

Senate Bill 226

In The Senate

January 21, 1981	Introduced and referred to Committee on Labor Relations.
February 11, 1981	Committee recommend bill do pass as amended.
February 12, 1981	Bill printed and placed on members' desks.
February 13, 1981	Second reading do pass as amended.
February 14, 1981	Correctly engrossed.
February 16, 1981	Third reading passed.

In The House

Fberuary 17, 1981	Introduced and referred to Committee on Labor and Industry.
March 13, 1981	Committee recommend bill concurred.
March 18, 1981	Motion pass consideration to the 62nd legislative day.
March 20, 1981	Second reading concurred.
March 23, 1981	Third reading concurred.

In The Senate

March 24, 1981	Returned from House concurred.
March 24, 1981	Sent to enrolling.
March 26, 1981	Correctly enrolled. Signed by President.
March 28, 1981	Delivered to Governor.
April 2, 1981	Vetoed.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

*Sen. Neely* BILL NO. *226*  
*Neely*

INTRODUCED BY \_\_\_\_\_

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 39-51-204, MCA, TO EXCLUDE TREE-THINNING CONTRACTORS WHO SATISFY CERTAIN CONDITIONS FROM THE DEFINITION OF "EMPLOYMENT"; AND PROVIDING AN EFFECTIVE DATE OF MAY 1, 1981."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-51-204, MCA, is amended to read:

"39-51-204. Exclusions from definition of employment.

- (1) The term "employment" does not include:
  - (a) agricultural labor, except as provided in 39-51-203(8);
  - (b) domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, except as provided in 39-51-203(9);
  - (c) service performed as an officer or member of the crew of a vessel on the navigable waters of the United States;
  - (d) service performed by an individual in the employ of his son, daughter, or spouse and service performed by a child under the age of 18 in the employ of his father or mother;

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

(e) service performed in the employ of any other state or its political subdivisions or of the United States government or of an instrumentality of any other state or states or their political subdivisions or of the United States, except that national banks organized under the national banking law shall not be entitled to exemption under this subsection and shall be subject to this chapter the same as state banks, provided that such service is excluded from employment as defined in the Federal Unemployment Tax Act by section 3306(c)(7) of that act;

(f) service with respect to which unemployment insurance is payable under an unemployment insurance system established by an act of congress, provided that the division must enter into agreements with the proper agencies under such act of congress, which agreements shall become effective in the manner prescribed in the Montana Administrative Procedure Act for the adoption of rules, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this chapter, acquired rights to unemployment insurance under such act of congress or who have, after acquiring potential rights to unemployment insurance under such act of congress, acquired rights to benefits under this chapter;

(g) services performed in the delivery and distribution of newspapers or shopping news from house to

1 house and business establishments by an individual under the  
2 age of 18 years, but not including the delivery or  
3 distribution to any point or points for subsequent delivery  
4 or distribution;

5 (h) services performed by real estate, securities, and  
6 insurance salesmen paid solely by commissions and without  
7 guarantee of minimum earnings;

8 (i) service performed in the employ of a school,  
9 college, or university if such service is performed by a  
10 student who is enrolled and is regularly attending classes  
11 at such school, college, or university or by the spouse of  
12 such a student if such spouse is advised, at the time such  
13 spouse commences to perform such service, that the  
14 employment of such spouse to perform such service is  
15 provided under a program to provide financial assistance to  
16 such student by such school, college, or university and such  
17 employment will not be covered by any program of  
18 unemployment insurance;

19 (j) service performed by an individual under the age  
20 of 22 who is enrolled at a nonprofit or public educational  
21 institution, which normally maintains a regular faculty and  
22 curriculum and normally has a regularly organized body of  
23 students in attendance at the place where its educational  
24 activities are carried on, as a student in a full-time  
25 program taken for credit at such institution which combines

1 academic instruction with work experience if such service is  
2 an integral part of such program and such institution has so  
3 certified to the employer, except that this subsection shall  
4 not apply to service performed in a program established for  
5 or on behalf of an employer or group of employers;

6 (k) service performed in the employ of a hospital if  
7 such service is performed by a patient of the hospital;

8 (l) casual labor not in the course of an employer's  
9 trade or business performed in any calendar quarter, unless  
10 the cash remuneration paid for such service is \$50 or more  
11 and such service is performed by an individual who is  
12 regularly employed by such employer to perform such  
13 service; or

14 (m) service performed by an individual under a written  
15 contract providing for the thinning of trees on forest  
16 lands, provided such contract specifies that the individual  
17 is free from the control and direction of the party for whom  
18 the work is being performed, permits the individual to  
19 establish his own hours of work, and specifies a rate of  
20 remuneration based upon the work performed rather than the  
21 time worked.

