

Effective 5/10/2016

35A-4-203 Definition of employer -- Joint employers -- Franchisors.

- (1) As used in this chapter "employer" means:
- (a) an individual or employing unit which employs one or more individuals for some portion of a day during a calendar year, or that, as a condition for approval of this chapter for full tax credit against the tax imposed by the Federal Unemployment Tax Act, is required, under the act, to be an employer;
 - (b) an employing unit that, having become an employer under Subsection (1)(a), has not, under Sections 35A-4-303 and 35A-4-310, ceased to be an employer subject to this chapter; or
 - (c) for the effective period of its election under Subsection 35A-4-310(3), an employing unit that has elected to become fully subject to this chapter.
- (2)
- (a) For purposes of this Subsection (2), "federal executive agency" means an executive agency, as defined in 5 U.S.C. Sec. 105, of the federal government.
 - (b) For purposes of determining whether two or more persons are considered joint employers under this chapter, an administrative ruling of a federal executive agency may not be considered a generally applicable law unless that administrative ruling is determined to be generally applicable by a court of law, or adopted by statute or rule .
- (3)
- (a) As used in this Subsection (3):
 - (i) "Franchise" means the same as that term is defined in 16 C.F.R. Sec. 436.1.
 - (ii) "Franchisee" means the same as that term is defined in 16 C.F.R. Sec. 436.1.
 - (iii) "Franchisor" means the same as that term is defined in 16 C.F.R. Sec. 436.1.
 - (b) For purposes of this chapter, a franchisor is not considered to be an employer of:
 - (i) a franchisee; or
 - (ii) a franchisee's employee.
 - (c) With respect to a specific claim for relief under this chapter made by a franchisee or a franchisee's employee, this Subsection (3) does not apply to a franchisor under a franchise that exercises a type or degree of control over the franchisee or the franchisee's employee not customarily exercised by a franchisor for the purpose of protecting the franchisor's trademarks and brand.

Amended by Chapter 370, 2016 General Session