

1 SB463  
2 130869-1  
3 By Senator Dial  
4 RFD: Banking and Insurance  
5 First Read: 03-MAY-11

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8 SYNOPSIS: Under existing law, volunteer fire  
9 departments and emergency rescue squads are  
10 authorized to provide workers' compensation  
11 insurance for volunteer fire fighters and rescue  
12 squad members for injuries received during the  
13 course of performing their duties.

14 This bill would require the Commissioner of  
15 Insurance to regulate the maximum annual payroll  
16 per fire fighter or rescue squad member for the  
17 purpose of setting workers' compensation rates for  
18 volunteer fire departments or rescue squads, or  
19 combination departments.

20  
21 A BILL  
22 TO BE ENTITLED  
23 AN ACT

24  
25 Relating to volunteer fire departments and volunteer  
26 rescue squads, or combination departments; to provide for the  
27 regulation by the Commissioner of Insurance of the maximum

1 annual payroll per fire fighter or rescue squad member for the  
2 purpose of workers' compensation rates.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Section 25-5-50 of the Code of Alabama  
5 1975, is 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 Industrial Relations, a  
25 copy thereof to be posted at the place of business of the  
26 employer; provided further, that an employer who has so  
27 elected to accept this article and Article 4 of this chapter

1 may at any time withdraw the acceptance by giving like notice  
2 of withdrawal. Notwithstanding the foregoing, an employer  
3 electing not to accept coverage under this article and Article  
4 4 of this 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 may elect annually to be exempt from coverage by  
11 filing written certification of the election with the  
12 department and the employer's insurance carrier.

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

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

23           "If the corporate officer elects to be exempt from  
24 coverage, the election shall not relieve the employer from  
25 continuing coverage for all other eligible employees who may  
26 have been covered prior to the election or who may  
27 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 Notwithstanding any other provision of law, the Commissioner  
18 of Insurance shall set the maximum annual payroll per fire  
19 fighter or rescue squad member for the purpose of setting  
20 workers' compensation rates for the departments at three  
21 hundred dollars (\$300) per fire fighter or rescue squad member  
22 per year.

23           "(e) In all cases where an injury that is  
24 compensable under the terms of the Alabama Workers'  
25 Compensation Law is received by a volunteer fire fighter or  
26 rescue squad member, the wages for purposes of computing the  
27 average weekly wage shall be equal to 66 2/3 percent of what

1 he or she is earning at his or her regular place of employment  
2 or 66 2/3 percent of the minimum wage, whichever is greater.

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

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

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

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

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

25 "(2) Who performs those services pursuant to a  
26 written contract between the individual and a person whose  
27 principal business is providing demonstrators to third parties

1 for such purposes and the contract provides that the  
2 individual will not be treated as an employee with respect to  
3 the services for federal tax purposes."

4 Section 2. All laws or parts of laws which conflict  
5 with this act are repealed.

6 Section 3. This act shall become effective  
7 immediately following its passage and approval by the  
8 Governor, or its otherwise becoming law.