

HOUSE BILL NO. 472

INTRODUCED BY WALLIN, ROSE, HERRON,
BARNETT, STOVALL

IN THE HOUSE

FEBRUARY 4, 1993 INTRODUCED AND REFERRED TO COMMITTEE
ON LABOR & EMPLOYMENT RELATIONS.

FIRST READING.

FEBRUARY 13, 1993 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

FEBRUARY 15, 1993 PRINTING REPORT.

SECOND READING, DO PASS.

FEBRUARY 16, 1993 ENGROSSING REPORT.

FEBRUARY 17, 1993 THIRD READING, PASSED.
AYES, 63; NOES, 37.

FEBRUARY 18, 1993 TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 20, 1993 INTRODUCED AND REFERRED TO COMMITTEE
ON LABOR & EMPLOYMENT RELATIONS.

FIRST READING.

MARCH 10, 1993 COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

MARCH 11, 1993 SECOND READING, CONCURRED IN.

MARCH 12, 1993 THIRD READING, CONCURRED IN.
AYES, 30; NOES, 18.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

MARCH 31, 1993 SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 2, 1993 THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 America;

2 (1) resident managers employed in lodging
3 establishments or personal care facilities who, under the
4 terms of their employment, live in the establishment or
5 facility.

6 (2) The provisions of 39-3-405 do not apply to:

7 (a) an employee with respect to whom the United States
8 Secretary of Transportation has power to establish
9 qualifications and maximum hours of service pursuant to the
10 provisions of 49 U.S.C. 304;

11 (b) an employee of an employer subject to the
12 provisions of part I of the Interstate Commerce Act;

13 (c) an individual employed as an outside buyer of
14 poultry, eggs, cream, or milk, in their raw or natural
15 state;

16 (d) an outside salesman salesperson paid on a
17 commission or contract basis who is primarily employed in
18 selling advertising for a newspaper;

19 (e) a salesman salesperson, partsman parts person, or
20 mechanic paid on a commission or contract basis and
21 primarily engaged in selling or servicing automobiles,
22 trucks, mobile homes, recreational vehicles, or farm
23 implements if he the salesperson, parts person, or mechanic
24 is employed by a nonmanufacturing establishment primarily
25 engaged in the business of selling such vehicles or

1 implements to ultimate purchasers;

2 (f) a salesman salesperson primarily engaged in selling
3 trailers, boats, or aircraft if he the salesperson is
4 employed by a nonmanufacturing establishment primarily
5 engaged in the business of selling trailers, boats, or
6 aircraft to ultimate purchasers;

7 (g) an outside salesman salesperson paid on a
8 commission or contract basis who is primarily employed in
9 selling office supplies, computers, or other office
10 equipment for an office equipment dealer;

11 (h) a salesman salesperson paid on a commission or
12 contract basis who is primarily engaged in selling
13 advertising for a radio or television station employer;

14 (i) an employee employed as a driver or driver's helper
15 making local deliveries who is compensated for such the
16 employment on the basis of trip rates, or other delivery
17 payment plan, if the commissioner finds that such the plan
18 has the general purpose and effect of reducing hours worked
19 by such the employees to or below the maximum workweek
20 applicable to them under 39-3-405;

21 (j) an employee employed in agriculture or in
22 connection with the operation or maintenance of ditches,
23 canals, reservoirs, or waterways not owned or operated for
24 profit and not operated on a sharecrop basis and which are
25 used exclusively for supply and storing of water for

1 agricultural purposes;

2 (k) an employee with-respect-to-his-employment employed
3 in agriculture by a farmer, notwithstanding other employment
4 of such the employee in connection with livestock auction
5 operations in which such the farmer is engaged as an adjunct
6 to the raising of livestock, either on his the farmer's own
7 account or in conjunction with other farmers, if such the
8 employee is:

9 (i) primarily employed during his the workweek in
10 agriculture by such the farmer; and

