

5224.0030 BARBERS.

Subpart 1. **Definition.** Barbers are persons registered to practice barbering pursuant to Minnesota Statutes, chapter 154. A registered barber's apprentice is not an independent contractor.

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

A. The barber rents a barber chair from the purported employer for a flat sum per week, month, or similar time basis.

B. All payments by customers for services are retained by the barber.

C. The barber furnishes his or her own tools, but need not furnish linens or supplies.

D. The purported employer does not have the right to control the means and manner of the barber's performance of services such as haircuts, shaves, shampoos, scalp treatments, and facial massages.

E. A written agreement between the parties provides that the barber is an independent contractor.

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

A. The barber is paid on a salary basis, though tips may be retained by the barber, or the employer retains a set percentage of the money taken in by the barber's services, excluding tips.

B. The employer furnishes equipment and supplies other than razors, combs, scissors, and similar items.

C. The employer furnishes uniforms if uniforms unique to the employer are required.

D. The barber does not advertise.

E. The employer may terminate the barber's employment for noncompliance with rules including hours of work, smoking, or wasting time.

F. A written employment agreement states that the parties are not independent contractors.

G. The employer has the right to control the means and manner by which the barber performs services such as haircuts, shaves, shampoos, scalp treatments, and facial massages.

Subp. 4. **Factors excluded.** The fact that barber associations or unions fix hours of work or other conditions of business operation indicates neither employment nor independent contractor status. Rules prescribed with respect to sanitary conditions by the state or city health departments are not to be considered in determining independent contractor or employment status.

Statutory Authority: *MS s 176.041; 176.83*

History: *10 SR 1852*

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