

**Proposed Independent Contractor Definitions for**

**Workers Comp as proposed in HB79**

**Proposed language is underlined and bold**

\* Sec. 29. AS 23.30.230(a) is amended to read:

09 (a) The following persons are not covered by this chapter:

10 (1) a part-time baby-sitter;

11 (2) a cleaning person;

12 (3) harvest help and similar part-time or transient help;

13 (4) a person employed as a sports official on a contractual basis and

14 who officiates only at sports events in which the players are not  
compensated; in this

15 paragraph, "sports official" includes an umpire, referee, judge,  
scorekeeper,

16 timekeeper, organizer, or other person who is a neutral participant  
in a sports event;

17 (5) a person employed as an entertainer on a contractual  
basis;

18 (6) a commercial fisherman, as defined in AS 16.05.940;

19 (7) an individual who drives a taxicab whose compensation and written  
20 contractual arrangement is as described in AS 23.10.055(a)(13), unless the  
hours

21 worked by the individual or the areas in which the individual may work are  
restricted

22 except to comply with local ordinances;

23 (8) a participant in the Alaska temporary assistance program

24 (AS 47.27) who is engaged in work activities required under AS 47.27.035  
other than

25 subsidized or unsubsidized work or on-the-job training;

26 (9) a person employed as a player or coach by a professional hockey  
27 team if the person is covered under a health care insurance plan provided  
by the

28 professional hockey team, the coverage is applicable to both work-related  
and

29 nonwork-related injuries, and the coverage provides medical and related  
benefits as

30 required under this chapter, except that coverage may not be limited to two  
years from

31 the date of injury as described under AS 23.30.095(a); in this paragraph,  
"health care

01 insurance" has the meaning given in AS 21.12.050; [AND]

02 (10) a person working as a qualified real estate licensee who performs  
03 services under a written contract that provides that the person will not be  
treated as an

04 employee for federal income tax or workers' compensation purposes; in this  
05 paragraph, "qualified real estate licensee" means a person who is required  
to be

06 licensed under AS 08.88.161 and whose payment for services is directly  
related to

07 sales or other output rather than the number of hours worked; and

08 (11) a person employed as an independent contractor; a person is

09 an independent contractor for the purposes of this chapter only if the  
person

10 (A) has an express contract to perform the services;

11 (B) is free from direction and control over the means and

12 manner of providing services, subject only to the right of the individual

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- 13 for whom, or entity for which, the services are provided to specify the  
14 desired results, completion schedule, or range of work hours, or to  
15 monitor the work for compliance with contract plans and specifications,  
16 or federal, state, or municipal law;  
17 (C) incurs most of the expenses for tools, labor, and other  
18 operational costs necessary to perform the services, except that materials  
19 and equipment may be supplied;  
20 (D) has an opportunity for profit and loss as a result of the  
21 services performed for the other individual or entity;  
22 (E) is free to hire and fire employees to help perform the  
23 services for the contracted work;  
24 (F) has all business, trade, or professional licenses required  
25 by federal, state, or municipal authorities for a business or individual  
26 engaging in the same type of services as the person;  
27 (G) follows federal Internal Revenue Service requirements  
28 by  
29 (i) obtaining an employer identification number, if  
30 required;  
31 (ii) filing business or self-employment tax returns for  
01 the previous tax year to report profit or income earned for the  
02 same type of services provided under the contract; or  
03 (iii) intending to file business or self-employment tax  
04 returns for the current tax year to report profit or income earned  
05 for the same type of services provided under the contract if the  
06 person's business was not operating in the previous tax year; and  
07 (H) meets at least two of the following criteria:  
08 (i) the person is responsible for the satisfactory  
09 completion of services that the person has contracted to perform  
10 and is subject to liability for a failure to complete the contracted  
11 work, or maintains liability insurance or other insurance policies  
12 necessary to protect the employees, financial interests, and  
13 customers of the person's business;  
14 (ii) the person maintains a business location or a  
15 business mailing address separate from the location of the  
16 individual for whom, or the entity for which, the services are  
17 performed;  
18 (iii) the person provides contracted services for two  
19 or more different customers within a 12-month period or engages  
20 in any kind of business advertising, solicitation, or other marketing  
21 efforts reasonably calculated to obtain new contracts to provide  
22 similar services.