
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~~]:

5 (1) Means any service performed by an individual for
6 another person under any contract of hire or
7 apprenticeship, express or implied, oral or written,
8 whether lawfully or unlawfully entered into. It
9 includes service of public officials, whether elected
10 or under any appointment or contract of hire express
11 or implied[-];

12 [~~"Employment" does~~]

13 (2) Does not include:

14 [~~(1)~~] (A) Service for a religious, charitable, educational,
15 or nonprofit organization if performed in a
16 voluntary or unpaid capacity;

17 [~~(2)~~] (B) Service for a religious, charitable, educational,
18 or nonprofit organization if performed by a



1 recipient of aid therefrom and the service is
2 incidental to or in return for the aid received;

3 ~~(3)~~ (C) Service for a school, college, university,
4 college club, fraternity, or sorority if
5 performed by a student who is enrolled and
6 regularly attending classes and in return for
7 board, lodging, or tuition furnished, in whole or
8 in part;

9 ~~(4)~~ (D) Service performed by a duly ordained,
10 commissioned, or licensed minister, priest, or
11 rabbi of a church in the exercise of the
12 minister's, priest's, or rabbi's ministry or by a
13 member of a religious order in the exercise of
14 nonsecular duties required by the order;

15 ~~(5)~~ (E) Service performed by an individual for another
16 person solely for personal, family, or household
17 purposes if the cash remuneration received is
18 less than \$225 during the current calendar
19 quarter and during each completed calendar
20 quarter of the preceding twelve-month period;

21 ~~(6)~~ (F) Domestic, in-home and community-based services
22 for persons with developmental disabilities and



1 mental retardation under the medicaid home and
2 community-based services program pursuant to
3 Title 42 Code of Federal Regulations sections
4 440.180 and 441.300, and Title 42 Code of Federal
5 Regulations, Part 434, Subpart A, as amended, and
6 identified as chore, personal assistance and
7 habilitation, residential habilitation, supported
8 employment, respite, and skilled nursing
9 services, as the terms are defined by the
10 department of human services, performed by an
11 individual whose services are contracted by a
12 recipient of social service payments and who
13 voluntarily agrees in writing to be an
14 independent contractor of the recipient of social
15 service payments;

16 [~~(7)~~] (G) Service performed without wages for a corporation
17 without employees by a corporate officer in which
18 the officer is at least a twenty-five per cent
19 stockholder;

20 [~~(8)~~] (H) Service performed by an individual for a
21 corporation if the individual owns at least fifty
22 per cent of the corporation; provided that no



1 employer shall require an employee to incorporate
2 as a condition of employment; [and]

3 ~~(+9)~~ (I) Service performed by an individual for another
4 person as a real estate salesperson or as a real
5 estate broker, if all the service performed by
6 the individual for the other person is performed
7 for remuneration solely by way of commission~~(-)~~;
8 and

9 (J) In entities having ten or fewer employees,
10 service performed for remuneration by an
11 individual or by an immediate family member of
12 the individual for the individual.

13 As used in this ~~[paragraph]~~ definition "religious, charitable,
14 educational, or nonprofit organization" means a corporation,
15 unincorporated association, community chest, fund, or foundation
16 organized and operated exclusively for religious, charitable, or
17 educational purposes, no part of the net earnings of which inure
18 to the benefit of any private shareholder or individual."

19 SECTION 2. This Act does not affect rights and duties that
20 matured, penalties that were incurred, and proceedings that were
21 begun before its effective date.





H.B. NO. 362

1 SECTION 3. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

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

INTRODUCED BY:


Karol Lubina


JAN 21 2011



Report Title:

Workers' Compensation; Employment

Description:

In entities having 10 or fewer employees, excludes self-employed individuals and their families from the scope of the workers' compensation law.

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