22 (2) "Employment" does not include elected public  
23 officials.

24 (3) For the purposes of 39-51-203(6), the term  
25 "employment" does not apply to service performed:

1 (a) in the employ of a church or convention or  
2 association of churches or an organization which is operated  
3 primarily for religious purposes and which is operated,  
4 supervised, controlled, or principally supported by a church  
5 or convention or association of churches;

6 (b) by a duly ordained, commissioned, or licensed  
7 minister of a church in the exercise of his ministry or by a  
8 member of a religious order in the exercise of duties  
9 required by such order;

10 (c) in the employ of a school which is not an  
11 institution of higher education, prior to December 31, 1977;

12 (d) in a facility conducted for the purpose of  
13 carrying out a program of rehabilitation for individuals  
14 whose earning capacity is impaired by age or physical or  
15 mental deficiency or injury or providing remunerative work  
16 for individuals who, because of their impaired physical or  
17 mental capacity, cannot be readily absorbed in the  
18 competitive labor market by an individual receiving such  
19 rehabilitation or remunerative work;

20 (e) as part of an unemployment work-relief or  
21 work-training program assisted or financed in whole or in  
22 part by a federal agency or any agency of a state or  
23 political subdivision thereof by an individual receiving  
24 such work relief or work training; or

25 (f) for a state prison or other state correctional or

1 custodial institution by an inmate of that institution."

2 Section 2. Effective date. This act is effective May  
3 1, 1981.

-End-

SB 226

Approved by Committee  
on Labor & Employment  
Relations

1                   SENATE BILL NO. 226  
2                   INTRODUCED BY HEALY  
3  
4    A BILL FOR AN ACT ENTITLED:   "AN ACT TO AMEND SECTION  
5    39-51-204, MCA, TO EXCLUDE TREE-THINNING CONTRACTORS WHO  
6    SATISFY CERTAIN CONDITIONS FROM THE DEFINITION OF  
7    "EMPLOYMENT"; AND PROVIDING AN EFFECTIVE DATE OF MAY 1,  
8    1981."  
9  
10   BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
11       Section 1. Section 39-51-204, MCA, is amended to read:  
12       "39-51-204. Exclusions from definition of employment.  
13       (1) The term "employment" does not include:  
14       (a) agricultural labor, except as provided in  
15       39-51-203(8);  
16       (b) domestic service in a private home, local college  
17       club, or local chapter of a college fraternity or sorority,  
18       except as provided in 39-51-203(9);  
19       (c) service performed as an officer or member of the  
20       crew of a vessel on the navigable waters of the United  
21       States;  
22       (d) service performed by an individual in the employ  
23       of his son, daughter, or spouse and service performed by a  
24       child under the age of 18 in the employ of his father or  
25       mother;

1                   (e) service performed in the employ of any other state  
2                   or its political subdivisions or of the United States  
3                   government or of an instrumentality of any other state or  
4                   states or their political subdivisions or of the United  
5                   States, except that national banks organized under the  
6                   national banking law shall not be entitled to exemption  
7                   under this subsection and shall be subject to this chapter  
8                   the same as state banks, provided that such service is  
9                   excluded from employment as defined in the Federal  
10                  Unemployment Tax Act by section 3306(c)(7) of that act;  
11                  (f) service with respect to which unemployment  
12                  insurance is payable under an unemployment insurance system  
13                  established by an act of congress, provided that the  
14                  division must enter into agreements with the proper agencies  
15                  under such act of congress, which agreements shall become  
16                  effective in the manner prescribed in the Montana  
17                  Administrative Procedure Act for the adoption of rules, to  
18                  provide reciprocal treatment to individuals who have, after  
19                  acquiring potential rights to benefits under this chapter,  
20                  acquired rights to unemployment insurance under such act of  
21                  congress or who have, after acquiring potential rights to  
22                  unemployment insurance under such act of congress, acquired  
23                  rights to benefits under this chapter;  
24                  (g) services performed in the delivery and  
25                  distribution of newspapers or shopping news from house to

1 house and business establishments by an individual under the  
2 age of 18 years, but not including the delivery or  
3 distribution to any point or points for subsequent delivery  
4 or distribution;

