

LEGISLATIVE BILL 753

Approved by the Governor May 5, 1999

Introduced by Landis, 46

AN ACT relating to the Nebraska Wage Payment and Collection Act; to amend section 48-1229, Reissue Revised Statutes of Nebraska; to redefine a term; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 48-1229, Reissue Revised Statutes of Nebraska, is amended to read:

48-1229. For purposes of the Nebraska Wage Payment and Collection Act, unless the context otherwise requires:

(1) Employer ~~shall mean~~ means the state or any individual, partnership, limited liability company, association, joint-stock company, trust, corporation, political subdivision, or personal representative of the estate of a deceased individual, or the receiver, trustee, or successor thereof, within or without the state, employing any person within the state as an employee; ~~7 except that employer shall not be construed to include the state;~~

(2) Employee ~~shall mean~~ means any individual permitted to work by an employer pursuant to an employment relationship or who has contracted to sell the goods of an employer and to be compensated by commission. Services performed by an individual for an employer shall be deemed to be employment, unless it is shown that (a) such individual has been and will continue to be free from control or direction over the performance of such services, both under his or her contract of service and in fact, (b) such service is either outside the usual course of business for which such service is performed or such service is performed outside of all the places of business of the enterprise for which such service is performed, and (c) such individual is customarily engaged in an independently established trade, occupation, profession, or business. This subdivision is not intended to be a codification of the common law and shall be considered complete as written;

(3) Fringe benefits ~~shall include~~ includes sick and vacation leave plans, disability income protection plans, retirement, pension, or profit-sharing plans, health and accident benefit plans, and any other employee benefit plans or benefit programs regardless of whether the employee participates in such plans or programs; and

(4) Wages ~~shall mean~~ means compensation for labor or services rendered by an employee, including fringe benefits, when previously agreed to and conditions stipulated have been met by the employee, whether the amount is determined on a time, task, fee, commission, or other basis. Wages ~~shall include~~ includes commissions on all orders delivered and all orders on file with the employer at the time of termination of employment less any orders returned or canceled at the time suit is filed.

Sec. 2. Original section 48-1229, Reissue Revised Statutes of Nebraska, is repealed.