

**WORKERS' COMPENSATION FOR VOLUNTEERS**

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Karen Mayne**

House Sponsor: Val L. Peterson

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**LONG TITLE**

**General Description:**

This bill modifies the Workers' Compensation Act to address volunteers.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ provides that volunteers are not employees for purposes of workers' compensation unless the nongovernment entity for which the volunteer provides services elects to cover the volunteer with workers' compensation coverage;
- ▶ clarifies the application of the exclusive remedy;
- ▶ provides how disability compensation is to be determined;
- ▶ addresses how premiums are calculated;
- ▶ addresses affect of the failure or refusal of a nongovernment entity to elect workers' compensation coverage for volunteers;
- ▶ addresses insurance obtained by a volunteer; and
- ▶ addresses notice to volunteers.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

ENACTS:

[34A-2-104.5](#), Utah Code Annotated 1953

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31 *Be it enacted by the Legislature of the state of Utah:*32 Section 1. Section **34A-2-104.5** is enacted to read:33 **34A-2-104.5. Nongovernment entity volunteers.**34 (1) As used in this section:35 (a) (i) "Intern" means a student or trainee who works without pay at a trade or  
36 occupation in order to gain work experience.37 (ii) Notwithstanding Subsection (1)(a)(i), "intern" does not include an intern described  
38 in Section [53A-29-103](#) or [53B-16-403](#).39 (b) "Nongovernment entity" means an entity or individual that:40 (i) is an employer as provided in Section [34A-2-103](#); and41 (ii) is not a government entity.42 (c) "Utah minimum wage" means the highest wage designated as Utah's minimum  
43 wage under Title 34, Chapter 40, Utah Minimum Wage Act.44 (d) (i) "Volunteer" means an individual who donates service without pay or other  
45 compensation except expenses actually and reasonably incurred as approved by the supervising  
46 nongovernment entity.47 (ii) "Volunteer" includes an intern of a nongovernment entity.48 (iii) "Volunteer" does not include an individual participating in human subjects  
49 research to the extent that the participation is governed by federal law or regulation inconsistent  
50 with this chapter.51 (2) A volunteer for a nongovernment entity is not an employee of the nongovernment  
52 entity for purposes of this chapter and Chapter 3, Utah Occupational Disease Act, unless the  
53 nongovernment entity elects in accordance with this section to provide coverage under this  
54 chapter and Chapter 3, Utah Occupational Disease Act.55 (3) (a) A nongovernment entity may elect to secure coverage for all of the  
56 nongovernment entity's volunteers by obtaining coverage for the volunteers in accordance with  
57 Section [34A-2-201](#) under the same policy it uses to cover the nongovernment entity's

58 employees.

59 (b) If a nongovernment entity obtains coverage under Section 34A-2-201 for the  
60 nongovernment entity's volunteers, for purposes of receiving benefits under this chapter and  
61 Chapter 3, Utah Occupational Disease Act:

62 (i) a volunteer is considered an employee of the nongovernment entity; and  
63 (ii) these benefits are the exclusive remedy of the volunteer in accordance with Section  
64 34A-2-105 for an industrial injury or disease covered by this chapter and Chapter 3, Utah  
65 Occupational Disease Act.

66 (4) A nongovernment entity shall keep sufficient records of the nongovernment entity's  
67 volunteers and the volunteers' duties to determine compliance with this section.

68 (5) To compute the disability compensation benefits under Subsection (3), the  
69 disability compensation shall be calculated in accordance with Part 4, Compensation and  
70 Benefits, with the average weekly wage of the nongovernment volunteer assumed to be the  
71 Utah minimum wage at the time of the industrial accident or occupational disease that is the  
72 basis for the volunteer's workers' compensation claim.

73 (6) A workers' compensation insurer shall calculate the premium for a nongovernment  
74 entity's volunteer on the basis of the Utah minimum wage on the actual hours the volunteer  
75 provides service to the nongovernment entity, except that a workers' compensation insurer may  
76 assume 30 hours worked per week if the nongovernment entity does not provide a record of  
77 actual hours worked. The imputed wages shall be assigned to the class code on the policy that  
78 best describes the volunteer's duties.

79 (7) The failure or refusal of a nongovernment entity to make an election under this  
80 section in regard to volunteers does not alter, have an effect on, or give rise to any implication  
81 or presumption regarding:

82 (a) the nongovernment entity's duties or liabilities with respect to volunteers; or  
83 (b) the rights of volunteers.

84 (8) Subject to Subsection (3)(b)(ii), nothing in this section affects a volunteer's right to  
85 seek remedies available to the volunteer through a personal insurance policy that the volunteer

86 obtains for the volunteer in addition to any workers' compensation benefits obtained under this  
87 section.

88 (9) A nongovernment entity shall notify a volunteer of an election under Subsection  
89 (3)(a) by posting:

90 (a) printed notices where volunteers are likely to see the notices in conspicuous places  
91 about the nongovernment entity's place of business; and

92 (b) notices on a website that the nongovernment entity uses to recruit or provide  
93 information to volunteers.