

HOUSE BILL NO. 715

INTRODUCED BY SPAETH, MAZUREK, BERGENE,
PATTERSON, KELLER, HAND, ABRAMS, HOWE,
GRADY, RAMIREZ, CHRISTIAENS, MERCER

IN THE HOUSE

February 7, 1985	Introduced and referred to Committee on Education and Cultural Resources.
February 19, 1985	Committee recommend bill do pass as amended. Report adopted. Bill printed and placed on members' desks.
February 21, 1985	Second reading, do pass. Considered correctly engrossed.
February 22, 1985	Third reading, passed. Transmitted to Senate.

IN THE SENATE

March 4, 1985	Introduced and referred to Committee on Labor and Employment Relations.
March 7, 1985	Committee recommend bill be concurring in. Report adopted.
March 8, 1985	Second reading, concurred in.
March 11, 1985	Third reading, concurred in. Ayes, 50; Noes, 0. Returned to House.

IN THE HOUSE

March 12, 1985

Received from Senate.

Sent to enrolling.

Reported correctly enrolled.

HOUSE BILL NO. 715

INTRODUCED BY

*Scott Norquist Bergare
Pete Keller Hand Abrams House Study Ramsey
Christians*

A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING FROM COVERAGE *Mesa*
UNDER THE WORKERS' COMPENSATION ACT EMPLOYMENT AS AN
OFFICIAL AT A SCHOOL AMATEUR ATHLETIC EVENT; AMENDING
SECTION 39-71-401, MCA; AND PROVIDING AN APPLICABILITY
DATE."

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

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

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

(2) Unless the employer elects coverage for these
employments under this chapter and an insurer allows such an
election, the Workers' Compensation Act does not apply to

any of the following employments:

- (a) household and domestic employment;
- (b) casual employment as defined in 39-71-116(3);
- (c) employment of members of an employer's family dwelling in the employer's household;
- (d) employment of sole proprietors or working members of a partnership other than those who consider themselves or hold themselves out as independent contractors and who are not contracting for agricultural services to be performed on a farm or ranch or for broker or salesman services performed under a license issued by the board of realty regulation;
- (e) employment for which a rule of liability for injury, occupational disease, or death is provided under the laws of the United States;
- (f) any person performing services in return for aid or sustenance only;
- (g) employment with any railroad engaged in interstate commerce, except that railroad construction work shall be included in and subject to the provisions of this chapter;
- (h) employment as an official, including a timer, referee, or judge, at a school amateur athletic event.

(3) A sole proprietor or working member of a partnership who holds himself out or considers himself an independent contractor and who is not contracting for agricultural services to be performed on a farm or ranch or



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

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

1 adopted by the division. An employer who purposely or
 2 knowingly fails to post a sign as provided in this
 3 subsection is subject to a \$50 fine for each citation."

4 NEW SECTION. Section 2. Applicability. This act
 5 applies to all claims arising from injuries sustained on or
 6 after October 1, 1985.

-End-

APPROVED BY COMM. ON EDUCATION AND CULTURAL RESOURCES

HOUSE BILL NO. 715

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A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING FROM COVERAGE UNDER THE WORKERS' COMPENSATION ACT EMPLOYMENT AS AN OFFICIAL AT A SCHOOL AMATEUR ATHLETIC EVENT; AMENDING SECTION 39-71-401, MCA; AND PROVIDING AN APPLICABILITY DATE."

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(2) Unless the employer elects coverage for these

employments under this chapter and an insurer allows such an election, the Workers' Compensation Act does not apply to any of the following employments:

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(f) any person performing services in return for aid or sustenance only;
(g) employment with any railroad engaged in interstate commerce, except that railroad construction work shall be included in and subject to the provisions of this chapter;
(h) employment as an official, including a timer, referee, or judge, at a school amateur athletic event, UNLESS THE PERSON IS OTHERWISE EMPLOYED BY A SCHOOL DISTRICT.



1 (3) A sole proprietor or working member of a
 2 partnership who holds himself out or considers himself an
 3 independent contractor and who is not contracting for
 4 agricultural services to be performed on a farm or ranch or
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 22 the course of employment, regardless of whether the location
 23 is temporary or permanent, and includes the place of
 24 business or property of a third person while the employer
 25 has access to or control over such place of business or

1 property for the purpose of carrying on his usual trade,
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 7 subsection is subject to a \$50 fine for each citation."

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