

State of Misconsin 2013 - 2014 LEGISLATURE



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 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

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the performance of such services and a person who employs an individual to perform such services is not subject to a UI contribution requirement based on the performance of the services.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1	SECTION 1. 108.02 (15) (k) 16. of the statutes is repealed and recreated to read:
2	108.02 (15) (k) 16. By an individual who is engaged, in a home or otherwise
3	than in a permanent retail establishment, in the service of selling or soliciting the
4	sale of consumer products for use, sale, or resale by the buyer, if substantially all of
5	the remuneration therefor is directly related to the sales or other output rather than
6	to hours worked.
7	SECTION 2. Initial applicability.
8	(1) This act first applies with respect to services performed after the December
9	31 following the effective date of this subsection.

(END)

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