
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 42 Code of
21 Federal Regulations Sections 440.180 and 441.300, and
22 Title 42 Code of Federal Regulations, Part 434,



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

3 (10) Service performed by a member of a limited liability
4 company if the member is an individual and has a
5 distributional interest, as defined in section 428-
6 101, of not less than fifty per cent in the company;
7 provided that no employer shall require an employee to
8 form a limited liability company as a condition of
9 employment;

10 (11) Service performed by a partner of a partnership, as
11 defined in section 425-101, if the partner is an
12 individual; provided that no employer shall require an
13 employee to become a partner or form a partnership as
14 a condition of employment;

15 (12) Service performed by a partner of a limited liability
16 partnership if the partner is an individual and has a
17 transferable interest as defined in section 425-127 in
18 the partnership of not less than fifty per cent;
19 provided that no employer shall require an employee to
20 form a limited liability partnership as a condition of
21 employment; and

22 (13) Service performed by a sole proprietor.



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

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 Statutory material to be repealed is bracketed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

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



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. (HB519 HD1)

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