

1 SB228  
2 172593-1  
3 By Senator Blackwell  
4 RFD: Fiscal Responsibility and Economic Development  
5 First Read: 11-FEB-16

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8 SYNOPSIS: Under existing law, a corporate officer may  
9 elect on an annual basis to be exempt from workers'  
10 compensation insurance coverage by notifying the  
11 Department of Labor and his or her insurance  
12 carrier.

13 This bill would remove the requirement that  
14 a corporate officer notify the Department of Labor  
15 when he or she elects to be exempt from workers'  
16 compensation insurance coverage.

17 This bill would provide that once exempt  
18 from workers' compensation coverage, the officer  
19 would continue to be exempt until he or she revokes  
20 the exemption in accordance with certain  
21 procedures.

22  
23 A BILL  
24 TO BE ENTITLED  
25 AN ACT  
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1           To amend Section 25-5-50, Code of Alabama 1975,  
2 relating to workers' compensation insurance; to remove the  
3 requirement that a corporate officer notify the Department of  
4 Labor when he or she elects to be exempt from workers'  
5 compensation insurance coverage; and to provide that once  
6 exempt from workers' compensation coverage, the officer would  
7 continue to be exempt until he or she revokes the exemption in  
8 accordance with certain procedures.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

10           Section 1. Section 25-5-50 of the Code of Alabama  
11 1975, is amended to read as follows:

12           "§25-5-50.

13           "(a) This article and Article 2 of this chapter  
14 shall not be construed or held to apply to an employer of a  
15 domestic employee; an employer of a farm laborer; an employer  
16 of a person whose employment at the time of the injury is  
17 casual and not in the usual course of the trade, business,  
18 profession, or occupation of the employer; an employer who  
19 regularly employs less than five employees in any one  
20 business, other than the business of constructing or assisting  
21 on-site in the construction of new single-family, detached  
22 residential dwellings; or a municipality having a population  
23 of less than 2,000 according to the most recent federal  
24 decennial census. An employer who regularly employs less than  
25 five employees in any one business; a farm-labor employer; an  
26 employer of a domestic employee; or a municipality having a  
27 population of less than 2,000 according to the most recent

1 federal decennial census, may accept and become subject to  
2 this article and Article 4 of this chapter by filing written  
3 notice thereof with the Department of Labor, a copy thereof to  
4 be posted at the place of business of the employer; provided  
5 further, that an employer who has so elected to accept this  
6 article and Article 4 of this chapter may at any time withdraw  
7 the acceptance by giving like notice of withdrawal.

8 Notwithstanding the foregoing, an employer electing not to  
9 accept coverage under this article and Article 4 of this  
10 chapter shall notify in writing each employee of the  
11 withdrawal of coverage. Additionally, the employer shall post  
12 a notice in a conspicuous place notifying all employees and  
13 applicants for employment that workers' compensation insurance  
14 coverage is not available.

15 " (b) (1) Notwithstanding subsection (a), an officer  
16 of a corporation may elect ~~annually~~ to be exempt from coverage  
17 by filing written certification of the election with the  
18 ~~department and the employer's insurance carrier. At the end of~~  
19 ~~any calendar year, a corporate officer who has been exempted,~~  
20 ~~by proper certification from coverage, may revoke the~~  
21 ~~exemption~~ workers' compensation insurance provider. The  
22 exemption shall remain effective at all times, including  
23 subsequent coverage years with the same workers' compensation  
24 insurance provider, unless and until the corporate officer  
25 revokes his or her exemption and thereby ~~accept~~ accepts  
26 coverage by filing written certification of his or her  
27 election to be covered with the ~~department and the employer's~~

1 workers' compensation insurance carrier provider. The  
2 revocation shall not be effective unless and until the  
3 revocation is accepted in writing by the employer's workers'  
4 compensation insurance provider.

5 "As a condition of revocation of exemption, the  
6 workers' compensation insurance provider may require the  
7 corporate officer to execute an affidavit verifying that he or  
8 she has not suffered any employment accident, exposure, or  
9 injury from the date of the exemption until the date of the  
10 written certification of the election to reinstate coverage.  
11 Any corporate officer who fails to execute an affidavit or  
12 comply with other terms and conditions of the workers'  
13 compensation insurance provider shall not be entitled to  
14 revoke the previous exemption.

15 "The certification for exemption or reinstatement of  
16 coverage shall become effective on the first day of the  
17 calendar month following the ~~filing~~ written acceptance of the  
18 certification of exemption or reinstatement of coverage ~~with~~  
19 ~~the department~~ by the employer's workers' compensation  
20 insurance provider.

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

26 "(c) This section shall not be construed to mandate  
27 any school board to provide coverage until sufficient funds

1 are appropriated from the Education Trust Fund to implement  
2 the provisions. Nothing contained herein shall prohibit any  
3 school board that voluntarily elects to provide such coverage  
4 from doing so with local or other available funds.

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

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

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

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

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

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

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

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

24            "(i) (1) For purposes of this subsection, sports  
25 official means an individual who is a neutral participant in a  
26 sports event, including, without limitation, an umpire, a  
27 referee, judge, linesman, scorekeeper, or timekeeper. Sports

1 official does not include any person, otherwise employed by an  
2 organization or entity sponsoring a sports event, who performs  
3 services as a sports official as a part of his or her regular  
4 employment.

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

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

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