5 (h) services performed by real estate, securities, and  
6 insurance salesmen paid solely by commissions and without  
7 guarantee of minimum earnings;

8 (i) service performed in the employ of a school,  
9 college, or university if such service is performed by a  
10 student who is enrolled and is regularly attending classes  
11 at such school, college, or university or by the spouse of  
12 such a student if such spouse is advised, at the time such  
13 spouse commences to perform such service, that the  
14 employment of such spouse to perform such service is  
15 provided under a program to provide financial assistance to  
16 such student by such school, college, or university and such  
17 employment will not be covered by any program of  
18 unemployment insurance;

19 (j) service performed by an individual under the age  
20 of 22 who is enrolled at a nonprofit or public educational  
21 institution, which normally maintains a regular faculty and  
22 curriculum and normally has a regularly organized body of  
23 students in attendance at the place where its educational  
24 activities are carried on, as a student in a full-time  
25 program taken for credit at such institution which combines

1 academic instruction with work experience if such service is  
2 an integral part of such program and such institution has so  
3 certified to the employer, except that this subsection shall  
4 not apply to service performed in a program established for  
5 or on behalf of an employer or group of employers;

6 (k) service performed in the employ of a hospital if  
7 such service is performed by a patient of the hospital;

8 (l) casual labor not in the course of an employer's  
9 trade or business performed in any calendar quarter, unless  
10 the cash remuneration paid for such service is \$50 or more  
11 and such service is performed by an individual who is  
12 regularly employed by such employer to perform such  
13 service; or

14 (m) service performed by an individual under a written  
15 contract providing for the thinning of trees on forest  
16 lands, provided such contract specifies that the individual  
17 is free from the control and direction of the party for whom  
18 the work is being performed, REQUIRES COVERAGE UNDER THE  
19 WORKERS' COMPENSATION ACT UNDER SAID CONTRACT, permits the  
20 individual to establish his own hours of work, and specifies  
21 a rate of remuneration based upon the work performed rather  
22 than the time worked.

23 (2) "Employment" does not include elected public  
24 officials.

25 (3) For the purposes of 39-51-203(6) the term

1 "employment" does not apply to service performed:

2 (a) in the employ of a church or convention or  
3 association of churches or an organization which is operated  
4 primarily for religious purposes and which is operated,  
5 supervised, controlled, or principally supported by a church  
6 or convention or association of churches;

7 (b) by a duly ordained, commissioned, or licensed  
8 minister of a church in the exercise of his ministry or by a  
9 member of a religious order in the exercise of duties  
10 required by such order;

11 (c) in the employ of a school which is not an  
12 institution of higher education, prior to December 31, 1977;

13 (d) in a facility conducted for the purpose of  
14 carrying out a program of rehabilitation for individuals  
15 whose earning capacity is impaired by age or physical or  
16 mental deficiency or injury or providing remunerative work  
17 for individuals who, because of their impaired physical or  
18 mental capacity, cannot be readily absorbed in the  
19 competitive labor market by an individual receiving such  
20 rehabilitation or remunerative work;

21 (e) as part of an unemployment work-relief or  
22 work-training program assisted or financed in whole or in  
23 part by a federal agency or any agency of a state or  
24 political subdivision thereof by an individual receiving  
25 such work relief or work training; or

1 (f) for a state prison or other state correctional or  
2 custodial institution by an inmate of that institution."

3 Section 2. Effective date. This act is effective May  
4 1, 1981.

-End-

1                   SENATE BILL NO. 226  
 2                   INTRODUCED BY HEALY  
 3  
 4   A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION  
 5   39-51-204, MCA, TO EXCLUDE TREE-THINNING CONTRACTORS WHO  
 6   SATISFY CERTAIN CONDITIONS FROM THE DEFINITION OF  
 7   "EMPLOYMENT"; AND PROVIDING AN EFFECTIVE DATE OF MAY 1,  
 8   1981."

9  
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11       Section 1. Section 39-51-204, MCA, is amended to read:

12       "39-51-204. Exclusions from definition of employment.

