

HOUSE BILL NO. 80

INTRODUCED BY J. BROWN

IN THE HOUSE

JANUARY 5, 1987 INTRODUCED AND REFERRED TO COMMITTEE
ON BUSINESS & LABOR.

JANUARY 22, 1987 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

JANUARY 23, 1987 PRINTING REPORT.

JANUARY 24, 1987 SECOND READING, DO PASS.

JANUARY 26, 1987 ENGROSSING REPORT.

 THIRD READING, PASSED.
 AYES, 71; NOES, 29.

 TRANSMITTED TO SENATE.

IN THE SENATE

JANUARY 27, 1987 INTRODUCED AND REFERRED TO COMMITTEE
ON BUSINESS & INDUSTRY.

FEBRUARY 14, 1987 COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

FEBRUARY 17, 1987 SECOND READING, CONCURRED IN.

FEBRUARY 19, 1987 THIRD READING, CONCURRED IN.
AYES, 43; NOES, 7.

 RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

MARCH 11, 1987 RECEIVED FROM SENATE.

 SECOND READING, AMENDMENTS
CONCURRED IN.

MARCH 12, 1987

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

1 HOUSE BILL NO. 80
2 INTRODUCED BY J. BROWN

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

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 except employment of a volunteer under 67-2-105;
- 5 (c) employment of members of an employer's family
6 dwelling in the employer's household;
- 7 (d) employment of sole proprietors or working members
8 of a partnership other than those who consider themselves or
9 hold themselves out as independent contractors and who are
10 not contracting with a newspaper as a newspaper carrier or
11 part-time correspondent, or for agricultural services to be
12 performed on a farm or ranch, or for broker or salesman
13 services performed under a license issued by the board of
14 realty regulation, or for services as a direct seller
15 engaged in the sale of consumer products to customers
16 primarily in the home;
- 17 (e) employment for which a rule of liability for
18 injury, occupational disease, or death is provided under the
19 laws of the United States;
- 20 (f) any person performing services in return for aid
21 or sustenance only, except employment of a volunteer under
22 67-2-105;
- 23 (g) employment with any railroad engaged in interstate
24 commerce, except that railroad construction work shall be
25 included in and subject to the provisions of this chapter;



1 (h) employment as an official, including a timer,
2 referee, or judge, at a school amateur athletic event,
3 unless the person is otherwise employed by a school
4 district.

5 (3) A sole proprietor or working member of a
6 partnership who holds himself out or considers himself an
7 independent contractor and who is not contracting with a
8 newspaper as a newspaper carrier or part-time correspondent,
9 or for agricultural services to be performed on a farm or
10 ranch, or for broker or salesman services performed under a
11 license issued by the board of realty regulation, or for
12 services as a direct seller engaged in the sale of consumer
13 products to customers primarily in the home must elect to be
14 bound personally and individually by the provisions of
15 compensation plan No. 1, 2, or 3, but he may apply to the
16 division for an exemption from the Workers' Compensation Act
17 for himself. The application must be made in accordance with
18 the rules adopted by the division. The division may deny the
19 application only if it determines that the applicant is not
20 an independent contractor. When an application is approved
21 by the division, it is conclusive as to the status of an
22 independent contractor and precludes the applicant from
23 obtaining benefits under this chapter.

24 (4) Each employer shall post a sign in the workplace
25 at the locations where notices to employees are normally

1 posted, informing employees about the employer's current
2 provision of compensation insurance. A workplace is any
3 location where an employee performs any work-related act in
4 the course of employment, regardless of whether the location
5 is temporary or permanent, and includes the place of
6 business or property of a third person while the employer
7 has access to or control over such place of business or
8 property for the purpose of carrying on his usual trade,
9 business, or occupation. The sign will be provided by the
10 division, distributed through insurers or directly by the
11 division, and posted by employers in accordance with rules
12 adopted by the division. An employer who purposely or
13 knowingly fails to post a sign as provided in this
14 subsection is subject to a \$50 fine for each citation."

15 NEW SECTION. Section 2. Extension of authority. Any
16 existing authority of the division of workers' compensation
17 to make rules on the subject of the provisions of this act
18 is extended to the provisions of this act.

-End-

APPROVED BY COMM. ON
BUSINESS AND LABOR

HOUSE BILL NO. 80

INTRODUCED BY J. BROWN

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT AN
~~INDEPENDENT--CONTRACTOR--CONTRACTING--WITH--A-NEWSPAPER-AS~~ A
NEWSPAPER CARRIER OR ~~PART-TIME~~ FREE-LANCE CORRESPONDENT NEED
NOT ELECT TO BE BOUND PERSONALLY AND INDIVIDUALLY BY A
WORKERS' COMPENSATION PLAN; AND AMENDING SECTION 39-71-401,
MCA."

