



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2009 Wisconsin Act 292
[2009 Senate Bill 672]

**Proper Classification of Persons as
Employees or Nonemployees**

2009 Wisconsin Act 292 provides that to ensure that an employer properly classifies the persons performing services for the employer as employees and nonemployees, the Department of Workforce Development (DWD) may require an employer to prove the following:

- That the employer maintains records identifying persons performing work for the employer, including the name, address, and Social Security number of each person.
- That the employer maintains worker's compensation coverage for its employees.
- That the employer has provided DWD with the information required for each newly hired employee.
- That the employer maintains records of the hours worked by its employees, the wages paid to its employees, any deductions from wages, and any other information that the employer is required to keep and that the employer lists deductions from wages.
- That the employer complies with unemployment insurance laws.

The Act requires that DWD do all of the following: (1) educate employers, employees, nonemployees, and the public about the proper classification of employees and nonemployees; (2) receive and investigate complaints alleging violations of the Act or investigate any alleged violations on its own initiative and, if DWD finds a violation, order the employer to stop work and pay a forfeiture; (3) refer complaints of misclassification to other state or local agencies that administer laws whose enforcement depends on the proper classification of employees; (4) cooperate with other state or local agencies in the investigation and enforcement of laws whose enforcement depends on the proper classification of employees; and (5) appoint attorneys as appeal tribunals to conduct hearings and issue decisions.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.state.wi.us/>.

In addition, the Act provides that an investigation, order, or decision under the Act does not preclude or otherwise impair or affect any other action that is permitted or required to enforce state laws relating to employment, including any investigation, order, or decision; civil or criminal action or administrative proceeding; or obligation for payment, reimbursement, assessment, surcharge, forfeiture, or other remedy or penalty under state laws relating to employment.

Lastly, the Act provides a process by which DWD may serve stop work orders and impose forfeitures on employers that do not comply with the requirements of the Act; provides a process by which a stop worker order may be appealed; and provides methods by which DWD may recover unpaid forfeitures.

Effective date: The Act takes effect on January 1, 2011.

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JKR:ksm