



ADMINISTRATIVE RULES OF MONTANA



24.16.3025 JOINT EMPLOYMENT

- (1) A single individual may stand in the relation of an employee to two or more employers at the same time under the Montana Minimum Wage and Overtime Compensation Act, since there is nothing in the law which prevents an individual employed by one employer from also entering into an employment relationship with a different employer. A determination of whether the employment by the employers is to be considered joint employment or separate and distinct employments for purposes of the law depends upon all the facts in the particular case. If all the relevant facts establish that two or more employers are acting entirely independently of each other and are completely disassociated with respect to the employment of a particular employee, who during the same workweek performs work for more than one employer, each employer may disregard all work performed by the employee for the other employer (or employers) in determining his own responsibilities under the law. On the other hand, if the facts establish that the employee is employed jointly by two or more employers, i.e., that employment by one employer is not completely disassociated from employment by the other employer(s), all of the employee's work for all of the joint employers during the workweek is considered as one employment for purposes of the law. In this event, all joint employers are responsible, both individually and jointly, for compliance with all of the applicable provisions of the law, including the overtime provisions, with respect to the entire employment for the particular workweek. In discharging the joint obligation each employer may, of course, take credit toward minimum wage and overtime requirements for all payments made to the employee by the other joint employer or employers.
- (2) Where the employee performs work which simultaneously benefits two or more employers, or works for two or more employers at different times during the workweek, a joint employment relationship generally will be considered to exist in situations such as:
 - (a) Where there is an arrangement between the employers to share the employee's services, as, for example, to interchange employees, or,
 - (b) Where one employer is acting directly or indirectly in the interest of the other employer (or other employers) in relation to the employee, or,
 - (c) Where the employers are not completely disassociated with respect to the employment of a particular employee and may be deemed to share control of the employee, directly or indirectly, by reason of the fact that one employer controls, is controlled by, or is under common control with the other employer.

Implementing statute(s): 39-3-402, MCA

History: Eff. 12/31/72; TRANS, from 24.16.2101, 2024 MAR p. 474, Eff. 3/9/24.