

1 SB304
2 151727-3
3 By Senator Ward
4 RFD: Business and Labor
5 First Read: 04-FEB-14

1 SB304

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

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11 To amend Section 25-5-50, Code of Alabama 1975,
12 relating to exemption of workers' compensation coverage; to
13 remove the requirement for the filing with the Department of
14 Labor and to add a limited liability company to the exemption;
15 and to provide an effective date.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

19 "§25-5-50.

20 "(a) This article and Article 2 of this chapter
21 shall not be construed or held to apply to an employer of a
22 domestic employee; an employer of a farm laborer; an employer
23 of a person whose employment at the time of the injury is
24 casual and not in the usual course of the trade, business,
25 profession, or occupation of the employer; an employer who
26 regularly employs less than five employees in any one

1 business, other than the business of constructing or assisting
2 on-site in the construction of new single-family, detached
3 residential dwellings; or a municipality having a population
4 of less than 2,000 according to the most recent federal
5 decennial census. An employer who regularly employs less than
6 five employees in any one business; a farm-labor employer; an
7 employer of a domestic employee; or a municipality having a
8 population of less than 2,000 according to the most recent
9 federal decennial census, may accept and become subject to
10 this article and Article 4 of this chapter by filing written
11 notice thereof with the Department of Labor, a copy thereof to
12 be posted at the place of business of the employer; provided
13 further, that an employer who has so elected to accept this
14 article and Article 4 of this chapter may at any time withdraw
15 the acceptance by giving like notice of withdrawal.
16 Notwithstanding the foregoing, an employer electing not to
17 accept coverage under this article and Article 4 of this
18 chapter shall notify in writing each employee of the
19 withdrawal of coverage. Additionally, the employer shall post
20 a notice in a conspicuous place notifying all employees and
21 applicants for employment that workers' compensation insurance
22 coverage is not available.

23 "(b) Notwithstanding subsection (a), an officer of a
24 corporation or a member of a limited liability company may
25 elect annually to be exempt from coverage by filing written

1 certification of the election with ~~the department~~ and the
2 employer's insurance carrier.

3 "At the end of any calendar year, a corporate
4 officer or member of a limited liability company who has been
5 exempted, by proper certification from coverage, may revoke
6 the exemption and thereby accept coverage by filing written
7 certification of his or her election to be covered with ~~the~~
8 ~~department~~ and the employer's insurance carrier.

9 "The certification for exemption or reinstatement of
10 coverage shall become effective on the first day of the
11 calendar month following the filing of the certification of
12 exemption or reinstatement of coverage with the ~~department~~
13 carrier.

14 "If the corporate officer or member of a limited
15 liability company elects to be exempt from coverage, the
16 election shall not relieve the employer from continuing
17 coverage for all other eligible employees who may have been
18 covered prior to the election or who may subsequently be
19 employed by the firm. Nothing in this section shall exempt a
20 member of a limited liability company from being counted as an
21 employee for determining the employer's number of employees.

22 "(c) This section shall not be construed to mandate
23 any school board to provide coverage until sufficient funds
24 are appropriated from the Education Trust Fund to implement
25 the provisions. Nothing contained herein shall prohibit any

1 school board that voluntarily elects to provide such coverage
2 from doing so with local or other available funds.

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

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

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

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

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

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

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

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Senate

Read for the first time and referred to the Senate
committee on Business and Labor..... 04-FEB-14

Read for the second time and placed on the calen-
dar 1 amendment..... 12-FEB-14

Read for the third time and passed as amended 20-MAR-14

Yeas 25
Nays 2

Patrick Harris
Secretary