

WORKERS' COMPENSATION FOR VOLUNTEERS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karen Mayne

House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This bill modifies the Workers' Compensation Act to address volunteers.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides that volunteers are not employees for purposes of workers' compensation unless the nongovernment entity for which the volunteer provides services elects to cover the volunteer with workers' compensation coverage;
- ▶ clarifies the application of the exclusive remedy;
- ▶ provides how disability compensation is to be determined; and
- ▶ addresses how premiums are calculated.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

34A-2-104.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:



28 Section 1. Section **34A-2-104.5** is enacted to read:

29 **34A-2-104.5. Nongovernment entity volunteers.**

30 (1) As used in this section:

31 (a) (i) "Intern" means a student or trainee who works without pay at a trade or
32 occupation in order to gain work experience.

33 (ii) Notwithstanding Subsection (1)(a)(i), "intern" does not include an intern described
34 in Section [53A-29-103](#) or [53B-16-403](#).

35 (b) "Nongovernment entity" means an entity or individual that:

36 (i) is an employer as provided in Section [34A-2-103](#); and

37 (ii) is not a government entity.

38 (c) "Utah minimum wage" means the highest wage designated as Utah's minimum
39 wage under Title 34, Chapter 40, Utah Minimum Wage Act.

40 (d) (i) "Volunteer" means an individual who donates service without pay or other
41 compensation except expenses actually and reasonably incurred as approved by the supervising
42 nongovernment entity.

43 (ii) "Volunteer" includes an intern of a nongovernment entity.

44 (iii) "Volunteer" does not include an individual participating in human subjects
45 research to the extent that the participation is governed by federal law or regulation inconsistent
46 with this chapter.

47 (2) A volunteer for a nongovernment entity is not an employee of the nongovernment
48 entity for purposes of this chapter and Chapter 3, Utah Occupational Disease Act, unless the
49 nongovernment entity elects in accordance with this section to provide coverage under this
50 chapter and Chapter 3, Utah Occupational Disease Act.

51 (3) (a) A nongovernment entity may elect to secure coverage for all of its volunteers by
52 obtaining coverage for the volunteers in accordance with Section [34A-2-201](#) under the same
53 policy it uses to cover its employees.

54 (b) If a nongovernment entity obtains coverage under Section [34A-2-201](#) for its
55 volunteers, for purposes of receiving benefits under this chapter and Chapter 3, Utah
56 Occupational Disease Act:

57 (i) a volunteer is considered an employee of the nongovernment entity; and

58 (ii) these benefits are the exclusive remedy of the volunteer in accordance with Section

59 34A-2-105 for an industrial injury or disease covered by this chapter and Chapter 3, Utah
60 Occupational Disease Act.

61 (4) A nongovernment entity shall keep sufficient records of the nongovernment entity's
62 volunteers and the volunteers' duties to determine compliance with this section.

63 (5) To compute the disability compensation benefits under Subsection (3), the average
64 weekly wage of the nongovernment volunteer shall be assumed to be the Utah minimum wage
65 at the time of the industrial accident or occupational disease that is the basis for the
66 nongovernment entity's volunteer's workers' compensation claim.

67 (6) A workers' compensation insurer shall calculate the premium for a nongovernment
68 entity's volunteer on the basis of the Utah minimum wage on the actual hours the volunteer
69 provides service to the nongovernment entity, except that a workers' compensation insurer may
70 assume 30 hours worked per week if the nongovernment entity does not provide a record of
71 actual hours worked. The imputed wages shall be assigned to the class code on the policy that
72 best describes the volunteer's duties.

Legislative Review Note
Office of Legislative Research and General Counsel