

5224.0300 VARIETY ENTERTAINERS.

Subpart 1. **Definition.** A variety entertainer is a person who entertains and amuses audiences by means of acts or skits, dances, readings, feats of skill, songs, or comedy acts. The entertainer performs in the legitimate and burlesque theaters, movie houses, circuses, fairs, hotels, and night clubs.

Variety entertainers specialize in one or two types of acts. The more talented create and develop their own acts or routines and sometimes train others to help perform them. They often work in pairs or as members of troupes.

Subp. 2. **Neutral factors.** The status of a variety entertainer is not determined by the entertainer's entering into the form B contract of the American Federation of Musicians. This contract purports to establish an employer and employee relationship between the purchaser of the services and the entertainer. The actual relationship, rather than the terms of the contract, governs.

Subp. 3. **Independent contractor.** A variety entertainer is an independent contractor if all of the following criteria are substantially met.

A. The entertainer performs acts or routines as a series of short-term engagements for a number of different operators of theaters, night clubs, restaurants, and similar establishments.

B. The entertainer's contract, which is usually obtained through booking agents or personal representatives, specifies only the time, place, and duration of each engagement, and the pay.

C. The entertainer furnishes his or her own music arrangements, stage props, and dress.

D. The entertainer's act is not an integral part of another's business.

E. The entertainer maintains a high degree of individuality and establishes a reputation based on the acceptance by the audiences for which the entertainer performs.

Subp. 4. **Employee.** A variety entertainer is an employee when all of the following criteria are substantially met.

A. The entertainer is subject to supervision over the number, time, place, and length of rehearsals and performances, and as to duty and behavior, and is bound by rules and regulations to the purchaser of the services.

B. The entertainer's variety acts may undergo considerable change in order to suit the employer's purpose. It may be shortened, lengthened, or moved from one spot to another to weld it, with others, into one complete show or to coordinate it with other activities. In

that case, individuality of the performer is subordinated to the purpose of enhancing the reputation of the purchaser of the services.

- C. The entertainer's performance becomes an integral part of another's business.
- D. The entertainer is engaged on a long-term basis.
- E. The entertainer may not work for others.
- F. The entertainer has no opportunity for profit or risk of loss, must frequently work with others, and can be shifted from one place to another.
- G. The entertainer can be discharged at any time.
- H. The entertainer cannot hire helpers or substitutes.

Statutory Authority: *MS s 176.041; 176.83*

History: *10 SR 1852*

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