
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 the following service:

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, which includes attendant care, and day care
18 services authorized by the department of human
19 services under the Social Security Act, as amended,
20 performed by an individual in the employ of a
21 recipient of social service payments;



- 1 (7) Service performed without wages for a corporation
2 without employees by a corporate officer in which the
3 officer is at least a twenty-five per cent
4 stockholder;
- 5 (8) Service performed by an individual for a corporation
6 if the individual owns at least fifty per cent of the
7 corporation; provided that no employer shall require
8 an employee to incorporate as a condition of
9 employment; [~~and~~]
- 10 (9) Service performed by an individual for another person
11 as a real estate salesperson or as a real estate
12 broker, if all the service performed by the individual
13 for the other person is performed for remuneration
14 solely by way of commission[~~-~~];
- 15 (10) Service performed by a member of a limited liability
16 company if the member is an individual and has a
17 distributional interest, as defined in chapter 428, of
18 at least fifty per cent in the company; provided that
19 no employer shall require an employee to form a
20 limited liability company as a condition of
21 employment;



- 1 (11) Service performed by a partner of a partnership, as
2 defined in chapter 425, if the partner is an
3 individual; provided that no employer shall require an
4 employee to become a partner as a condition of
5 employment;
- 6 (12) Service performed by a partner of a limited liability
7 partnership if the partner is an individual and has a
8 transferable interest as defined in section 425-127 in
9 the partnership of at least fifty percent; provided
10 that no employer shall require an employee to form a
11 limited liability partnership as a condition of
12 employment; and
- 13 (13) Service performed by a sole proprietor.

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

21 SECTION 2. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.



H.B. NO. 316

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

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INTRODUCED BY:

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J. R. Kromer

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Kirk Caldwell

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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 percent, a partner of a partnership, and a sole proprietor from the definition of "employment" under the workers' compensation law.

