

112TH CONGRESS
2D SESSION

S. 3280

To preserve the companionship services exemption for minimum wage and overtime pay under the Fair Labor Standards Act of 1938.

IN THE SENATE OF THE UNITED STATES

JUNE 7, 2012

Mr. JOHANNIS (for himself, Mr. ALEXANDER, Mr. BOOZMAN, Mr. COBURN, Mr. CORKER, Mr. CORNYN, Mr. ENZI, Mr. ISAKSON, Mr. PORTMAN, Mr. RUBIO, Ms. SNOWE, Mr. CHAMBLISS, and Mr. BURR) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To preserve the companionship services exemption for minimum wage and overtime pay under the Fair Labor Standards Act of 1938.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Companionship Ex-
5 emption Protection Act”.

1 **SEC. 2. DEFINITIONS.**

2 Section 3 of the Fair Labor Standards Act of 1938
3 (29 U.S.C. 203) is amended by adding at the end the fol-
4 lowing:

5 “(z)(1) Except as provided in paragraph (2), ‘com-
6 panionship services’ as used in section 13(a)(15), means
7 those services which provide fellowship, care, and protec-
8 tion for individuals who, because of advanced age or phys-
9 ical or mental infirmity, are unable to care for themselves,
10 including but not limited to, non-medical in-home care or
11 household work related to the care of the aged or infirm
12 individuals (such as meal preparation, bed making, wash-
13 ing of clothes, errands, assistance to appointments, laun-
14 dry, medication reminders, bathing, assistance with incon-
15 tinence and grooming, and other similar services). Such
16 term may also include the performance of general house-
17 hold work.

18 “(2) ‘Companionship services’ shall not include serv-
19 ices relating to the care and protection of the aged or in-
20 firm which require and are performed by trained medical
21 personnel, such as a registered or practical nurse.

22 “(aa) ‘Domestic service employment’ as used in sec-
23 tion 13(a)(15), means services of a household nature per-
24 formed by an employee in or about a private home (perma-
25 nent or temporary), including but not limited to, employ-
26 ees such as cooks, waiters, butlers, valets, maids, house-

1 keepers, nannies, nurses, janitors, laundresses, caretakers,
 2 handymen, gardeners, home health aides, personal care
 3 aides, chauffeurs of automobiles for family use, and baby-
 4 sitters employed on other than a casual basis.

5 “(bb) ‘Third-party employment’ as used in section
 6 13(a)(15), means employees who are engaged in providing
 7 companionship services and who are employed by an em-
 8 ployer or agency other than the family or household using
 9 their services, whether or not such an employee is assigned
 10 to more than one household or family in the same work-
 11 week to provide companionship services.”.

12 **SEC. 3. PRESERVATION OF THE COMPANIONSHIP SERVICES**

13 **EXEMPTION.**

14 Paragraph (15) of section 13(a) of the Fair Labor
 15 Standards Act of 1938 (29 U.S.C. 213(a)(15)) is amend-
 16 ed—

17 (1) by inserting “(including through third-party
 18 employment)” after “companionship services”; and

19 (2) by striking “(as such terms are defined and
 20 delimited by regulations of the Secretary)”.

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