

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Committee Substitute

for

Senate Bill 74

SENATOR CLINE, *original sponsor*

[Originating in the Committee on Banking and
Insurance; Reported on February 5, 2019]

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 ski areas from workers' compensation benefits; and
3 updating and correcting state entity designations.

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~~ 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, for a ski area operator as
27 defined in §20-3A-2 of this code, or for a ski area sponsored program or activity, are not
28 employees under this chapter, notwithstanding that the persons may receive noncash
29 remunerations.

NOTE: The purpose of this bill is to exempt nonpaid volunteers at ski areas 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.