

SENATE BILL NO. 356

2/07 Introduced  
2/08 Referred to Labor & Employment Relations  
2/19 Hearing  
2/22 Committee Report-Bill Pass As Amended  
2/25 2nd Reading Pass  
2/27 3rd Reading Pass

Transmitted to House

3/06 Referred to Business & Labor  
3/22 Hearing  
Died in Committee

1 *Senate* BILL NO. *356*  
 2 INTRODUCED BY *STEPHENS* *J. Brown*

3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT AN  
 5 INDEPENDENT CONTRACTOR CONTRACTING WITH A NEWSPAPER NEED NOT  
 6 ELECT TO BE BOUND PERSONALLY AND INDIVIDUALLY BY A WORKERS'  
 7 COMPENSATION PLAN; AMENDING SECTION 39-71-401, MCA."

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

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

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

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

- 1 (a) household and domestic employment;
- 2 (b) casual employment as defined in 39-71-116(3);
- 3 (c) employment of members of an employer's family
- 4 dwelling in the employer's household;
- 5 (d) employment of sole proprietors or working members
- 6 of a partnership other than those who consider themselves or
- 7 hold themselves out as independent contractors and who are
- 8 not contracting with a newspaper or for agricultural
- 9 services to be performed on a farm or ranch or for broker or
- 10 salesman services performed under a license issued by the
- 11 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 (3) A sole proprietor or working member of a
- 21 partnership who holds himself out or considers himself an
- 22 independent contractor and who is not contracting with a
- 23 newspaper or for agricultural services to be performed on a
- 24 farm or ranch or for broker or salesman services performed
- 25 under a license issued by the board of realty regulation



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

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

1 subsection is subject to a \$50 fine for each citation."

2 NEW SECTION. Section 2. Extension of authority. Any  
 3 existing authority of the division of workers' compensation  
 4 to make rules on the subject of the provisions of this act  
 5 is extended to the provisions of this act.

-End-

APPROVED BY COMMITTEE  
ON LABOR & EMPLOYMENT  
RELATIONS

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THIRD READING

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