11 (ii) paid for his employment in connection with such
12 livestock auction operations at a wage rate not less than
13 that prescribed by 39-3-404;

14 (l) an employee of an establishment commonly recognized
15 as a country elevator, including an establishment which that
16 sells products and services used in the operation of a farm,
17 if no more than five employees are employed by the
18 establishment;

19 (m) a driver employed by an employer engaged in the
20 business of operating taxicabs;

21 (n) an employee who is employed with his the employee's
22 spouse by a nonprofit educational institution to serve as
23 the parents of children who are orphans or one of whose
24 natural parents is deceased or who are enrolled in such the
25 institution and reside in residential facilities of the

1 institution so long as the children are in residence at the
2 institution and so long as such the employee and his the
3 employee's spouse reside in such the facilities and receive,
4 without cost, board and lodging from the institution and are
5 together compensated, on a cash basis, at an annual rate of
6 not less than \$10,000;

7 (o) an employee employed in planting or tending trees;
8 cruising, surveying, or felling timber; or transporting logs
9 or other forestry products to a mill, processing plant,
10 railroad, or other transportation terminal if the number of
11 employees employed by his the employer in such the forestry
12 or lumbering operations does not exceed eight;

13 (p) an employee of a sheriff's department who is
14 working under an established work period in lieu of a
15 workweek pursuant to 7-4-2509(1);

16 (q) an employee of a municipal or county government who
17 is working under a work period not exceeding 40 hours in a
18 7-day period established through a collective bargaining
19 agreement when a collective bargaining unit represents the
20 employee or by mutual agreement of the employer and employee
21 where---no when a bargaining unit is not recognized.
22 Employment in excess of 40 hours in a 7-day, 40-hour work
23 period must be compensated at a rate of not less than 1 1/2
24 times the hourly wage rate for the employee.

25 (r) an employee of a hospital or other establishment

1 primarily engaged in the care of the sick, disabled, aged,
 2 or mentally ill or defective who is working under a work
 3 period not exceeding 80 hours in a 14-day period established
 4 through either a collective bargaining agreement when a
 5 collective bargaining unit represents the employee or by
 6 mutual agreement of the employer and employee where ~~no~~ when
 7 a bargaining unit is not recognized. Employment in excess of
 8 8 hours per day or 80 hours in a 14-day period must be
 9 compensated for at a rate of not less than 1 1/2 times the
 10 hourly wage rate for the employee.

11 (s) a firefighter who is working under a work period
 12 established in a collective bargaining agreement entered
 13 into between a public employer and a firefighters'
 14 organization or its exclusive representative;

15 (t) an officer or other employee of a police department
 16 in a city of the first or second class who is working under
 17 a work period established by the chief of police under
 18 7-32-4118;

19 (u) an employee of a department of public safety
 20 working under a work period established pursuant to
 21 7-32-115.

22 (v) an employee of a retail establishment when more
 23 than half of the employee's compensation for a period of not
 24 less than 1 month is derived from commissions on goods and
 25 services."

1 NEW SECTION. Section 2. Effective date. [This act] is
 2 effective on passage and approval.

-End-

APPROVED BY COMMITTEE
ON LABOR & EMPLOYMENT
RELATIONS

HOUSE BILL NO. 472

INTRODUCED BY WALLIN, ROSE, HERRON,

BARNETT, STOVALL

A BILL FOR AN ACT ENTITLED: "AN ACT EXCLUDING A CERTAIN
RETAIL ESTABLISHMENT ~~EMPLOYEES~~ EMPLOYEES FROM COVERAGE UNDER
THE STATE OVERTIME COMPENSATION LAWS WHEN MORE THAN HALF OF
THE EMPLOYEE'S COMPENSATION FOR A PERIOD OF NOT LESS THAN 1
MONTH IS DERIVED FROM COMMISSIONS ON GOODS AND SERVICES; AND
AMENDING SECTION 39-3-406, MCA; ~~AND PROVIDING--AN--IMMEDIATE~~
~~RETROACTIVE DATE.~~"

