

# **WEST VIRGINIA LEGISLATURE**

## **2019 REGULAR SESSION**

**Introduced**

### **Senate Bill 465**

BY SENATORS SYPOLT, CLEMENTS, MARONEY, MAYNARD,

SMITH, SWOPE, TARR, WELD, PLYMALE, ROBERTS, AND

CLINE

[Introduced January 29, 2019; Referred

to the Committee on Banking and Insurance]

1 A BILL to amend and reenact §23-2-1a of the Code of West Virginia, 1931, as amended, relating  
 2 to exempting nonpaid volunteers at a volunteer fire department or emergency medical  
 3 services organization who volunteer for the purpose of fundraising, or other administrative  
 4 capacity, from workers' compensation benefits.

*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; exemptions.**

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~~ Office of Miners' Health, Safety and Training;

13 (5) All forest firefighters who, under the supervision of the director of the ~~department of~~  
 14 ~~natural resources~~ Division of Forestry or his or her designated representative, assist in the  
 15 prevention, confinement, 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, to a volunteer fire department  
27 or emergency medical services organization, as defined in §15-5-1 et seq. of this code, and are  
28 volunteering time or services for the purpose of fund raising or other administrative capacity are  
29 not employees under this chapter and are not entitled to benefits for injuries. Prior to volunteering  
30 any time or service, a person volunteering for a volunteer fire department or emergency medical  
31 service organization must sign a waiver of liability that:

32 (A) Acknowledges there is inherent danger in the person's capacity as a volunteer;

33 (B) Acknowledges the person is covered under a health insurance policy not through the  
34 volunteer fire department or the emergency medical services organization the person will  
35 volunteer time or service; and

36 (C) Acknowledges the volunteer fire department or emergency services organization is  
37 not liable for any injury a person may suffer during the course of the person's volunteer time or  
38 service.

NOTE: The purpose of this bill is to exempt nonpaid volunteers at a volunteer fire department or emergency medical service organization who volunteer for the purpose of fund raising or other administrative capacity from Workers Compensation benefits.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.