

1 SB431
2 151727-2
3 By Senator Taylor
4 RFD: Business and Labor
5 First Read: 11-APR-13

2
3
4
5
6
7
8 SYNOPSIS: Under existing law, a corporate officer may
9 annually elect to be exempt from coverage under the
10 Alabama Workers' Compensation Act by filing a
11 written certification of that election with the
12 Department of Labor and the employer's insurance
13 carrier.

14 This bill would remove the requirement for
15 the certification to be filed with the Department
16 of Labor and would add a member of a limited
17 liability company to the persons who may file for
18 exemptions.

19
20 A BILL
21 TO BE ENTITLED
22 AN ACT
23

24 To amend Section 25-5-50, Code of Alabama 1975,
25 relating to exemption of workers' compensation coverage; to
26 remove the requirement for the filing with the Department of

1 Labor and to add a limited liability company to the exemption;
2 and to provide an effective date.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

6 "§25-5-50.

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

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

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

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

25 "If the corporate officer or member of a limited
26 liability company elects to be exempt from coverage, the
27 election shall not relieve the employer from continuing

1 coverage for all other eligible employees who may have been
2 covered prior to the election or who may subsequently be
3 employed by the firm.

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

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

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

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

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

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

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

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

23 "(2) Who performs those services pursuant to a
24 written contract between the individual and a person whose
25 principal business is providing demonstrators to third parties
26 for such purposes and the contract provides that the

1 individual will not be treated as an employee with respect to
2 the services for federal tax purposes.

3 "(i) (1) For purposes of this subsection, sports
4 official means an individual who is a neutral participant in a
5 sports event, including, without limitation, an umpire, a
6 referee, judge, linesman, scorekeeper, or timekeeper. Sports
7 official does not include any person, otherwise employed by an
8 organization or entity sponsoring a sports event, who performs
9 services as a sports official as a part of his or her regular
10 employment.

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

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

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