

5224.0200 PHOTOGRAPHERS' MODELS.

Subpart 1. **Definition.** A photographer's model is a professional who poses for photographs that are used for commercial purposes. The photographs are reproduced and appear in magazines, newspapers, or similar media to aid in advertising commercial products. The model is knowledgeable or trained in such subjects as the art of makeup, fashion, hairstyling, acting, and posture.

Subp. 2. **Independent contractor.** A photographer's model is an independent contractor if all of the following criteria are substantially met.

A. The model engages a booking agent for a certain compensation, usually ten percent of the model's fees. The agent makes and arranges appointments for the model.

B. Fees are fixed by the agent, usually on an hourly basis.

C. The model reserves the right to limit the time or period of work and the right to work only during certain hours.

D. The model releases property rights in each specific photograph that is to be used commercially.

E. The model supplies his or her own wardrobes appropriate to the roles he or she is engaged to portray.

F. The model is free to pose for anyone who desires his or her services.

G. The model is not engaged on a permanent or periodic basis but solely for specific jobs and the model reserves the right to cancel bookings made by his or her agents.

H. The creation and enactment of the roles assigned them are left to the models' own discretion and initiative.

I. The model is free to use his or her skill and training in other fields of business activity, such as radio, movie shorts, fashion shows, and television shows.

Subp. 3. **Employee.** A photographer's model is an employee if all of the following criteria are substantially met.

A. The model works for only one or two photographers or firms and is paid a salary or guaranteed minimum wage to work during fixed hours on the employer's premises.

B. The model is required to conform to instructions or suggestions on, among others, costume, coiffure, general makeup, posture, or the position and expression to assume in an assigned role.

C. The model is paid a salary for first call on his or her services and on a full-time basis or part-time basis.

D. The work is performed mostly on company premises and is done in accordance with a supervisor's or manager's views on the best method of illustrating the good points of the garments or other products being modeled.

E. Either party may terminate the relationship at any time.

Statutory Authority: *MS s 176.041; 176.83*

History: *10 SR 1852*

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