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

Section 1. Section 39-3-406, MCA, is amended to read:

"39-3-406. Exclusions. (1) The provisions of 39-3-404
and 39-3-405 do not apply with respect to:

(a) students participating in a distributive education
program established under the auspices of an accredited
educational agency;

(b) persons employed in private homes whose duties
consist of menial chores such as babysitting, mowing lawns,
cleaning sidewalks;

(c) persons employed directly by the head of a
household to care for children dependent upon the head of
the household;

(d) immediate members of the family of an employer or
persons dependent upon an employer for half or more of their
support in the customary sense of being a dependent;

(e) any persons not regular employees thereof who
voluntarily offer their services to a nonprofit organization
on a fully or partially reimbursed basis;

(f) handicapped workers engaged in work which that is
incidental to training or evaluation programs or whose
earning capacity is so severely impaired that they are
unable to engage in competitive employment;

(g) apprentices or learners, who may be exempted by the
commissioner for a period not to exceed 30 days of their
employment;

(h) learners under the age of 18 who are employed as
farm workers, provided that such the exclusion ~~shall~~ may not
exceed a period of 180 days from their initial date of
employment and further provided that during this exclusion
period wages paid such the learners may not be less than 50%
of the minimum wage rate established in this part;

(i) retired or semiretired persons performing part-time
incidental work as a condition of their residence on a farm
or ranch;

(j) any individual employed in a bona fide executive,
administrative, or professional capacity as these terms are
defined and delimited by regulations of the commissioner;

(k) any individual employed by the United States of America;

(l) resident managers employed in lodging establishments or personal care facilities who, under the terms of their employment, live in the establishment or facility.

(2) The provisions of 39-3-405 do not apply to:

(a) an employee with respect to whom the United States Secretary of Transportation has power to establish qualifications and maximum hours of service pursuant to the provisions of 49 U.S.C. 304;

(b) an employee of an employer subject to the provisions of part I of the Interstate Commerce Act;

(c) an individual employed as an outside buyer of poultry, eggs, cream, or milk, in their raw or natural state;

(d) an outside salesman salesperson paid on a commission or contract basis who is primarily employed in selling advertising for a newspaper;

(e) a salesman salesperson, partsman parts person, or mechanic paid on a commission or contract basis and primarily engaged in selling or servicing automobiles, trucks, mobile homes, recreational vehicles, or farm implements if he the salesperson, parts person, or mechanic is employed by a nonmanufacturing establishment primarily

engaged in the business of selling such vehicles or implements to ultimate purchasers;

(f) a salesman salesperson primarily engaged in selling trailers, boats, or aircraft if he the salesperson is employed by a nonmanufacturing establishment primarily engaged in the business of selling trailers, boats, or aircraft to ultimate purchasers;

(g) an outside salesman salesperson paid on a commission or contract basis who is primarily employed in selling office supplies, computers, or other office equipment for an office equipment dealer;

(h) a salesman salesperson paid on a commission or contract basis who is primarily engaged in selling advertising for a radio or television station employer;

(i) an employee employed as a driver or driver's helper making local deliveries who is compensated for such the employment on the basis of trip rates, or other delivery payment plan, if the commissioner finds that such the plan has the general purpose and effect of reducing hours worked by such the employees to or below the maximum workweek applicable to them under 39-3-405;

(j) an employee employed in agriculture or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways not owned or operated for profit and not operated on a sharecrop basis and which are

1 used exclusively for supply and storing of water for
2 agricultural purposes;

3 (k) an employee with-respect-to-his-employment employed
4 in agriculture by a farmer, notwithstanding other employment
5 of such the employee in connection with livestock auction
6 operations in which such the farmer is engaged as an adjunct
7 to the raising of livestock, either on his the farmer's own
8 account or in conjunction with other farmers, if such the
9 employee is:

10 (i) primarily employed during his the workweek in
11 agriculture by such the farmer; and

