

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 9 of Title 34 of the Official Code of Georgia Annotated, relating to
2 workers' compensation, so as to require employers to provide workers' compensation to
3 certain persons employed by or under the supervision of such employer for a certain period
4 of time; to provide for a definition; to provide for related matters; to repeal conflicting laws;
5 and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 9 of Title 34 of the Official Code of Georgia Annotated, relating to workers'
9 compensation, is amended by revising Code Section 34-9-2, relating to the applicability of
10 the chapter relative to workers' compensation to employers and employees, generally, as
11 follows:

12 "34-9-2.

13 (a)(1) As used in this subsection, the term 'farm laborer' shall include, without limitation,
14 any person employed by an employer in connection with the raising and feeding of and
15 caring for wildlife, as such term is defined in paragraph (77) of Code Section 27-1-2.

16 (2) This chapter shall not apply to common carriers by railroad engaged in intrastate
17 trade or commerce; nor shall this chapter be construed to lessen the liability of such
18 common carriers or take away or diminish any right that any employee of such common
19 carrier or, in case of his or her death, the personal representative of such employee may
20 have under the laws of this state; nor shall this chapter apply to employees whose
21 employment is not in the usual course of trade, business, occupation, or profession of the
22 employer or not incidental thereto; nor to farm laborers or domestic servants; nor to
23 employers of such employees; nor to any person, firm, or private corporation, including
24 any public service corporation, that has regularly in service less than three employees in
25 the same business within this state, unless such employees and their employers
26 voluntarily elect to be bound; nor to any person performing services as a licensed real
27 estate salesperson or associate broker who has a written contract of employment
28 providing that he or she shall perform all services as an independent contractor.

29 (b) This chapter shall not apply to any common carrier by railroad engaging in commerce
30 between any of the several states or territories or between the District of Columbia and any
31 of the states or territories and any foreign nation or nations nor to any person suffering
32 injury or death while he or she is employed by such carrier in such commerce; nor shall this
33 chapter be construed to lessen the liability of such common carrier or to diminish or take
34 away in any respect any right that any person so employed or the personal representative,
35 kindred, relation, or dependent of such person may have under the act of Congress
36 approved April 22, 1908, relating to the liability of common carriers by railroad to their
37 employees in certain cases.

38 (c) Notwithstanding the provisions of subsection (a) of this Code section, this chapter shall
39 apply to employees of the Department of Corrections who are engaged in farm and
40 livestock operations.

41 (d) This chapter shall not apply to persons who perform services pursuant to a written
42 contract stating that the provider is an independent contractor and such person buys a

43 product and resells it, receiving no other compensation; or to independent contract carriers
44 who perform services for an employer who is a publisher or distributor of printed materials
45 in transporting, assembling, delivering, or distributing printed materials and in maintaining
46 any facilities or equipment incidental thereto, provided that:

47 (1) The independent contract carrier has with the employer a written contract as an
48 independent contractor;

49 (2) Remuneration for the independent contract carrier is on the basis of the number of
50 deliveries accomplished;

51 (3) With exception to providing the area or route which an independent contract carrier
52 may or may not service, or providing materials or direction for the packaging or assembly
53 of printed materials, the employer exercises no general control regarding the method of
54 transporting, assembling, delivering, or distributing the printed materials; and

55 (4) The contract entered by the independent contract carrier for such services does not
56 prohibit it from the transportation, delivery, assembly, or distribution of printed materials
57 for more than one employer.

58 (e) A person or entity shall otherwise qualify as an independent contractor and not an
59 employee if such person or entity meets all of the following criteria:

60 (1) Is a party to a contract, written or implied, which intends to create an independent
61 contractor relationship;

62 (2) Has the right to exercise control over the time, manner, and method of the work to
63 be performed; and

64 (3) Is paid on a set price per job or a per unit basis, rather than on a salary or hourly
65 basis.

66 A person who does not meet all of the above listed criteria shall be considered an employee
67 unless otherwise determined by an administrative law judge to be an independent
68 contractor.

69 (f)(1) As used in this subsection, the term 'sports official' means any person who is a
70 neutral participant in a sports event, including without limitation an umpire, referee,
71 judge, linesman, scorekeeper, or timekeeper. The term 'sports official' does not include
72 any person, otherwise employed by an organization or entity sponsoring a sports event,
73 who performs services as a sports official as a part of his or her regular employment.

74 (2) Notwithstanding any other provision of this chapter, a person shall qualify as an
75 independent contractor and not an employee if such person performs services as a sports
76 official for an entity sponsoring an interscholastic or intercollegiate sports event or if such
77 person performs services as a sports official for a public entity or a private, nonprofit
78 organization which sponsors an amateur sports event.

79 (g)(1) As used in this subsection, the term 'supervises' or 'supervision' means to observe
80 or direct the execution of a task, project, activity, or work, including, but not limited to,
81 compliance with rules, regulations, policies, and statutes.

82 (2) Notwithstanding any other provision of this chapter, an employer that employs or
83 supervises three or more persons during a calendar year shall obtain workers'
84 compensation insurance for all persons:

85 (A) On such employer's payroll, whether or not such employees are labor, executive,
86 hourly, salary, part-time, seasonal, or migrant workers; and

87 (B) The employer supervises who are not on the employer's payroll such that any such
88 person will have workers' compensation obtained by such employer for any injuries that
89 occur while under the supervision of such employer."

90 **SECTION 2.**

91 All laws and parts of laws in conflict with this Act are repealed.