

**5224.0110 LABORERS.**

Subpart 1. **Definition.** Laborers are people whose work usually requires strength rather than skill, such as laborers, chore workers, coal hustlers, gardeners, yard maintenance workers, landscaping and planting workers, tree trimmers, janitors, odd-job workers, porters, window washers, and other unskilled workers.

Subp. 2. **Independent contractor.** The laborer is an independent contractor if all of the following criteria are substantially met.

A. The laborer generally must use business judgment to earn a livelihood. The laborer's success or failure depends on how assistants are managed, the protection of investment through proper care of tools and equipment, and the reputation established as a result of methods of doing business.

B. The services need not be performed personally.

C. The laborer holds himself or herself out to the public as available for furnishing a certain type of service on a job basis.

D. The laborer is free to hire assistants and the assistants are the laborer's own responsibility, that is, the laborer directs them, pays them, and is liable for the payment of taxes on their wages.

E. The laborer furnishes tools.

F. The laborer obtains work by recommendation, advertising in newspapers, or maintaining a business listing in a telephone or service directory.

G. The laborer is responsible only for completion of the job within a certain time and is free to use personal methods and means for doing the work.

H. The laborer agrees to provide lien waivers upon completion of the job.

Subp. 3. **Employee.** A laborer is an employee if all of the following criteria are substantially met.

A. The services must be performed personally.

B. The laborer works on employer premises or at locations assigned by the employer, at specified times, and with tools and facilities furnished by the employer. The services may be provided on a permanent, recurring, or itinerant basis.

C. Pay is computed on a time rather than a lump-sum basis.

D. The employer has the right to stop the laborer on one job and start on another, to speed up or slow down the worker, and to express dissatisfaction with the work and to have it redone.

E. The laborer is not responsible for damages for noncompletion of the work. If the laborer quits prior to completing the job, the laborer is not responsible for finding a replacement.

**Statutory Authority:** *MS s 176.041; 176.83*

**History:** *10 SR 1852; 17 SR 1279*

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