12 (ii) paid for his employment in connection with such
13 livestock auction operations at a wage rate not less than
14 that prescribed by 39-3-404;

15 (l) an employee of an establishment commonly recognized
16 as a country elevator, including an establishment which that
17 sells products and services used in the operation of a farm,
18 if no more than five employees are employed by the
19 establishment;

20 (m) a driver employed by an employer engaged in the
21 business of operating taxicabs;

22 (n) an employee who is employed with his the employee's
23 spouse by a nonprofit educational institution to serve as
24 the parents of children who are orphans or one of whose
25 natural parents is deceased or who are enrolled in such the

1 institution and reside in residential facilities of the
2 institution so long as the children are in residence at the
3 institution and so long as such the employee and his the
4 employee's spouse reside in such the facilities and receive,
5 without cost, board and lodging from the institution and are
6 together compensated, on a cash basis, at an annual rate of
7 not less than \$10,000;

8 (o) an employee employed in planting or tending trees;
9 cruising, surveying, or felling timber; or transporting logs
10 or other forestry products to a mill, processing plant,
11 railroad, or other transportation terminal if the number of
12 employees employed by his the employer in such the forestry
13 or lumbering operations does not exceed eight;

14 (p) an employee of a sheriff's department who is
15 working under an established work period in lieu of a
16 workweek pursuant to 7-4-2509(1);

17 (q) an employee of a municipal or county government who
18 is working under a work period not exceeding 40 hours in a
19 7-day period established through a collective bargaining
20 agreement when a collective bargaining unit represents the
21 employee or by mutual agreement of the employer and employee
22 where--no when a bargaining unit is not recognized.
23 Employment in excess of 40 hours in a 7-day, 40-hour work
24 period must be compensated at a rate of not less than 1 1/2
25 times the hourly wage rate for the employee.

1 (r) an employee of a hospital or other establishment
 2 primarily engaged in the care of the sick, disabled, aged,
 3 or mentally ill or defective who is working under a work
 4 period not exceeding 80 hours in a 14-day period established
 5 through either a collective bargaining agreement when a
 6 collective bargaining unit represents the employee or by
 7 mutual agreement of the employer and employee where no when
 8 a bargaining unit is not recognized. Employment in excess of
 9 8 hours per day or 80 hours in a 14-day period must be
 10 compensated for at a rate of not less than 1 1/2 times the
 11 hourly wage rate for the employee.

12 (s) a firefighter who is working under a work period
 13 established in a collective bargaining agreement entered
 14 into between a public employer and a firefighters'
 15 organization or its exclusive representative;

16 (t) an officer or other employee of a police department
 17 in a city of the first or second class who is working under
 18 a work period established by the chief of police under
 19 7-32-4118;

20 (u) an employee of a department of public safety
 21 working under a work period established pursuant to
 22 7-32-1157;

23 (v) an employee of a retail establishment WHO IS NOT
 24 UNDER DIRECT SUPERVISION OF THE EMPLOYER AND IS FREE TO SET
 25 THE EMPLOYEE'S OWN TIME SCHEDULE, when more than half of the

1 employee's compensation for a period of not less than 1
 2 month is derived from commissions on goods and services."

3 ~~NEW-SECTION--Section 2--Effective date--(This act)--is--~~
 4 ~~effective on passage and approval~~

-End-

1 HOUSE BILL NO. 472

2 INTRODUCED BY WALLIN, ROSE, HERRON,

3 BARNETT, STOVALL

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT EXCLUDING A CERTAIN
6 RETAIL ESTABLISHMENT ~~EMPLOYEES~~ EMPLOYEES FROM COVERAGE UNDER
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8 THE EMPLOYEE'S COMPENSATION FOR A PERIOD OF NOT LESS THAN 1
9 MONTH IS DERIVED FROM COMMISSIONS ON GOODS AND SERVICES; AND
10 AMENDING SECTION 39-3-406, MCA; ~~AND PROVIDING--AN--IMMEDIATE~~
11 ~~EFFECTIVE-DATE.~~"

