

1 HB522
2 167702-1
3 By Representative Williams (JD)
4 RFD: Commerce and Small Business
5 First Read: 21-APR-15

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8 SYNOPSIS: Under existing law, a corporate officer may
9 elect on an annual basis to be exempt from workers'
10 compensation insurance coverage by notifying the
11 Department of Labor and his or her insurance
12 carrier.

13 This bill would remove the requirement that
14 a corporate officer notify the Department of Labor
15 when he or she elects to be exempt from workers'
16 compensation insurance coverage.

17 This bill would provide that once exempt
18 from workers' compensation coverage, the officer
19 would continue to be exempt until he or she revokes
20 the exemption in accordance with certain
21 procedures.

22
23 A BILL
24 TO BE ENTITLED
25 AN ACT
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1 Relating to workers' compensation insurance; to
2 amend Section 25-5-50, Code of Alabama 1975; to remove the
3 requirement that a corporate officer notify the Department of
4 Labor when he or she elects to be exempt from workers'
5 compensation insurance coverage; and to provide that once
6 exempt from workers' compensation coverage, the officer would
7 continue to be exempt until he or she revokes the exemption in
8 accordance with certain procedures.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

10 Section 1. Section 25-5-50, Code of Alabama 1975, is
11 amended to read as follows:

12 "§25-5-50.

13 "(a) This article and Article 2 of this chapter
14 shall not be construed or held to apply to an employer of a
15 domestic employee; an employer of a farm laborer; an employer
16 of a person whose employment at the time of the injury is
17 casual and not in the usual course of the trade, business,
18 profession, or occupation of the employer; an employer who
19 regularly employs less than five employees in any one
20 business, other than the business of constructing or assisting
21 on-site in the construction of new single-family, detached
22 residential dwellings; or a municipality having a population
23 of less than 2,000 according to the most recent federal
24 decennial census. An employer who regularly employs less than
25 five employees in any one business; a farm-labor employer; an
26 employer of a domestic employee; or a municipality having a
27 population of less than 2,000 according to the most recent

1 federal decennial census, may accept and become subject to
2 this article and Article 4 of this chapter by filing written
3 notice thereof with the Department of Labor, a copy thereof to
4 be posted at the place of business of the employer; provided
5 further, that an employer who has so elected to accept this
6 article and Article 4 of this chapter may at any time withdraw
7 the acceptance by giving like notice of withdrawal.

8 Notwithstanding the foregoing, an employer electing not to
9 accept coverage under this article and Article 4 of this
10 chapter shall notify in writing each employee of the
11 withdrawal of coverage. Additionally, the employer shall post
12 a notice in a conspicuous place notifying all employees and
13 applicants for employment that workers' compensation insurance
14 coverage is not available.

15 " (b) (1) Notwithstanding subsection (a), an officer
16 of a corporation may elect ~~annually~~ to be exempt from coverage
17 by filing written certification of the election with the
18 ~~department and the employer's insurance carrier. At the end of~~
19 ~~any calendar year, a corporate officer who has been exempted,~~
20 ~~by proper certification from coverage, may revoke the~~
21 ~~exemption~~ workers' compensation insurance provider. The
22 exemption shall remain effective at all times, including
23 subsequent coverage years with the same workers' compensation
24 insurance provider, unless and until the corporate officer
25 revokes his or her exemption and thereby ~~accept~~ accepts
26 coverage by filing written certification of his or her
27 election to be covered with the ~~department and the employer's~~

1 workers' compensation insurance carrier provider; however, the
2 revocation shall not be effective unless and until the
3 revocation is accepted in writing by the employer's workers'
4 compensation insurance provider.

5 "As a condition of revocation of exemption, the
6 workers' compensation insurance provider may require the
7 corporate officer to execute an affidavit verifying that he or
8 she has not suffered any employment accident, exposure, or
9 injury from the date of the exemption until the date of the
10 written certification of the election to reinstate coverage.
11 Any corporate officer who fails to execute an affidavit or
12 comply with other terms and conditions of the workers'
13 compensation insurance provider shall not be entitled to
14 revoke the previous exemption.

