

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

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8 SYNOPSIS: Under existing law, certain sports officials
9 qualify as employees for workers' compensation
10 coverage.

11 This bill would qualify sports officials as
12 independent contractors who are exempt from
13 workers' compensation coverage.

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15 A BILL
16 TO BE ENTITLED
17 AN ACT

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19 To amend Section 25-5-50 of the Code of Alabama
20 1975, relating to the exemption from workers' compensation
21 coverage for certain independent contractors; to qualify
22 sports officials as independent contractors; and to exempt
23 sports officials from workers' compensation coverage.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. Section 25-5-50 of the Code of Alabama
26 1975, is amended to read as follows:

27 "§25-5-50.

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

1 applicants for employment that workers' compensation insurance
2 coverage is not available.

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

7 "At the end of any calendar year, a corporate
8 officer who has been exempted, by proper certification from
9 coverage, may revoke the exemption and thereby accept coverage
10 by filing written certification of his or her election to be
11 covered with the department and the employer's insurance
12 carrier.

13 "The certification for exemption or reinstatement of
14 coverage shall become effective on the first day of the
15 calendar month following the filing of the certification of
16 exemption or reinstatement of coverage with the department.

17 "If the corporate officer elects to be exempt from
18 coverage, the election shall not relieve the employer from
19 continuing coverage for all other eligible employees who may
20 have been covered prior to the election or who may
21 subsequently be employed by the firm.

22 "(c) This section shall not be construed to mandate
23 any school board to provide coverage until sufficient funds
24 are appropriated from the Education Trust Fund to implement
25 the provisions. Nothing contained herein shall prohibit any
26 school board that voluntarily elects to provide such coverage
27 from doing so with local or other available funds.

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

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

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

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

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

4 "(h) An individual who performs services as a
5 product demonstrator shall not be considered an employee for
6 purposes of this chapter. The term "product demonstrator"
7 shall mean any individual who satisfies both of the following
8 requirements:

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

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

21 "(i) (1) For purposes of this subsection, sports
22 official means an individual who is a neutral participant in a
23 sports event, including, without limitation, an umpire, a
24 referee, judge, linesman, scorekeeper, or timekeeper. Sports
25 official does not include any person, otherwise employed by an
26 organization or entity sponsoring a sports event, who performs

1 services as a sports official as a part of his or her regular
2 employment.

3 "(2) A person who performs services as a sports
4 official for an entity sponsoring an interscholastic or
5 intercollegiate sports event or if such person performs
6 services as a sports official for a public entity or a
7 private, nonprofit organization which sponsors an amateur
8 sports event shall be an independent contractor and not an
9 employee.

10 "(3) Any sports official who officiates a sports
11 event at any level of competition in Alabama shall not be
12 liable to any person or entity in any civil action for
13 injuries or damages claimed to have arisen by virtue of
14 actions or inaction related in any manner to officiating
15 duties at a sports event."

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