13       (1) The term "employment" does not include:

14       (a) agricultural labor, except as provided in  
 15       39-51-203(8);

16       (b) domestic service in a private home, local college  
 17       club, or local chapter of a college fraternity or sorority,  
 18       except as provided in 39-51-203(9);

19       (c) service performed as an officer or member of the  
 20       crew of a vessel on the navigable waters of the United  
 21       States;

22       (d) service performed by an individual in the employ  
 23       of his son, daughter, or spouse and service performed by a  
 24       child under the age of 18 in the employ of his father or  
 25       mother;

1                   (e) service performed in the employ of any other state  
 2       or its political subdivisions or of the United States  
 3       government or of an instrumentality of any other state or  
 4       states or their political subdivisions or of the United  
 5       States, except that national banks organized under the  
 6       national banking law shall not be entitled to exemption  
 7       under this subsection and shall be subject to this chapter  
 8       the same as state banks, provided that such service is  
 9       excluded from employment as defined in the Federal  
 10       Unemployment Tax Act by section 3306(c)(7) of that act;

11                  (f) service with respect to which unemployment  
 12       insurance is payable under an unemployment insurance system  
 13       established by an act of congress, provided that the  
 14       division must enter into agreements with the proper agencies  
 15       under such act of congress, which agreements shall become  
 16       effective in the manner prescribed in the Montana  
 17       Administrative Procedure Act for the adoption of rules, to  
 18       provide reciprocal treatment to individuals who have, after  
 19       acquiring potential rights to benefits under this chapter,  
 20       acquired rights to unemployment insurance under such act of  
 21       congress or who have, after acquiring potential rights to  
 22       unemployment insurance under such act of congress, acquired  
 23       rights to benefits under this chapter;

24                  (g) services performed in the delivery and  
 25       distribution of newspapers or shopping news from house to



1 house and business establishments by an individual under the  
2 age of 18 years, but not including the delivery or  
3 distribution to any point or points for subsequent delivery  
4 or distribution;

5 (h) services performed by real estate, securities, and  
6 insurance salesmen paid solely by commissions and without  
7 guarantee of minimum earnings;

8 (i) service performed in the employ of a school,  
9 college, or university if such service is performed by a  
10 student who is enrolled and is regularly attending classes  
11 at such school, college, or university or by the spouse of  
12 such a student if such spouse is advised, at the time such  
13 spouse commences to perform such service, that the  
14 employment of such spouse to perform such service is  
15 provided under a program to provide financial assistance to  
16 such student by such school, college, or university and such  
17 employment will not be covered by any program of  
18 unemployment insurance;

19 (j) service performed by an individual under the age  
20 of 22 who is enrolled at a nonprofit or public educational  
21 institution, which normally maintains a regular faculty and  
22 curriculum and normally has a regularly organized body of  
23 students in attendance at the place where its educational  
24 activities are carried on, as a student in a full-time  
25 program taken for credit at such institution which combines

1 academic instruction with work experience if such service is  
2 an integral part of such program and such institution has so  
3 certified to the employer, except that this subsection shall  
4 not apply to service performed in a program established for  
5 or on behalf of an employer or group of employers;

6 (k) service performed in the employ of a hospital if  
7 such service is performed by a patient of the hospital;

8 (l) casual labor not in the course of an employer's  
9 trade or business performed in any calendar quarter, unless  
10 the cash remuneration paid for such service is \$50 or more  
11 and such service is performed by an individual who is  
12 regularly employed by such employer to perform such  
13 service; or

14 (m) service performed by an individual under a written  
15 contract providing for the thinning of trees on forest  
16 lands, provided such contract specifies that AND, IN FACT  
17 the individual is free from the control and direction of the  
18 party for whom the work is being performed, REQUIRES  
19 COVERAGE UNDER THE WORKERS' COMPENSATION ACT UNDER SAID  
20 CONTRACT, permits the individual to establish his own hours  
21 of work, and specifies a rate of remuneration based upon the  
22 work performed rather than the time worked.

23 (2) "Employment" does not include elected public  
24 officials.

25 (3) For the purposes of 39-51-203(6), the term

1 "employment" does not apply to service performed:

2 (a) in the employ of a church or convention or  
3 association of churches or an organization which is operated  
4 primarily for religious purposes and which is operated,  
5 supervised, controlled, or principally supported by a church  
6 or convention or association of churches;

7 (b) by a duly ordained, commissioned, or licensed  
8 minister of a church in the exercise of his ministry or by a  
9 member of a religious order in the exercise of duties  
10 required by such orders;

11 (c) in the employ of a school which is not an  
12 institution of higher education, prior to December 31, 1977;

13 (d) in a facility conducted for the purpose of  
14 carrying out a program of rehabilitation for individuals  
15 whose earning capacity is impaired by age or physical or  
16 mental deficiency or injury or providing remunerative work  
17 for individuals who, because of their impaired physical or  
18 mental capacity, cannot be readily absorbed in the  
19 competitive labor market by an individual receiving such  
20 rehabilitation or remunerative work;

21 (e) as part of an unemployment work-relief or  
22 work-training program assisted or financed in whole or in  
23 part by a federal agency or any agency of a state or  
24 political subdivision thereof by an individual receiving  
25 such work relief or work training; or

1 (f) for a state prison or other state correctional or  
2 custodial institution by an inmate of that institution."