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

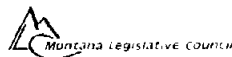
Section 1. Section 39-71-401, MCA, is amended to read:

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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)
except employment of a volunteer under 67-2-105;
- (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 ~~with-a-newspaper-as-a-newspaper--carrier--or~~
~~part-time--correspondent;--or~~ 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, or for services as a direct seller
engaged in the sale of consumer products to customers
primarily in the home;
- (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, except employment of a volunteer under
67-2-105;
- (g) employment with any railroad engaged in interstate
commerce, except that railroad construction work shall be



1 included in and subject to the provisions of this chapter;

2 (h) employment as an official, including a timer,
3 referee, or judge, at a school amateur athletic event,
4 unless the person is otherwise employed by a school
5 district;

6 (I) ANY PERSON PERFORMING SERVICES AS A NEWSPAPER
7 CARRIER OR FREE-LANCE CORRESPONDENT IF THE PERSON PERFORMING
8 THE SERVICES OR A PARENT OR GUARDIAN OF THE PERSON
9 PERFORMING THE SERVICES IN THE CASE OF A MINOR HAS
10 ACKNOWLEDGED IN WRITING THAT THE PERSON PERFORMING THE
11 SERVICES AND THE SERVICES ARE NOT COVERED, AS USED IN THIS
12 SUBSECTION "FREE-LANCE CORRESPONDENT" IS A PERSON WHO
13 SUBMITS ARTICLES OR PHOTOGRAPHS FOR PUBLICATION AND IS PAID
14 BY THE ARTICLE OR BY THE PHOTOGRAPH. AS USED IN THIS
15 SUBSECTION "NEWSPAPER CARRIER":

16 (I) IS A PERSON WHO PROVIDES A NEWSPAPER WITH THE
17 SERVICE OF DELIVERING NEWSPAPERS SINGLY OR IN BUNDLES, BUT

18 (II) DOES NOT INCLUDE AN EMPLOYEE OF THE PAPER WHO
19 INCIDENTALLY TO HIS MAIN DUTIES, CARRIES OR DELIVERS PAPERS.

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-as-a-newspaper-carrier-or-part-time-correspondent,
24 or for agricultural services to be performed on a farm or
25 ranch, or for broker or salesman services performed under a

1 license issued by the board of realty regulation, or for
2 services as a direct seller engaged in the sale of consumer
3 products to customers primarily in the home must elect to be
4 bound 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
4 subsection is subject to a \$50 fine for each citation."

5 NEW SECTION. Section 2. Extension of authority. Any
6 existing authority of the division of workers' compensation
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18 service under any appointment or contract of hire, expressed
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21 employee whose employer is bound by the Workers'
22 Compensation Act is subject to and bound by the compensation
23 plan that has been elected by the employer.

24 (2) Unless the employer elects coverage for these
25 employments under this chapter and an insurer allows such an

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9 of a partnership other than those who consider themselves or
10 hold themselves out as independent contractors and who are
11 not contracting ~~with-a-newspaper-as-a-newspaper--carrier--or~~
12 ~~part-time--correspondent~~ or for agricultural services to be
13 performed on a farm or ranch, or for broker or salesman
14 services performed under a license issued by the board of
15 realty regulation, or for services as a direct seller
16 engaged in the sale of consumer products to customers
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20 laws of the United States;21 (f) any person performing services in return for aid
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 8 ~~WORKERS'--COMPENSATION--PLAN~~ IS NOT COVERED BY THE WORKERS'
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-End-

STANDING COMMITTEE REPORT

SENATE

.....February 13,..... 19.87.....

MR. PRESIDENT

We, your committee on.....BUSINESS AND INDUSTRY.....

having had under consideration.....HOUSE BILL..... No. 80.....

THIRD reading copy (BLUE)
color

BROWN (MAZUREK)

NEWSPAPER CARRIER OR CORRESPONDENT NEED NOT HAVE WORKERS' COMPENSATION

Respectfully report as follows: That.....HOUSE BILL..... No. 80.....

be amended as follows:

- 1. Title, lines 6 through 8.
- Following: "CORRESPONDENT"
- Strike: remainder of line 6 through "PLAN" on line 8
- Insert: "IS NOT COVERED BY THE WORKERS' COMPENSATION ACT UNLESS THE EMPLOYER ELECTS COVERAGE"

AND AS AMENDED,
BE CONCURRED IN

~~XXXXXX~~
~~XXXXXXXX~~

SENATOR KOLSTAD

Chairman.

4-13-87
3:50 PM

MC

C