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 Section 1. Section 39-3-406, MCA, is amended to read:

15 "39-3-406. Exclusions. (1) The provisions of 39-3-404
16 and 39-3-405 do not apply with respect to:17 (a) students participating in a distributive education
18 program established under the auspices of an accredited
19 educational agency;20 (b) persons employed in private homes whose duties
21 consist of menial chores such as babysitting, mowing lawns,
22 cleaning sidewalks;23 (c) persons employed directly by the head of a
24 household to care for children dependent upon the head of
25 the household;1 (d) immediate members of the family of an employer or
2 persons dependent upon an employer for half or more of their
3 support in the customary sense of being a dependent;4 (e) any persons not regular employees thereof who
5 voluntarily offer their services to a nonprofit organization
6 on a fully or partially reimbursed basis;7 (f) handicapped workers engaged in work which that is
8 incidental to training or evaluation programs or whose
9 earning capacity is so severely impaired that they are
10 unable to engage in competitive employment;11 (g) apprentices or learners, who may be exempted by the
12 commissioner for a period not to exceed 30 days of their
13 employment;14 (h) learners under the age of 18 who are employed as
15 farm workers, provided that such the exclusion shall may not
16 exceed a period of 180 days from their initial date of
17 employment and further provided that during this exclusion
18 period wages paid such the learners may not be less than 50%
19 of the minimum wage rate established in this part;20 (i) retired or semiretired persons performing part-time
21 incidental work as a condition of their residence on a farm
22 or ranch;23 (j) any individual employed in a bona fide executive,
24 administrative, or professional capacity as these terms are
25 defined and delimited by regulations of the commissioner;

1 (k) any individual employed by the United States of
2 America;

3 (l) resident managers employed in lodging
4 establishments or personal care facilities who, under the
5 terms of their employment, live in the establishment or
6 facility.

7 (2) The provisions of 39-3-405 do not apply to:

8 (a) an employee with respect to whom the United States
9 Secretary of Transportation has power to establish
10 qualifications and maximum hours of service pursuant to the
11 provisions of 49 U.S.C. 304;

12 (b) an employee of an employer subject to the
13 provisions of part I of the Interstate Commerce Act;

14 (c) an individual employed as an outside buyer of
15 poultry, eggs, cream, or milk, in their raw or natural
16 state;

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18 commission or contract basis who is primarily employed in
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8 account or in conjunction with other farmers, if such the
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25 natural parents is deceased or who are enrolled in such the

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2 institution so long as the children are in residence at the
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6 together compensated, on a cash basis, at an annual rate of
7 not less than \$10,000;

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10 or other forestry products to a mill, processing plant,
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 22 7-32-1157;

23 (v) an employee of a retail establishment WHO IS NOT
 24 UNDER DIRECT SUPERVISION OF THE EMPLOYER AND IS FREE TO SET
 25 THE EMPLOYEE'S OWN TIME SCHEDULE, when more than half of the

1 employee's compensation for a period of not less than 1
 2 month is derived from commissions on goods and services."
 3 NEW-SECTION. Section 2. Effective date: {This act} is
 4 effective on passage and approval.

-End-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 10, 1993

MR. PRESIDENT:

We, your committee on Labor and Employment Relations having had under consideration House Bill No. 472 (first reading copy -- blue), respectfully report that House Bill No. 472 be amended as follows and as so amended be concurred in.