3 Section 2. Effective date. This act is effective May  
4 1, 1981.

-End-

SENATE BILL NO. 226  
INTRODUCED BY HEALY

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 39-51-204, MCA, TO EXCLUDE TREE-THINNING CONTRACTORS WHO SATISFY CERTAIN CONDITIONS FROM THE DEFINITION OF "EMPLOYMENT"; AND PROVIDING AN EFFECTIVE DATE OF MAY 1, 1981."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-51-204, MCA, is amended to read:

"39-51-204. Exclusions from definition of employment.

(1) The term "employment" does not include:

(a) agricultural labor, except as provided in 39-51-203(8);

(b) domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, except as provided in 39-51-203(9);

(c) service performed as an officer or member of the crew of a vessel on the navigable waters of the United States;

(d) service performed by an individual in the employ of his son, daughter, or spouse and service performed by a child under the age of 18 in the employ of his father or mother;

(e) service performed in the employ of any other state or its political subdivisions or of the United States government or of an instrumentality of any other state or states or their political subdivisions or of the United States, except that national banks organized under the national banking law shall not be entitled to exemption under this subsection and shall be subject to this chapter the same as state banks, provided that such service is excluded from employment as defined in the Federal Unemployment Tax Act by section 3306(c)(7) of that act;

(f) service with respect to which unemployment insurance is payable under an unemployment insurance system established by an act of congress, provided that the division must enter into agreements with the proper agencies under such act of congress, which agreements shall become effective in the manner prescribed in the Montana Administrative Procedure Act for the adoption of rules, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this chapter, acquired rights to unemployment insurance under such act of congress or who have, after acquiring potential rights to unemployment insurance under such act of congress, acquired rights to benefits under this chapter;

(g) services performed in the delivery and distribution of newspapers or shopping news from house to

1 house and business establishments by an individual under the  
2 age of 18 years, but not including the delivery or  
3 distribution to any point or points for subsequent delivery  
4 or distribution;

5 (h) services performed by real estate, securities, and  
6 insurance salesmen paid solely by commissions and without  
7 guarantee of minimum earnings;

8 (i) service performed in the employ of a school,  
9 college, or university if such service is performed by a  
10 student who is enrolled and is regularly attending classes  
11 at such school, college, or university or by the spouse of  
12 such a student if such spouse is advised, at the time such  
13 spouse commences to perform such service, that the  
14 employment of such spouse to perform such service is  
15 provided under a program to provide financial assistance to  
16 such student by such school, college, or university and such  
17 employment will not be covered by any program of  
18 unemployment insurance;

19 (j) service performed by an individual under the age  
20 of 22 who is enrolled at a nonprofit or public educational  
21 institution, which normally maintains a regular faculty and  
22 curriculum and normally has a regularly organized body of  
23 students in attendance at the place where its educational  
24 activities are carried on, as a student in a full-time  
25 program taken for credit at such institution which combines

1 academic instruction with work experience if such service is  
2 an integral part of such program and such institution has so  
3 certified to the employer, except that this subsection shall  
4 not apply to service performed in a program established for  
5 or on behalf of an employer or group of employers;

6 (k) service performed in the employ of a hospital if  
7 such service is performed by a patient of the hospital;

8 (l) casual labor not in the course of an employer's  
9 trade or business performed in any calendar quarter, unless  
10 the cash remuneration paid for such service is \$50 or more  
11 and such service is performed by an individual who is  
12 regularly employed by such employer to perform such  
13 services; or

14 (m) service performed by an individual under a written  
15 contract providing for the thinning of trees on forest  
16 lands, provided such contract specifies that AND, IN FACT  
17 the individual is free from the control and direction of the  
18 party for whom the work is being performed, REQUIRES  
19 COVERAGE UNDER THE WORKERS' COMPENSATION ACT UNDER SAID  
20 CONTRACT, permits the individual to establish his own hours  
21 of work, and specifies a rate of remuneration based upon the  
22 work performed rather than the time worked.

