



2013 ASSEMBLY BILL 412

October 4, 2013 – Introduced by Representatives BORN, KESTELL and JACQUE, cosponsored by Senator S. FITZGERALD. Referred to Committee on Labor.

1 **AN ACT to create** 104.01 (2) (b) 5. of the statutes; **relating to:** exemption of
2 outside salespersons from the minimum wage law.

Analysis by the Legislative Reference Bureau

Current state and federal law generally require employees to be paid a minimum wage. Current federal law, however, exempts from that requirement employees employed in the capacity of outside salesman, which federal regulations define as an employee whose primary duty is making sales or obtaining orders or contracts for services or for the use of facilities for which a consideration will be paid by the client or customer and who is customarily and regularly engaged away from the employer's place of business in performing that primary duty (outside salesperson). Outside salespersons are not similarly exempt from the state minimum wage law. This bill exempts outside salespersons from the state minimum wage law.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 **SECTION 1.** 104.01 (2) (b) 5. of the statutes is created to read:
4 104.01 **(2)** (b) 5. Any individual whose primary duty is making sales, as defined
5 in 29 USC 203 (k), or obtaining orders or contracts for services or for the use of

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1 facilities for which a consideration will be paid by the client or customer and who is
2 customarily and regularly engaged away from the employer's place of business in
3 performing that primary duty.

4 **SECTION 2. Initial applicability.**

5 (1) EXEMPTION OF OUTSIDE SALESPERSONS FROM MINIMUM WAGE LAW. This act first
6 applies to work performed on the effective date of this subsection, except that in the
7 case of an employee who is affected by a collective bargaining agreement that
8 contains provisions inconsistent with this act, this bill first applies to work
9 performed on the date on which the collective bargaining agreement expires or is
10 extended, modified, or renewed.

11 (END)