

1 HB359
2 175000-1
3 By Representative Moore (B)
4 RFD: Commerce and Small Business
5 First Read: 01-MAR-16

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8 SYNOPSIS: Under existing law, employers are not
9 required to provide workers' compensation insurance
10 if they employ less than five employees in any one
11 business.

12 This bill would provide that the number of
13 employees employed in any one business does not
14 include the employer or any other person owning 50
15 percent or more of the business for the purposes of
16 workers' compensation requirements.

17
18 A BILL
19 TO BE ENTITLED
20 AN ACT

21
22 Relating to workers' compensation; to amend Section
23 25-5-50, Code of Alabama 1975, to provide that the number of
24 employees employed in any one business does not include the
25 employer or other persons owning a certain percentage of the
26 business for workers' compensation purposes.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

3 "§25-5-50.

4 "(a) This article and Article 2 of this chapter
5 shall not be construed or held to apply to an employer of a
6 domestic employee; an employer of a farm laborer; an employer
7 of a person whose employment at the time of the injury is
8 casual and not in the usual course of the trade, business,
9 profession, or occupation of the employer; an employer who
10 regularly employs less than five employees in any one
11 business, not including himself or herself or any other person
12 owning 50 percent or more of the business, other than the
13 business of constructing or assisting on-site in the
14 construction of new single-family, detached residential
15 dwellings; or a municipality having a population of less than
16 2,000 according to the most recent federal decennial census.
17 An employer who regularly employs less than five employees in
18 any one business; a farm-labor employer; an employer of a
19 domestic employee; or a municipality having a population of
20 less than 2,000 according to the most recent federal decennial
21 census, may accept and become subject to this article and
22 Article 4 of this chapter by filing written notice thereof
23 with the Department of Labor, a copy thereof to be posted at
24 the place of business of the employer; provided further, that
25 an employer who has so elected to accept this article and
26 Article 4 of this chapter may at any time withdraw the
27 acceptance by giving like notice of withdrawal.

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

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

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

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

22 "If the corporate officer elects to be exempt from
23 coverage, the election shall not relieve the employer from
24 continuing coverage for all other eligible employees who may
25 have been covered prior to the election or who may
26 subsequently be employed by the firm.

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

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

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

24 "(f) State certified volunteer fire departments and
25 legally organized rescue squads are herein granted the right
26 to purchase workers' compensation medical or disability

1 insurance, or both, but in no event are they required to do
2 so.

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

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

9 "(h) An individual who performs services as a
10 product demonstrator shall not be considered an employee for
11 purposes of this chapter. The term "product demonstrator"
12 shall mean any individual who satisfies both of the following
13 requirements:

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

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

26 "(i) (1) For purposes of this subsection, sports
27 official means an individual who is a neutral participant in a

1 sports event, including, without limitation, an umpire, a
2 referee, judge, linesman, scorekeeper, or timekeeper. Sports
3 official does not include any person, otherwise employed by an
4 organization or entity sponsoring a sports event, who performs
5 services as a sports official as a part of his or her regular
6 employment.

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

14 "(3) Any sports official who officiates a sports
15 event at any level of competition in Alabama shall not be
16 liable to any person or entity in any civil action for
17 injuries or damages claimed to have arisen by virtue of
18 actions or inaction related in any manner to officiating
19 duties at a sports event, provided the official does not act
20 willfully, maliciously, fraudulently, or in a manner that is
21 contrary to how a reasonably prudent official would act under
22 the same or similar circumstances."

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