23 (2) "Employment" does not include elected public  
24 officials.

25 (3) For the purposes of 39-51-203(6), the term

1 "employment" does not apply to service performed:  
 2 (a) in the employ of a church or convention or  
 3 association of churches or an organization which is operated  
 4 primarily for religious purposes and which is operated,  
 5 supervised, controlled, or principally supported by a church  
 6 or convention or association of churches;  
 7 (b) by a duly ordained, commissioned, or licensed  
 8 minister of a church in the exercise of his ministry or by a  
 9 member of a religious order in the exercise of duties  
 10 required by such order;  
 11 (c) in the employ of a school which is not an  
 12 institution of higher education, prior to December 31, 1977;  
 13 (d) in a facility conducted for the purpose of  
 14 carrying out a program of rehabilitation for individuals  
 15 whose earning capacity is impaired by age or physical or  
 16 mental deficiency or injury or providing remunerative work  
 17 for individuals who, because of their impaired physical or  
 18 mental capacity, cannot be readily absorbed in the  
 19 competitive labor market by an individual receiving such  
 20 rehabilitation or remunerative work;  
 21 (e) as part of an unemployment work-relief or  
 22 work-training program assisted or financed in whole or in  
 23 part by a federal agency or any agency of a state or  
 24 political subdivision thereof by an individual receiving  
 25 such work relief or work training; or

1 (f) for a state prison or other state correctional or  
 2 custodial institution by an inmate of that institution."  
 3 Section 2. Effective date. This act is effective May  
 4 1, 1981.

-End-



TED SCHWINDEN  
GOVERNOR

State of Montana  
Office of the Governor  
Helena 59620

April 2, 1981

The Honorable Jean A. Turnage  
President of the Senate  
State Capitol  
Helena, Montana 59620

The Honorable Robert L. Marks  
Speaker of the House  
State Capitol  
Helena, Montana 59620

Dear Senator Turnage and Representative Marks:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby veto Senate Bill 226, "AN ACT TO AMEND SECTION 39-51-204, MCA, TO EXCLUDE TREE-THINNING CONTRACTORS WHO SATISFY CERTAIN CONDITIONS FROM THE DEFINITION OF "EMPLOYMENT": AND PROVIDING AN EFFECTIVE DATE OF MAY 1, 1981."

If Senate Bill 226 became law, tree thinners would be the only workers in the State of Montana to pay for their own coverage for workers' compensation insurance. Senate Bill 226 would shift the burden of providing workers' compensation coverage from an employer to an employee for the first time since the enactment of Workers' Compensation in 1915.

Significantly, the bill does not attempt to define tree thinners as independent contractors; it exempts them from the legal definition of employment for the purposes of unemployment insurance and workers compensation. It places tree thinners in the same category as individuals exempted in such categories as delivery of newspapers by an individual under the age of 18, a patient in a hospital performing services for that hospital, an inmate in a prison performing services for that institution, and minor children employed by their parents in a family-owned business.

Exempting tree thinners represents a significant departure from the current exemption criteria. All current exemptions are included in the federal statutes and are adopted by the state for consistency; tree thinners would be the first exemption from the definition of employment that is not contained in the federal statutes.

Enactment of Senate Bill 226 would open the door for potential abuse of this statute. Wood products workers are employed in the second most dangerous occupation in the state, and their workers' compensation coverage is expensive. Enactment of SB 226 would encourage employers in the wood products and other industries to try to re-classify other employees to avoid payment of unemployment insurance and workers' compensation coverage.

The Honorable Jean A. Turnage  
The Honorable Robert L. Marks  
Page 2  
April 2, 1981

Senate Bill 226 also creates administrative difficulties for the workers' compensation program. Since the bill requires each individual tree thinner to pay for his own workers' compensation coverage, the Division would be required to maintain separate files, take separate payments and keep records on each individual tree thinner employed in Montana. In contrast to the current situation where the Workers' Compensation Division has contracts with the major employers who hire tree thinners, the state of Montana would have approximately 2,000 separate contracts with individual tree thinners. Because of the seasonable nature of their employment, those individuals are difficult to contact through normal business channels. As a result, many tree thinners may not bother to register for workers' compensation even though they would be required to by law. A substantial drain on the Unemployed Insurers Fund could ensue if these people injure themselves without having coverage as provided by law.

For these reasons, I hereby veto SB 226.

Sincerely,



TED SCHWINDEN  
Governor