

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

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8 SYNOPSIS: Under existing law, volunteer fire
9 departments and emergency rescue squads are
10 authorized to provide workers' compensation
11 insurance for volunteer fire fighters and rescue
12 squad members for injuries received during the
13 course of performing their duties.

14 This bill would require the Commissioner of
15 Insurance to regulate the maximum annual payroll
16 per fire fighter or rescue squad member for the
17 purpose of setting workers' compensation rates for
18 volunteer fire departments or rescue squads, or
19 combination departments.

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21 A BILL
22 TO BE ENTITLED
23 AN ACT

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25 To amend Section 25-5-50 of the Code of Alabama
26 1975, relating to volunteer fire departments and volunteer
27 rescue squads, or combination departments; to provide for the

1 regulation by the Commissioner of Insurance of the maximum
2 annual payroll per fire fighter or rescue squad member for the
3 purpose of workers' compensation rates.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. Section 25-5-50 of the Code of Alabama
6 1975, is amended to read as follows:

7 "§25-5-50.

8 "(a) This article and Article 2 of this chapter
9 shall not be construed or held to apply to an employer of a
10 domestic employee; an employer of a farm laborer; an employer
11 of a person whose employment at the time of the injury is
12 casual and not in the usual course of the trade, business,
13 profession, or occupation of the employer; an employer who
14 regularly employs less than five employees in any one
15 business, other than the business of constructing or assisting
16 on-site in the construction of new single-family, detached
17 residential dwellings; or a municipality having a population
18 of less than 2,000 according to the most recent federal
19 decennial census. An employer who regularly employs less than
20 five employees in any one business; a farm-labor employer; an
21 employer of a domestic employee; or a municipality having a
22 population of less than 2,000 according to the most recent
23 federal decennial census, may accept and become subject to
24 this article and Article 4 of this chapter by filing written
25 notice thereof with the Department of Industrial Relations, a
26 copy thereof to be posted at the place of business of the
27 employer; provided further, that an employer who has so

1 elected to accept this article and Article 4 of this chapter
2 may at any time withdraw the acceptance by giving like notice
3 of withdrawal. Notwithstanding the foregoing, an employer
4 electing not to accept coverage under this article and Article
5 4 of this chapter shall notify in writing each employee of the
6 withdrawal of coverage. Additionally, the employer shall post
7 a notice in a conspicuous place notifying all employees and
8 applicants for employment that workers' compensation insurance
9 coverage is not available.

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

14 "At the end of any calendar year, a corporate
15 officer who has been exempted, by proper certification from
16 coverage, may revoke the exemption and thereby accept coverage
17 by filing written certification of his or her election to be
18 covered with the department and the employer's insurance
19 carrier.

20 "The certification for exemption or reinstatement of
21 coverage shall become effective on the first day of the
22 calendar month following the filing of the certification of
23 exemption or reinstatement of coverage with the department.

24 "If the corporate officer elects to be exempt from
25 coverage, the election shall not relieve the employer from
26 continuing coverage for all other eligible employees who may

1 have been covered prior to the election or who may
2 subsequently be employed by the firm.

3 "(c) This section shall not be construed to mandate
4 any school board to provide coverage until sufficient funds
5 are appropriated from the Education Trust Fund to implement
6 the provisions. Nothing contained herein shall prohibit any
7 school board that voluntarily elects to provide such coverage
8 from doing so with local or other available funds.

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

19 Notwithstanding any other provision of law, the Commissioner
20 of Insurance shall set the maximum annual payroll per fire
21 fighter or rescue squad member for the purpose of setting
22 workers' compensation rates for the departments at three
23 hundred dollars (\$300) per fire fighter or rescue squad member
24 per year.

25 "(e) In all cases where an injury that is
26 compensable under the terms of the Alabama Workers'
27 Compensation Law is received by a volunteer fire fighter or

1 rescue squad member, the wages for purposes of computing the
2 average weekly wage shall be equal to 66 2/3 percent of what
3 he or she is earning at his or her regular place of employment
4 or 66 2/3 percent of the minimum wage, whichever is greater.

5 "(f) State certified volunteer fire departments and
6 legally organized rescue squads are herein granted the right
7 to purchase workers' compensation medical or disability
8 insurance, or both, but in no event are they required to do
9 so.

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

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

16 "(h) An individual who performs services as a
17 product demonstrator shall not be considered an employee for
18 purposes of this chapter. The term "product demonstrator"
19 shall mean any individual who satisfies both of the following
20 requirements:

21 "(1) Is engaged in the trade or business of
22 demonstrating, exhibiting, or soliciting the purchase of food,
23 food-related products offered for sale, or other consumer
24 products offered for sale to any buyer on the premises of a
25 grocery store, dry good store, or similar retail
26 establishment, or trade show;

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

7 Section 2. All laws or parts of laws which conflict
8 with this act are repealed.

9 Section 3. This act shall become effective
10 immediately following its passage and approval by the
11 Governor, or its otherwise becoming law.