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## 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 community-  
20          based services program pursuant to [~~title~~] Title 42  
21          Code of Federal Regulations [~~sections~~] sections  
22          440.180 and 441.300, and [~~title~~] Title 42 Code of



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

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

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

21 (9) Service performed by an individual for another person  
22 as a real estate salesperson or as a real estate



1 broker, if all the service performed by the individual  
2 for the other person is performed for remuneration  
3 solely by way of commission[-];

4 (10) Service performed by a member of a limited liability  
5 company if the member is an individual and has a  
6 distributional interest, as defined in chapter 428, of  
7 at least fifty per cent in the company; provided that  
8 no employer shall require an employee to form a  
9 limited liability company as a condition of  
10 employment;

11 (11) Service performed by a partner of a partnership, as  
12 defined in chapter 425, if the partner is an  
13 individual; provided that no employer shall require an  
14 employee to become a partner or form a partnership as  
15 a condition of employment;

16 (12) Service performed by a partner of a limited liability  
17 partnership if the partner is an individual and has a  
18 transferable interest as defined in section 425-127 in  
19 the partnership of at least fifty per cent; provided  
20 that no employer shall require an employee to form a  
21 limited liability partnership as a condition of  
22 employment; and



1        (13) Service performed by a sole proprietor.  
 2        As used in this ~~[paragraph]~~ definition, "religious, charitable,  
 3        educational, or nonprofit organization" means a corporation,  
 4        unincorporated association, community chest, fund, or foundation  
 5        organized and operated exclusively for religious, charitable, or  
 6        educational purposes, no part of the net earnings of which inure  
 7        to the benefit of any private shareholder or individual."

8        SECTION 2. Statutory material to be repealed is bracketed  
 9        and stricken. New statutory material is underscored.

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

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INTRODUCED BY:

*[Handwritten signatures and names, many underlined:]*  
 - Paul Chong  
 - Benjamin  
 - John Walsh  
 - Karl Throck  
 - My Ah  
 - John  
 - Man Blee  
 - [Signature]  
 - [Signature]



**Report Title:**

Workers' Compensation

**Description:**

Excludes services performed by an individual who is a member of a limited liability company or a partner of a limited liability partnership who has a distributional interest in the company or partnership of at least fifty per cent, a partner or a partnership, and a sole proprietor from the definition of "employment" under the workers' compensation law.

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