

JAN 26 2009

A BILL FOR AN ACT

RELATING TO WORKERS' COMPENSATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 386-1, Hawaii Revised Statutes, is
2 amended by amending the definition of "employment" to read as
3 follows:

4 ""Employment" means any service performed by an individual
5 for another person under any contract of hire or apprenticeship,
6 express or implied, oral or written, whether lawfully or
7 unlawfully entered into. It includes service of public
8 officials, whether elected or under any appointment or contract
9 of hire express or implied.

10 "Employment" does not include:

11 (1) Service for a religious, charitable, educational, or
12 nonprofit organization if performed in a voluntary or
13 unpaid capacity;

14 (2) Service for a religious, charitable, educational, or
15 nonprofit organization if performed by a recipient of
16 aid therefrom and the service is incidental to or in
17 return for the aid received;



- 1 (3) Service for a school, college, university, college
2 club, fraternity, or sorority if performed by a
3 student who is enrolled and regularly attending
4 classes and in return for board, lodging, or tuition
5 furnished, in whole or in part;
- 6 (4) Service performed by a duly ordained, commissioned, or
7 licensed minister, priest, or rabbi of a church in the
8 exercise of the minister's, priest's, or rabbi's
9 ministry or by a member of a religious order in the
10 exercise of nonsecular duties required by the order;
- 11 (5) Service performed by an individual for another person
12 solely for personal, family, or household purposes if
13 the cash remuneration received is less than \$225
14 during the current calendar quarter and during each
15 completed calendar quarter of the preceding twelve-
16 month period;
- 17 (6) Domestic, in-home and community-based services for
18 persons with developmental disabilities and mental
19 retardation under the medicaid home and
20 community-based services program pursuant to title 42
21 Code of Federal Regulations sections 440.180 and
22 441.300, and title 42 Code of Federal Regulations,



1 part 434, subpart A, as amended, and identified as
2 chore, personal assistance and habilitation,
3 residential habilitation, supported employment,
4 respite, and skilled nursing services, as the terms
5 are defined by the department of human services,
6 performed by an individual whose services are
7 contracted by a recipient of social service payments
8 and who voluntarily agrees in writing to be an
9 independent contractor of the recipient of social
10 service payments;

11 (7) Service performed without wages for a corporation
12 without employees by a corporate officer in which the
13 officer is at least a twenty-five per cent
14 stockholder;

15 (8) Service performed by an individual for a corporation
16 if the individual owns at least fifty per cent of the
17 corporation; provided that no employer shall require
18 an employee to incorporate as a condition of
19 employment; ~~and~~

20 (9) Service performed by an individual for another person
21 as a real estate salesperson or as a real estate
22 broker, if all the service performed by the individual



1 for the other person is performed for remuneration
 2 solely by way of commission[-]; and
 3 (10) Service performed for remuneration by an individual or
 4 by an immediate family member of the individual for
 5 the individual.

6 As used in this paragraph "religious, charitable, educational,
 7 or nonprofit organization" means a corporation, unincorporated
 8 association, community chest, fund, or foundation organized and
 9 operated exclusively for religious, charitable, or educational
 10 purposes, no part of the net earnings of which inure to the
 11 benefit of any private shareholder or individual."

12 SECTION 2. This Act does not affect rights and duties that
 13 matured, penalties that were incurred, and proceedings that were
 14 begun, before its effective date.

15 SECTION 3. Statutory material to be repealed is bracketed
 16 and stricken. New statutory material is underscored.

17 SECTION 4. This Act shall take effect upon its approval.

18

INTRODUCED BY:

Neil Hubbard
Paul ...
Carol ...
David ...
Will ...



Report Title:

Workers' Compensation; Employment

Description:

Excludes self-employed individuals and their families from the scope of the workers' compensation law.

