

Senate BILL NO. *358*

1
2 INTRODUCED BY LABOR & EMPLOYMENT RELATIONS COMMITTEE,
3 BY REQUEST OF THE DIVISION OF WORKERS' COMPENSATION *Lee* Chairman

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION
6 92-411, R.C.M. 1947, CONCERNING THE DEFINITION OF EMPLOYEE
7 UNDER THE WORKERS' COMPENSATION ACT, BY REMOVING SUPERFLUOUS
8 LANGUAGE, CLARIFYING THE COVERAGE OF CASUAL EMPLOYEES, AND
9 CLARIFYING THE COVERAGE OF STUDENTS ENROLLED IN VOCATIONAL
10 REHABILITATION OR OTHER ON-THE-JOB TRAINING COURSES."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
13 Section 1. Section 92-411, R.C.M. 1947, is amended to
14 read as follows:

15 "92-411. Employee and workman defined. (1) "Employee"
16 and "workman" are used synonymously and mean every the terms
17 "employee", "workman", or "worker" means:

18 (a) each person in this state, including a contractor
19 other than an "independent contractor" who is in the service
20 of an employer as defined by the preceding section, under
21 any appointment or contract of hire, expressed or implied,
22 oral or written, including the terms include aliens and
23 ~~also including~~ minors, whether lawfully or unlawfully
24 employed, and all of the elected and appointed paid public
25 officers and officers and members of boards of directors of

1 quasi-public or private corporations while rendering actual
2 service for such corporations for pay, ~~including city and~~
3 ~~town firemen, highway patrolmen, police officers, county~~
4 ~~sheriffs, deputy sheriffs, constables, truant officers and~~
5 ~~all peace officers, also all public officers and their~~
6 ~~deputies, assistants and employees, but excluding any person~~
7 ~~whose employment is both casual and not in the courses of~~
8 ~~the trade, business, profession or occupation of his~~
9 ~~employer, unless such Casual employees as defined by 92-436~~
10 ~~are included as employees if they are not otherwise covered~~
11 ~~by workers' compensation and if an employer has elected to~~
12 ~~be bound by the provisions of the compensation law in which~~
13 ~~case all employees are included, whether their employment is~~
14 ~~casual or otherwise, and also excluding any employee engaged~~
15 ~~in household or domestic service for these casual~~
16 ~~employments, as provided in 92-202.1(2).~~

17 (2)(b) "Employee" also means a recipient of general
18 relief who is performing work for a county of this state
19 under the provisions of section 71-307, and any juvenile
20 performing work under authorization of a district court
21 judge in a delinquency prevention or rehabilitation program,
22 and any person receiving vocational rehabilitation training,
23 or other on-the-job training under any state or federal
24 vocational training program, whether or not under any
25 appointment or contract of hire with an "employer" as

1 ~~defined--in-this-title-and-whether-or-not-receiving-payment~~
 2 ~~from-a-third-party; or~~

†\$900† per month."

-End-

3 ~~(c) a person receiving on-the-job vocational~~
 4 ~~rehabilitation training or other on-the-job training under a~~
 5 ~~state or federal vocational training program, whether or not~~
 6 ~~under an appointment or contract of hire with an employer as~~
 7 ~~defined in this chapter and whether or not receiving payment~~
 8 ~~from a third party. However, this subsection does not apply~~
 9 ~~to students enrolled in vocational training programs as~~
 10 ~~outlined above while they are on the premises of a public~~
 11 ~~school, postsecondary training center, or community college.~~

12 ~~††(2) If the employer is a partnership, or sole~~
 13 ~~proprietorship, such employer may elect to include as an~~
 14 ~~"employee" within the provisions of this act, any member of~~
 15 ~~such partnership, or the owner of the sole proprietorship,~~
 16 ~~devoting full time to the partnership or proprietorship~~
 17 ~~business. In the event of such election, the employer must~~
 18 ~~serve upon the employer's insurance carrier and the division~~
 19 ~~insurer written notice naming the partners or sole~~
 20 ~~proprietor to be covered, and no partner or sole proprietor~~
 21 ~~shall be deemed an employee within this act until such~~
 22 ~~notice has been given. For premium rate making, and for the~~
 23 ~~determination of weekly wage for weekly compensation~~
 24 ~~benefits, the insurance carrier shall assume a salary or~~
 25 ~~wage of such electing "employee" to be nine-hundred--dollars~~

Approved by Committee on Labor & Employment Relations

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BY REQUEST OF THE DIVISION OF WORKERS' COMPENSATION

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION 92-411, R.C.M. 1947, CONCERNING THE DEFINITION OF EMPLOYEE UNDER THE WORKERS' COMPENSATION ACT, BY REMOVING SUPERFLUOUS LANGUAGE, CLARIFYING THE COVERAGE OF CASUAL EMPLOYEES, AND CLARIFYING THE COVERAGE OF STUDENTS ENROLLED IN VOCATIONAL REHABILITATION OR OTHER ON-THE-JOB TRAINING COURSES."

