion. The General Assembly may wish to consider clarifying whether former Art. 101, § 21(b)(8)(iii) was intended to be an exclusion from the definition of "seasonal or migratory farm laborer" or an exclusion from coverage.

The scope of the exclusion also was unclear because the former words "whether or not performed by a seasonal or migratory farm laborer" may have modified only "the handling of any crops or animals with or without machinery" or any service. Subsection (b) is revised to encompass any service.