

1 HB497
2 136409-2
3 By Representatives Shiver, Jackson, Grimsley, Baker and Drake
4 RFD: Commerce and Small Business
5 First Read: 08-MAR-12

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

22 "(b) Notwithstanding subsection (a), an officer of a
23 corporation may elect annually to be exempt from coverage by
24 filing written certification of the election with the
25 department and the employer's insurance carrier.

26 "At the end of any calendar year, a corporate
27 officer who has been exempted, by proper certification from

1 coverage, may revoke the exemption and thereby accept coverage
2 by filing written certification of his or her election to be
3 covered with the department and the employer's insurance
4 carrier.

5 "The certification for exemption or reinstatement of
6 coverage shall become effective on the first day of the
7 calendar month following the filing of the certification of
8 exemption or reinstatement of coverage with the department.

9 "If the corporate officer elects to be exempt from
10 coverage, the election shall not relieve the employer from
11 continuing coverage for all other eligible employees who may
12 have been covered prior to the election or who may
13 subsequently be employed by the firm.

14 "(c) This section shall not be construed to mandate
15 any school board to provide coverage until sufficient funds
16 are appropriated from the Education Trust Fund to implement
17 the provisions. Nothing contained herein shall prohibit any
18 school board that voluntarily elects to provide such coverage
19 from doing so with local or other available funds.

20 "(d) This section shall provide for voluntary
21 coverage of certified volunteer fire departments as described
22 in Section 9-3-17 and legally organized rescue squads that
23 meet the minimum personnel and equipment standards as
24 established by the Alabama Association of Rescue Squads, that
25 are engaged in fighting a fire or performing other duties
26 involving any emergency incident and while performing any
27 official supervised duties of the organization, including

1 maintaining equipment and attending official training classes,
2 and while traveling to and from an emergency incident.

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

10 "(f) State certified volunteer fire departments and
11 legally organized rescue squads are herein granted the right
12 to purchase workers' compensation medical or disability
13 insurance, or both, but in no event are they required to do
14 so.

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

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

21 "(h) An individual who performs services as a
22 product demonstrator shall not be considered an employee for
23 purposes of this chapter. The term "product demonstrator"
24 shall mean any individual who satisfies both of the following
25 requirements:

26 "(1) Is engaged in the trade or business of
27 demonstrating, exhibiting, or soliciting the purchase of food,

1 food-related products offered for sale, or other consumer
2 products offered for sale to any buyer on the premises of a
3 grocery store, dry good store, or similar retail
4 establishment, or trade show;

5 "(2) Who performs those services pursuant to a
6 written contract between the individual and a person whose
7 principal business is providing demonstrators to third parties
8 for such purposes and the contract provides that the
9 individual will not be treated as an employee with respect to
10 the services for federal tax purposes.

11 "(i) (1) For purposes of this subsection, sports
12 official means an individual who is a neutral participant in a
13 sports event, including, without limitation, an umpire, a
14 referee, judge, linesman, scorekeeper, or timekeeper. Sports
15 official does not include any person, otherwise employed by an
16 organization or entity sponsoring a sports event, who performs
17 services as a sports official as a part of his or her regular
18 employment.

19 "(2) A person who performs services as a sports
20 official for an entity sponsoring an interscholastic or
21 intercollegiate sports event or if such person performs
22 services as a sports official for a public entity or a
23 private, nonprofit organization which sponsors an amateur
24 sports event shall be an independent contractor and not an
25 employee.

26 "(3) Any sports official who officiates a sports
27 event at any level of competition in Alabama shall not be

1 liable to any person or entity in any civil action for
2 injuries or damages claimed to have arisen by virtue of
3 actions or inaction related in any manner to officiating
4 duties at a sports event, provided the official does not act
5 willfully, maliciously, fraudulently, or in a manner that is
6 contrary to how a reasonably prudent official would act under
7 the same or similar circumstances."

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

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Commerce and
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Read for the second time and placed
on the calendar 2 amendments 22-MAR-12

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Yeas 91, Nays 0, Abstains 0

Greg Pappas
Clerk