

1 HB1
2 130869-3
3 By Representative Laird
4 RFD: Commerce and Small Business
5 First Read: 07-FEB-12
6 PFD: 09/15/2011

1 ENGROSSED

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4 A BILL
5 TO BE ENTITLED
6 AN ACT
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8 To amend Section 25-5-50 of the Code of Alabama
9 1975, relating to volunteer fire departments and volunteer
10 rescue squads, or combination departments; to provide for the
11 regulation by the Commissioner of Insurance of the maximum
12 annual payroll per fire fighter or rescue squad member for the
13 purpose of workers' compensation rates.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15 Section 1. Section 25-5-50 of the Code of Alabama
16 1975, is amended to read as follows:

17 "§25-5-50.

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

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

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

24 "At the end of any calendar year, a corporate
25 officer who has been exempted, by proper certification from
26 coverage, may revoke the exemption and thereby accept coverage
27 by filing written certification of his or her election to be

1 covered with the department and the employer's insurance
2 carrier.

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

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

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

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

1 Notwithstanding any other provision of law, the Commissioner
2 of Insurance shall set the maximum annual payroll per fire
3 fighter or rescue squad member for the purpose of setting
4 workers' compensation rates for the departments at three
5 hundred dollars (\$300) per fire fighter or rescue squad member
6 per year for insurance rate purposes only and not for benefit
7 purposes.

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

15 "(f) State certified volunteer fire departments and
16 legally organized rescue squads are herein granted the right
17 to purchase workers' compensation medical or disability
18 insurance, or both, but in no event are they required to do
19 so.

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

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

26 "(h) An individual who performs services as a
27 product demonstrator shall not be considered an employee for

1 purposes of this chapter. The term "product demonstrator"
2 shall mean any individual who satisfies both of the following
3 requirements:

4 "(1) Is engaged in the trade or business of
5 demonstrating, exhibiting, or soliciting the purchase of food,
6 food-related products offered for sale, or other consumer
7 products offered for sale to any buyer on the premises of a
8 grocery store, dry good store, or similar retail
9 establishment, or trade show;

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

16 Section 2. All laws or parts of laws which conflict
17 with this act are repealed.

18 Section 3. This act shall become effective
19 immediately following its passage and approval by the
20 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
Small Business..... 07-FEB-12

Read for the second time and placed
on the calendar 1 amendment 16-FEB-12

Read for the third time and passed
as amended..... 14-MAR-12

Yeas 94, Nays 0, Abstains 0

Greg Pappas
Clerk