

HOUSE BILL NO. 213

INTRODUCED BY J. BROWN

IN THE HOUSE

January 16, 1985	Introduced and referred to Committee on Business and Labor.
January 29, 1985	Committee recommend bill do pass. Report adopted. Bill printed and placed on members' desks.
January 30, 1985	Second reading, do pass. Considered correctly engrossed.
January 31, 1985	Third reading, passed. Ayes, 97; Noes, 3. Transmitted to Senate.

IN THE SENATE

February 4, 1985	Introduced and referred to Committee on Labor and Employment Relations.
March 6, 1985	Committee recommend bill be concurrent in. Report adopted.
March 7, 1985	Second reading, concurred in.
March 9, 1985	Third reading, concurred in. Ayes, 48; Noes, 0. Returned to House.

IN THE HOUSE

March 11, 1985

Received from Senate.

Sent to enrolling.

Reported correctly enrolled.

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4 A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING DIRECT HOME
5 SALESPEOPLE FROM WORKERS' COMPENSATION; AMENDING SECTION
6 39-71-401, MCA."
7

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

9 Section 1. Section 39-71-401, MCA, is amended to read:

10 "39-71-401. Employments covered and employments
11 exempted. (1) Except as provided in subsection (2) of this
12 section, the Workers' Compensation Act applies to all
13 employers as defined in 39-71-117 and to all employees as
14 defined in 39-71-118. An employer who has any employee in
15 service under any appointment or contract of hire, expressed
16 or implied, oral or written, shall elect to be bound by the
17 provisions of compensation plan No. 1, 2, or 3. Every
18 employee whose employer is bound by the Workers'
19 Compensation Act is subject to and bound by the compensation
20 plan that has been elected by the employer.

21 (2) Unless the employer elects coverage for these
22 employments under this chapter and an insurer allows such an
23 election, the Workers' Compensation Act does not apply to
24 any of the following employments:

25 (a) household and domestic employment;

1 (b) casual employment as defined in 39-71-116(3);

2 (c) employment of members of an employer's family
3 dwelling in the employer's household;

4 (d) employment of sole proprietors or working members
5 of a partnership other than those who consider themselves or
6 hold themselves out as independent contractors and who are
7 not contracting for agricultural services to be performed on
8 a farm or ranch, or for broker or salesman services
9 performed under a license issued by the board of realty
10 regulation, or for services as a direct seller engaged in
11 the sale of consumer products to customers primarily in the
12 home;

13 (e) employment for which a rule of liability for
14 injury, occupational disease, or death is provided under the
15 laws of the United States;

16 (f) any person performing services in return for aid
17 or sustenance only;

18 (g) employment with any railroad engaged in interstate
19 commerce, except that railroad construction work shall be
20 included in and subject to the provisions of this chapter.

21 (3) A sole proprietor or working member of a
22 partnership who holds himself out or considers himself an
23 independent contractor and who is not contracting for
24 agricultural services to be performed on a farm or ranch, or
25 for broker or salesman services performed under a license



1 issued by the board of realty regulation, or for services as
2 a direct seller engaged in the sale of consumer products to
3 customers primarily in the home must elect to be bound
4 personally and individually by the provisions of
5 compensation plan No. 1, 2, or 3, but he may apply to the
6 division for an exemption from the Workers' Compensation Act
7 for himself. The application must be made in accordance with
8 the rules adopted by the division. The division may deny the
9 application only if it determines that the applicant is not
10 an independent contractor. When an application is approved
11 by the division, it is conclusive as to the status of an
12 independent contractor and precludes the applicant from
13 obtaining benefits under this chapter.

14 (4) Each employer shall post a sign in the workplace
15 at the locations where notices to employees are normally
16 posted, informing employees about the employer's current
17 provision of compensation insurance. A workplace is any
18 location where an employee performs any work-related act in
19 the course of employment, regardless of whether the location
20 is temporary or permanent, and includes the place of
21 business or property of a third person while the employer
22 has access to or control over such place of business or
23 property for the purpose of carrying on his usual trade,
24 business, or occupation. The sign will be provided by the
25 division, distributed through insurers or directly by the

1 division, and posted by employers in accordance with rules
2 adopted by the division. An employer who purposely or
3 knowingly fails to post a sign as provided in this
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APPROVED BY COMM. ON
BUSINESS AND LABOR

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