

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Committee Substitute

for

Senate Bill 370

BY SENATOR CLINE

[Originating in the Committee on the Judiciary;

Reported on February 12, 2018]

1 A BILL to amend and reenact §23-2-1a of the Code of West Virginia, 1931, as amended, all
2 relating to employees subject to workers' compensation laws; exempting from workers'
3 compensation those persons who volunteer time or services, without wages, for a ski area
4 operator, or a program or activity sponsored by a ski area operator; providing notice
5 requirements; and defining a term.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 2. EMPLOYERS AND EMPLOYEES SUBJECT TO CHAPTER;
EXTRATERRITORIAL COVERAGE.**

§23-2-1a. Employees subject to chapter; exception.

1 (a) Employees subject to this chapter are all persons in the service of employers and
2 employed by them for the purpose of carrying on the industry, business, service, or work in which
3 they are engaged, including, but not limited to:

4 (1) Persons regularly employed in the state whose duties necessitate employment of a
5 temporary or transitory nature by the same employer without the state;

6 (2) Every person in the service of the state or of any political subdivision or agency thereof,
7 under any contract of hire, express or implied, and every appointed official or officer thereof while
8 performing his or her official duties;

9 (3) Checkweighmen employed according to law;

10 (4) All members of rescue teams assisting in mine accidents with the consent of the owner
11 who, in such case, shall be deemed the employer, or at the direction of the director of the
12 department of mines;

13 (5) All forest firefighters who, under the supervision of the Director of the Department of
14 Natural Resources or his or her designated representative, assist in the prevention, confinement,
15 and suppression of any forest fire; and

16 (6) Students while participating in a work-based learning experience with an employer
17 approved as a part of the curriculum by the county board. The county board shall be the employer
18 of record of students while participating in unpaid work-based experiences off school premises
19 with employers other than the county board. Students in unpaid work-based learning experiences
20 shall be considered to be paid the amount of wages so as to provide the minimum workers'
21 compensation weekly benefits required by §23-4-6 of this code.

22 (b) The right to receive compensation under this chapter shall not be affected by the fact
23 that a minor is employed or is permitted to be employed in violation of the laws of this state relating
24 to the employment of minors, or that he or she obtained his or her employment by misrepresenting
25 his or her age.

26 (c) Persons who volunteer time or services, without wages, for a ski area operator, or a
27 program or activity sponsored by a ski area operator, are not employees under this chapter and
28 are not entitled to benefits for injuries, notwithstanding the fact that they receive noncash
29 remunerations. Notice in writing shall be given by the ski area operator to all persons who
30 volunteer time or services for a ski area operator that volunteering of time or services is not
31 employment for the purposes of this chapter. For purposes of this subsection, a "ski area operator"
32 shall have the meaning as set forth in §20-3A-2 of this code.