

SENATE BILL REPORT

HB 1292

AS REPORTED BY COMMITTEE ON LABOR & COMMERCE, MARCH 26, 1993

**Brief Description:** Defining "employment" for unemployment compensation.

**SPONSORS:** Representatives Anderson, G. Cole, Chandler, Heavey, Veloria, Wood, Franklin, Springer, King and J. Kohl

**HOUSE COMMITTEE ON COMMERCE & LABOR**

**SENATE COMMITTEE ON LABOR & COMMERCE**

**Majority Report:** Do pass.

Signed by Senators Moore, Chairman; Prentice, Vice Chairman; Amondson, Barr, Fraser, McAuliffe, Newhouse, Pelz, Prince, Sutherland, and Vognild.

**Staff:** Patrick Woods (786-7430)

**Hearing Dates:** March 25, 1993; March 26, 1993

**BACKGROUND:**

Under the unemployment compensation law, all employees are covered, except for those specifically excluded, such as barbers and cosmetologists. Independent contractors and corporate officers are not covered. "Employment" means personal services performed for wages or under any contract calling for the performance of personal services. There are two alternative tests for determining whether the services of an independent contractor constitute employment.

Personal services are employment if performed by an individual for remuneration, unless: (1) the individual performing the services is free from control or direction over the performance; (2) the service is either outside the usual course of business for which the service is performed or the service is performed outside all of the places of business of the enterprise; and (3) the individual is customarily engaged in an independently established trade, occupation, profession, or business, of the same nature as that involved in the contract of service.

The exclusion for barbers and cosmetologists provides that employment does not include services performed in a barber or cosmetology shop by "booth renters." Under the barber and cosmetology licensing law, "booth renter" is defined as a person who performs cosmetology, barbering, esthetics, or manicuring services where the use of the salon/shop facilities is contingent upon compensation to the owner and the person receives no compensation or other consideration from the owner for the services performed.

**SUMMARY:**

For purposes of unemployment compensation law, employment does not include services performed by a licensed massage practitioner in a massage business, if the use of the business facilities is contingent upon compensation to the owner and the person receives no compensation from the owner for the services performed.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** requested February 5, 1993

**Effective Date:** The bill contains an emergency clause and takes effect July 1, 1993.

**TESTIMONY FOR:**

Exempting massage practitioners from coverage under unemployment insurance recognizes that they are independent contractors renting space and not employees of the facility owner.

**TESTIMONY AGAINST:** None

**TESTIFIED:** Graeme Sakrison, ESD; Ray Shindler, American Massage; Lori Bielinski, Teresa Tellisho, Alicia Reilly, Ted Hulbert, AMTA