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(a) each person in this state, including a contractor other than an "independent contractor" who is in the service of an employer as defined by the preceding section, under any appointment or contract of hire, expressed or implied, oral or written, including the terms include aliens and ~~also including~~ minors, whether lawfully or unlawfully employed, and all of the elected and appointed paid public officers and officers and members of boards of directors of

quasi-public or private corporations while rendering actual service for such corporations for pay, ~~including city and town firemen, highway patrolmen, police officers, county sheriffs, deputy sheriffs, constables, truant officers, and all peace officers, also all public officers and their deputies, assistants and employees, but excluding any person whose employment is both casual and not in the courses of the trade, business, profession or occupation of his employer, unless such casual employees as defined by 92-636 are included as employees if they are not otherwise covered by workers' compensation and if an employer has elected to be bound by the provisions of the compensation law in which case all employees are included, whether their employment is casual or otherwise, and also excluding any employee engaged in household or domestic service for these casual employments, as provided in 92-202.1(2).~~

(2)(b) "Employee" also means a recipient of general relief who is performing work for a county of this state under the provisions of section 71-307, and any juvenile performing work under authorization of a district court judge in a delinquency prevention or rehabilitation program ~~and any person receiving vocational rehabilitation training, or other on-the-job training under any state or federal vocational training program, whether or not under any appointment or contract of hire with an "employer" as~~

1 ~~defined in this title and whether or not receiving payment~~
 2 ~~from a third party; or~~

1 ~~{ \$900 } per month."~~

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 4 ~~rehabilitation training or other on-the-job training under a~~
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 9 ~~to students enrolled in vocational training programs as~~
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 11 ~~school, postsecondary training center, or community college.~~

12 ~~{3}(2) If the employer is a partnership, or sole~~
 13 ~~proprietorship, such employer may elect to include as an~~
 14 ~~"employee" within the provisions of this act, any member of~~
 15 ~~such partnership, or the owner of the sole proprietorship,~~
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~~quasi-public or private corporations while rendering actual service for such corporations for pay, including city and town firemen, highway patrolmen, police officers, county sheriffs, deputy sheriffs, constables, truant officers, and all peace officers, also all public officers and their deputies, assistants and employees, but excluding any person whose employment is both casual and not in the courses of the trade, business, profession or occupation of his employer unless such casual employees as defined by 92-436 are included as employees if they are not otherwise covered by workers' compensation and if an employer has elected to be bound by the provisions of the compensation law in which case all employees are included, whether their employment is casual or otherwise, and also excluding any employee engaged in household or domestic service for these casual employments, as provided in 92-202.1(2).~~

(2)(b) "Employee" also means a recipient of general relief who is performing work for a county of this state under the provisions of section 71-307, and any juvenile performing work under authorization of a district court judge in a delinquency prevention or rehabilitation program and any person receiving vocational rehabilitation training or other on-the-job training under any state or federal vocational training program, whether or not under any appointment or contract of hire with an employer as

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12 ~~†(2) If the employer is a partnership, or sole~~
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1 {"\$900} per month."

-End-

1. Amend page 2, section 1, line 16.

Following: "92-202.1(2)."

Insert: "Household or domestic service is excluded."

2. Amend page 3, section 1, line 2.

Following: "party-"

Strike: "; or"

Insert: "."

3. Amend page 3, section 1, line 11.

Following: "school"

Strike: ", postsecondary training center,"

Following: "college"

Strike: "."

Insert: "; or"

4. Amend page 3, section 1.

Following: line 11

Insert: "(d) students enrolled and in attendance in programs of vocational technical education approved by the state board of public education at designated post-secondary vocational technical centers."

AS AMENDED BE CONCURRED IN

SENATE BILL NO. 358

INTRODUCED BY LABOR AND EMPLOYMENT RELATIONS COMMITTEE

LEE, CHAIRMAN

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~~officers and officers and members of boards of directors of quasi-public or private corporations while rendering actual service for such corporations for pay, including city and town firemen, highway patrolmen, police officers, county sheriffs, deputy sheriffs, constables, truant officers and all peace officers, also all public officers and their deputies, assistants and employees, but excluding any person whose employment is both casual and not in the courses of the trade, business, profession or occupation of his employer, unless such Casual employees as defined by 92-436 are included as employees if they are not otherwise covered by workers' compensation and if an employer has elected to be bound by the provisions of the compensation law, in which case all employees are included, whether their employment is casual or otherwise, and also excluding any employee engaged in household or domestic service for these casual employments, as provided in 92-202.1(2). HOUSEHOLE OR DOMESTIC SERVICE IS EXCLUDED.~~

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