

Regular Session, 2012

SENATE BILL NO. 511

BY SENATOR DONAHUE

WORKERS' COMPENSATION. Provides for exceptions to workers' compensation coverage for certain persons who have an ownership interest in the business that employs the person. (8/1/12)

1 AN ACT
2 To amend and reenact R.S. 23:1035(A) and enact R.S. 23:1035.3, relative to workers'
3 compensation; to provide for exceptions for workers' compensation coverage; to
4 require workers' compensation coverage for certain individuals; to provide for a
5 waiver of coverage in certain circumstances; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 23:1035(A) is hereby amended and reenacted and R.S. 23:1035.3 is
8 hereby enacted to read as follows:

9 §1035. Employees covered

10 A. The provisions of this Chapter shall also apply to every person performing
11 services arising out of and incidental to his employment in the course of his own
12 trade, business, or occupation, or in the course of his employer's trade, business, or
13 occupation, ~~except that the bona fide president, vice president, secretary, or treasurer~~
14 ~~of a corporation who owns not less than ten percent of the stock therein, or a partner~~
15 ~~with respect to a partnership employing him, or a member of a limited liability~~
16 ~~company as defined in R.S. 12:1301(A)(13) who owns not less than a ten percent~~
17 ~~membership interest therein, or a sole proprietor with respect to such sole~~

1 ~~proprietorship may by written agreement with his insurer or group self-insurance~~
2 ~~fund elect not to be covered by the provisions of this Chapter. Such election shall not~~
3 ~~be limited, but shall apply to all trades, businesses, or occupations conducted by said~~
4 ~~corporation, partnership, limited liability company, or sole proprietorship. Such an~~
5 ~~election shall be binding upon the employing corporation, partnership, limited~~
6 ~~liability company, and sole proprietor and the surviving spouse, relatives, personal~~
7 ~~representative, heirs, or dependents of the officer, partner, member, or sole proprietor~~
8 ~~so electing. No salary or compensation received by any such bona fide corporate~~
9 ~~officer, partner, member, or sole proprietor so electing shall be used in computing~~
10 ~~the premium rate for workers' compensation insurance.~~

11 * * *

12 §1035.3. Coverage waived

13 When a bona fide president, vice president, secretary, or treasurer of a
14 corporation who owns not less than ten percent of the stock therein, or a
15 partner with respect to a partnership employing him, or a member of a limited
16 liability company as defined in R.S. 12:1301(A)(13) who owns not less than a ten
17 percent membership interest therein, or a sole proprietor with respect to such
18 sole proprietorship elects not to be covered by the provisions of this Chapter,
19 such individual waives any right that the individual may have for any claim for
20 workers' compensation or in tort against any other corporation, partnership,
21 limited liability company or business as well as the insurance carrier or self
22 insured fund for that corporation, partnership, limited liability company or
23 business.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Carla S. Roberts.

DIGEST

Present law provides that workers' compensation coverage shall apply to every person performing services arising out of and incidental to his employment in the course of his own trade, business, or occupation, or in the course of his employer's trade, business, or occupation except coverage is not required on any of the following:

1. The bona fide president, vice president, secretary, or treasurer of a corporation who

owns not less than ten percent of the stock therein.

2. A partner with respect to a partnership employing him.
3. A member of a limited liability company who owns 10% or more in the company.
4. A sole proprietor. Present law provides that such parties may by written agreement with his insurer or group self-insurance fund elect not to be covered by workers' compensation insurance.

Present law provides that the election to exclude workers' compensation coverage on business executives, who have an ownership interest in the business, is not limited and applies to all trades, businesses, or occupations.

Present law provides that the election to exclude coverage will be binding upon the employing corporation, partnership, limited liability company, and sole proprietor and the surviving spouse, relatives, personal representative, heirs, or dependents of the officer, partner, member, or sole proprietor so electing.

Present law provides that no salary or compensation received by any such bona fide corporate officer, partner, member, or sole proprietor electing to exclude themselves from coverage shall be used in computing the premium rate for workers' compensation insurance.

Proposed law removes the exemptions from workers' compensation coverage.

Proposed law provides that when a bona fide president, vice president, secretary, or treasurer of a corporation who owns at least 10% of the stock therein, or a partner with respect to a partnership employing him, or a member of a limited liability company who owns at least 10% membership interest therein, or a sole proprietor elects not to provide for their own workers' compensation coverage, such individual waives any right that the employee may have for any claim for workers' compensation or in tort against any other corporation, partnership, limited liability company or business as well as the insurance carrier or self insured fund for that corporation, partnership, limited liability company or business.

Effective August 1, 2012.

(Amends R.S. 23:1035(A); adds R.S. 23:1035.3)