

5224.0190 AGENT DRIVERS.

Subpart 1. **Definition.** An agent driver is a salesperson who drives a truck in selling and delivering bread, milk, meat, beverages, laundry, drycleaning, or similar services. The driver may sell to consumers at retail prices or at wholesale to retailers.

Subp. 2. **Independent contractor.** An agent driver is an independent contractor if all of the following criteria are substantially met.

A. The driver does not contract with the firm to render personal services but only to buy a certain amount of a firm's products regularly.

B. The driver may hire and pay helpers or use substitutes.

C. Although the driver may work full time, the driver does so by choice; and selects working hours.

D. The driver selects customers, sets prices, and often sells on credit.

E. The driver pays truck maintenance costs and other business expenses.

F. The driver cannot return unsold products to the firm.

G. Either party may terminate the relationship at any time without incurring liability.

Subp. 3. **Employee.** An agent driver is an employee if all the following criteria are substantially met.

A. The driver is assigned a route and required to cover it at regular intervals.

B. Helpers or substitutes are not permitted.

C. Prices are set by the company.

D. The driver cannot handle competing lines.

E. The driver is required to keep reports of sales and other matters.

F. The driver collects from customers and turns money over to the company.

G. The driver has no authority to determine whether sales may be made on credit.

H. The driver reports to the company office at specified times to load trucks, return unsold goods, and report on activities as requested.

I. The driver is required to follow leads.

J. The driver is expected to solicit new customers and adjust complaints.

K. The driver may quit or a firm may fire the driver on short notice, and neither is liable for damages for noncompletion.

L. The driver receives paid vacation, sick benefits, or other similar benefits offered to nondriver employees of the firm.

Statutory Authority: *MS s 176.041; 176.83*

History: *10 SR 1852*

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