

SENATE BILL NO. 29

1/07 Introduced
1/07 Referred to Labor & Employment Relations
1/10 Hearing
1/16 Adverse Committee Report
1/16 Bill Killed

1 SENATE BILL NO. 29
2 INTRODUCED BY SHAW

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR
5 EXEMPTIONS FROM COVERAGE UNDER THE WORKERS' COMPENSATION ACT
6 FOR CERTAIN EMPLOYMENTS IN FARMING, DAIRYING, RANCHING, AND
7 OTHER AGRICULTURAL LABOR; AMENDING SECTION 39-71-401, MCA;
8 AND PROVIDING AN APPLICABILITY DATE."

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

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

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

1 any of the following employments:

- 2 (a) household and domestic employment;
- 3 (b) casual employment as defined in 39-71-116(3);
- 4 (c) employment of members of an employer's family
5 dwelling in the employer's household;
- 6 (d) employment of sole proprietors or working members
7 of a partnership other than those who consider themselves or
8 hold themselves out as independent contractors and who are
9 not contracting for agricultural services to be performed on
10 a farm or ranch or for broker or salesman services performed
11 under a license issued by the board of realty regulation;
- 12 (e) employment for which a rule of liability for
13 injury, occupational disease, or death is provided under the
14 laws of the United States;
- 15 (f) any person performing services in return for aid
16 or sustenance only;
- 17 (g) employment with any railroad engaged in interstate
18 commerce, except that railroad construction work shall be
19 included in and subject to the provisions of this chapter;
- 20 (h) employment in farming, dairying, ranching, and
21 other agricultural labor as defined in 39-51-205.

22 (3) A sole proprietor or working member of a
23 partnership who holds himself out or considers himself an
24 independent contractor and who is not contracting for
25 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.

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