15 "The certification for exemption or reinstatement of
16 coverage shall become effective on the first day of the
17 calendar month following the ~~filing~~ written acceptance of the
18 certification of exemption or reinstatement of coverage ~~with~~
19 ~~the department~~ by the employer's workers' compensation
20 insurance provider.

21 "(2) If the corporate officer elects to be exempt
22 from coverage, the election shall not relieve the employer
23 from continuing coverage for all other eligible employees who
24 may have been covered prior to the election or who may
25 subsequently be employed by the firm.

26 "(c) This section shall not be construed to mandate
27 any school board to provide coverage until sufficient funds

1 are appropriated from the Education Trust Fund to implement
2 the provisions. Nothing contained herein shall prohibit any
3 school board that voluntarily elects to provide such coverage
4 from doing so with local or other available funds.

5 "(d) This section shall provide for voluntary
6 coverage of certified volunteer fire departments as described
7 in Section 9-3-17 and legally organized rescue squads that
8 meet the minimum personnel and equipment standards as
9 established by the Alabama Association of Rescue Squads, that
10 are engaged in fighting a fire or performing other duties
11 involving any emergency incident and while performing any
12 official supervised duties of the organization, including
13 maintaining equipment and attending official training classes,
14 and while traveling to and from an emergency incident.

15 "(e) In all cases where an injury that is
16 compensable under the terms of the Alabama Workers'
17 Compensation Law is received by a volunteer fire fighter or
18 rescue squad member, the wages for purposes of computing the
19 average weekly wage shall be equal to 66 2/3 percent of what
20 he or she is earning at his or her regular place of employment
21 or 66 2/3 percent of the minimum wage, whichever is greater.

22 "(f) State certified volunteer fire departments and
23 legally organized rescue squads are herein granted the right
24 to purchase workers' compensation medical or disability
25 insurance, or both, but in no event are they required to do
26 so.

1 "In no event shall the regular employer of a
2 volunteer fire fighter or rescue squad member be liable for a
3 compensable injury under this section.

4 "(g) A licensed real estate agent operating under a
5 licensed broker shall not be considered an employee for the
6 purposes of this chapter.

7 "(h) An individual who performs services as a
8 product demonstrator shall not be considered an employee for
9 purposes of this chapter. The term "product demonstrator"
10 shall mean any individual who satisfies both of the following
11 requirements:

12 "(1) Is engaged in the trade or business of
13 demonstrating, exhibiting, or soliciting the purchase of food,
14 food-related products offered for sale, or other consumer
15 products offered for sale to any buyer on the premises of a
16 grocery store, dry good store, or similar retail
17 establishment, or trade show;

18 "(2) Who performs those services pursuant to a
19 written contract between the individual and a person whose
20 principal business is providing demonstrators to third parties
21 for such purposes and the contract provides that the
22 individual will not be treated as an employee with respect to
23 the services for federal tax purposes.

24 "(i) (1) For purposes of this subsection, sports
25 official means an individual who is a neutral participant in a
26 sports event, including, without limitation, an umpire, a
27 referee, judge, linesman, scorekeeper, or timekeeper. Sports

1 official does not include any person, otherwise employed by an
2 organization or entity sponsoring a sports event, who performs
3 services as a sports official as a part of his or her regular
4 employment.

5 "(2) A person who performs services as a sports
6 official for an entity sponsoring an interscholastic or
7 intercollegiate sports event or if such person performs
8 services as a sports official for a public entity or a
9 private, nonprofit organization which sponsors an amateur
10 sports event shall be an independent contractor and not an
11 employee.

12 "(3) Any sports official who officiates a sports
13 event at any level of competition in Alabama shall not be
14 liable to any person or entity in any civil action for
15 injuries or damages claimed to have arisen by virtue of
16 actions or inaction related in any manner to officiating
17 duties at a sports event, provided the official does not act
18 willfully, maliciously, fraudulently, or in a manner that is
19 contrary to how a reasonably prudent official would act under
20 the same or similar circumstances."

21 Section 2. This act shall become effective on the
22 first day of the third month following its passage and
23 approval by the Governor, or its otherwise becoming law.