Signed: 
Senator Thomas E. "Tom" Towe, Chair

That such amendments read:

1. Title, line 7.

Following: "LAWS"

Strike: "WHEN"

Insert: "IF THE EMPLOYEE'S REGULAR RATE OF PAY EXCEEDS 1 1/2
TIMES THE MINIMUM HOURLY RATE APPLICABLE UNDER THE FAIR
LABOR STANDARDS ACT OF 1938 AND IF"

2. Page 7, lines 23 through 25.

Following: "establishment" on line 23

Strike: remainder of line 23 through "SCHEDULE, when" on line 25

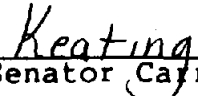
Insert: "if the employee's regular rate of pay exceeds 1 1/2
times the minimum hourly rate applicable under section 206
of the Fair Labor Standards Act of 1938 and if"

-END-

SENATE

HB 472

m- Amd. Coord.
IN Sec. of Senate


Senator Carrying Bill

541014SC.Sma

1 HOUSE BILL NO. 472

2 INTRODUCED BY WALLIN, ROSE, HERRON,

3 BARNETT, STOVALL

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT EXCLUDING A CERTAIN
6 RETAIL ESTABLISHMENT EMPLOYEE EMPLOYEES FROM COVERAGE UNDER
7 THE STATE OVERTIME COMPENSATION LAWS WHEN IF THE EMPLOYEE'S
8 REGULAR RATE OF PAY EXCEEDS 1 1/2 TIMES THE MINIMUM HOURLY
9 RATE APPLICABLE UNDER THE FAIR LABOR STANDARDS ACT OF 1938
10 AND IF MORE THAN HALF OF THE EMPLOYEE'S COMPENSATION FOR A
11 PERIOD OF NOT LESS THAN 1 MONTH IS DERIVED FROM COMMISSIONS
12 ON GOODS AND SERVICES; AND AMENDING SECTION 39-3-406, MCA;
13 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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2 defined and delimited by regulations of the commissioner;

3 (k) any individual employed by the United States of
4 America;

5 (l) resident managers employed in lodging
6 establishments or personal care facilities who, under the
7 terms of their employment, live in the establishment or
8 facility.

9 (2) The provisions of 39-3-405 do not apply to:

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15 provisions of part I of the Interstate Commerce Act;

16 (c) an individual employed as an outside buyer of
17 poultry, eggs, cream, or milk, in their raw or natural
18 state;

19 (d) an outside ~~salesman~~ salesperson paid on a
20 commission or contract basis who is primarily employed in
21 selling advertising for a newspaper;

22 (e) a ~~salesman~~ salesperson, ~~partsman~~ parts person, or
23 mechanic paid on a commission or contract basis and
24 primarily engaged in selling or servicing automobiles,
25 trucks, mobile homes, recreational vehicles, or farm

1 implements if he the salesperson, parts person, or mechanic
2 is employed by a nonmanufacturing establishment primarily
3 engaged in the business of selling such vehicles or
4 implements to ultimate purchasers;

5 (f) a ~~salesman~~ salesperson primarily engaged in selling
6 trailers, boats, or aircraft if he the salesperson is
7 employed by a nonmanufacturing establishment primarily
8 engaged in the business of selling trailers, boats, or
9 aircraft to ultimate purchasers;

10 (g) an outside ~~salesman~~ salesperson paid on a
11 commission or contract basis who is primarily employed in
12 selling office supplies, computers, or other office
13 equipment for an office equipment dealer;

14 (h) a ~~salesman~~ salesperson paid on a commission or
15 contract basis who is primarily engaged in selling
16 advertising for a radio or television station employer;

17 (i) an employee employed as a driver or driver's helper
18 making local deliveries who is compensated for such the
19 employment on the basis of trip rates, or other delivery
20 payment plan, if the commissioner finds that such the plan
21 has the general purpose and effect of reducing hours worked
22 by such the employees to or below the maximum workweek
23 applicable to them under 39-3-405;

24 (j) an employee employed in agriculture or in
25 connection with the operation or maintenance of ditches,

1 canals, reservoirs, or waterways not owned or operated for
2 profit and not operated on a sharecrop basis and which are
3 used exclusively for supply and storing of water for
4 agricultural purposes;

5 (k) an employee with-respect-to-his-employment employed
6 in agriculture by a farmer, notwithstanding other employment
7 of such the employee in connection with livestock auction
8 operations in which such the farmer is engaged as an adjunct
9 to the raising of livestock, either on his the farmer's own
10 account or in conjunction with other farmers, if such the
11 employee is:

