



2013 SENATE BILL 365

October 24, 2013 - Introduced by Senator GROTHMAN, cosponsored by Representatives KNODL, BIES, CZAJA, MURPHY, NASS, A. OTT and TITTL. Referred to Committee on Judiciary and Labor.

1 **AN ACT** *to repeal and recreate* 108.02 (15) (k) 16. of the statutes; **relating to:**
2 coverage of certain individuals engaged in sales activity outside a permanent
3 retail establishment under the unemployment insurance law.

Analysis by the Legislative Reference Bureau

Currently, if an individual is performing services for an employer other than a governmental or nonprofit employer, except as the employer otherwise elects with the approval of the Department of Workforce Development (DWD), and the individual receives remuneration solely from commissions, overrides, bonuses, or differentials directly related to sales or other output derived from in-person sales or solicitation of orders from ultimate consumers primarily in the home, the services performed by the individual are not covered under the unemployment insurance (UI) law. An individual who performs such services is not eligible to claim UI benefits based on the performance of the services and a person who employs an individual to perform such services is not subject to a state UI contribution requirement (a requirement to pay taxes) based on the performance of the services.

This bill provides instead that if an individual is performing services for an employer other than a governmental or nonprofit employer, except as the employer otherwise elects with the approval of DWD, and the individual is engaged, in a home or otherwise than in a permanent retail establishment, in selling or soliciting the sale of consumer products for use, sale, or resale by the buyer and substantially all of the remuneration for the services is directly related to the sales or other output rather than to hours worked, then a claimant is not eligible to claim UI benefits based on

