

5224.0160 TRAVELING SALESPEOPLE.

Subpart 1. **Definition.** A traveling salesperson is associated with a manufacturer or distributor whose products the salesperson sells directly to wholesalers or retailers. The salesperson is assigned to territories and furnished with price lists and samples or descriptions of the merchandise to be sold. The salesperson is required to sell the merchandise at prices set by the firm and the firm reserves the right to accept or reject orders. The firm fills the orders by shipping directly to the customers and billing the customers directly. The salesperson receives compensation from the firm in the form of a percentage of the price the customers pay for the merchandise. The salesperson may be required to work full time, to not work for competitors, or to produce a certain amount of business regularly.

Subp. 2. **Independent contractor.** A traveling salesperson is an independent contractor if all the following conditions are substantially met.

- A. The salesperson is free to solicit when, where, and how he or she pleases.
- B. The salesperson chooses working hours and schedule of calls.
- C. The salesperson chooses his or her own means of travel and is responsible for the costs of travel.
- D. The salesperson pays his or her own expenses.

Subp. 3. **Employee.** A traveling salesperson is an employee if all the following conditions are substantially met.

- A. The salesperson is required to appear at or report to the firm's offices regularly.
- B. The salesperson must work during fixed hours or at certain times.
- C. The salesperson must follow and report on leads.
- D. The salesperson is required to take part in sales meetings or training courses.
- E. The salesperson is required to canvass territory at regular intervals.
- F. The firm is dependent principally on the services of traveling salespersons for the disposition of its merchandise.

Statutory Authority: *MS s 176.041; 176.83*

History: *10 SR 1852*

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