12 (i) primarily employed during his the workweek in
13 agriculture by such the farmer; and

14 (ii) paid for his employment in connection with such
15 livestock auction operations at a wage rate not less than
16 that prescribed by 39-3-404;

17 (l) an employee of an establishment commonly recognized
18 as a country elevator, including an establishment which that
19 sells products and services used in the operation of a farm,
20 if no more than five employees are employed by the
21 establishment;

22 (m) a driver employed by an employer engaged in the
23 business of operating taxicabs;

24 (n) an employee who is employed with his the employee's
25 spouse by a nonprofit educational institution to serve as

1 the parents of children who are orphans or one of whose
2 natural parents is deceased or who are enrolled in such the
3 institution and reside in residential facilities of the
4 institution so long as the children are in residence at the
5 institution and so long as such the employee and his the
6 employee's spouse reside in such the facilities and receive,
7 without cost, board and lodging from the institution and are
8 together compensated, on a cash basis, at an annual rate of
9 not less than \$10,000;

10 (o) an employee employed in planting or tending trees;
11 cruising, surveying, or felling timber; or transporting logs
12 or other forestry products to a mill, processing plant,
13 railroad, or other transportation terminal if the number of
14 employees employed by his the employer in such the forestry
15 or lumbering operations does not exceed eight;

16 (p) an employee of a sheriff's department who is
17 working under an established work period in lieu of a
18 workweek pursuant to 7-4-2509(1);

19 (q) an employee of a municipal or county government who
20 is working under a work period not exceeding 40 hours in a
21 7-day period established through a collective bargaining
22 agreement when a collective bargaining unit represents the
23 employee or by mutual agreement of the employer and employee
24 where---no when a bargaining unit is not recognized.
25 Employment in excess of 40 hours in a 7-day, 40-hour work

1 period must be compensated at a rate of not less than 1 1/2
2 times the hourly wage rate for the employee.

3 (r) an employee of a hospital or other establishment
4 primarily engaged in the care of the sick, disabled, aged,
5 or mentally ill or defective who is working under a work
6 period not exceeding 80 hours in a 14-day period established
7 through either a collective bargaining agreement when a
8 collective bargaining unit represents the employee or by
9 mutual agreement of the employer and employee ~~where no~~ when
10 a bargaining unit is not recognized. Employment in excess of
11 8 hours per day or 80 hours in a 14-day period must be
12 compensated for at a rate of not less than 1 1/2 times the
13 hourly wage rate for the employee.

14 (s) a firefighter who is working under a work period
15 established in a collective bargaining agreement entered
16 into between a public employer and a firefighters'
17 organization or its exclusive representative;

18 (t) an officer or other employee of a police department
19 in a city of the first or second class who is working under
20 a work period established by the chief of police under
21 7-32-4118;

22 (u) an employee of a department of public safety
23 working under a work period established pursuant to
24 7-32-115;

25 (v) an employee of a retail establishment ~~WHO IS NOT~~

1 ~~UNDER--DIRECT-SUPERVISION-OF-THE-EMPLOYER-AND-IS-FREE-TO-SET~~
2 ~~THE-EMPLOYEE'S-OWN-TIME-SCHEDULE, when IF THE EMPLOYEE'S~~
3 ~~REGULAR RATE OF PAY EXCEEDS 1 1/2 TIMES THE MINIMUM HOURLY~~
4 ~~RATE APPLICABLE UNDER SECTION 206 OF THE FAIR LABOR~~
5 ~~STANDARDS ACT OF 1938 AND IF more than half of the~~
6 ~~employee's compensation for a period of not less than 1~~
7 ~~month is derived from commissions on goods and services."~~

8 ~~NEW-SECTION--Section-2--Effective-date--(This-act)--is--~~
9 ~~effective-on-passage-and-approval-~~

-End-