

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

SENATE BILL NO. 149

BY: HOOPER

AS INTRODUCED

AN ACT RELATING TO WORKERS' COMPENSATION; PROVIDING FOR AFFIDAVIT OF EXEMPTION FOR CERTAIN PERSONS EXCLUDED FROM DEFINITION OF EMPLOYEE UNDER WORKERS' COMPENSATION ACT; PROVIDING FOR FORM AND STATING PERIOD OF VALIDITY; REQUIRING AFFIDAVIT CERTIFY CERTAIN INFORMATION; PROVIDING FOR FILING, VALIDATING AND EFFECTIVE DATE OF AFFIDAVIT; REQUIRING AND PROHIBITING CERTAIN ACTIONS OF EMPLOYER AND INSURANCE CARRIER; DECLARING AFFIDAVIT BINDING AND TO HOLD HARMLESS CERTAIN PERSONS; PROHIBITING PERSON HOLDING AFFIDAVIT FROM COLLECTING COMPENSATION FOR INJURY OR OCCUPATIONAL ILLNESS FROM EMPLOYER; PROVIDING PENALTIES FOR REQUIRING AFFIDAVIT TO AVOID PROVIDING WORKERS' COMPENSATION COVERAGE; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3a of Title 85, unless there is created a duplication in numbering, reads as follows:

A. A sole proprietor, member of a partnership, stockholder-employee owning more than ten percent (10%) stock in the corporation or owner-operator specifically excluded from the definition of employee pursuant to Section 3 of Title 85 of the Oklahoma Statutes may obtain an affidavit of exemption under this section. The affidavit of exemption shall be on a form prescribed by the Workers' Compensation Court and may be provided from a licensed insurance carrier. An affidavit issued under this section is valid for one (1) year.

B. An affidavit of exemption shall certify the following information:

1. That the person executing the affidavit has no employees or has elected not to be covered by workers' compensation insurance; and

2. That the person executing the affidavit desires to be exempt from being able to recover under the workers' compensation insurance policy or plan of an employer for whom the person performs work.

C. Affidavits of exemption shall be filed with the Administrator of the Workers' Compensation Court. The Administrator shall validate the affidavit by stamping it with the date of receipt and returning a validated copy to the person executing the affidavit. A validated affidavit becomes effective at midnight of the stamped date of receipt. The Court shall maintain the original affidavits filed and validated by the Administrator. The file shall be open to public inspection during the regular business hours of the Court.

D. An employer that hires a person excluded from the definition of employee pursuant to Section 3 of Title 85 of the Oklahoma Statutes shall secure a copy of a validated affidavit issued under this section from the person hired. An employer may not require a person who has provided a validated affidavit to have workers' compensation insurance coverage. The employer's workers'

compensation insurance carrier shall accept a validated affidavit in the same manner as a certificate of insurance.

E. An affidavit issued under this section is binding on and shall hold harmless:

1. The person executing and holding the affidavit;

2. An employer that employs said person after receiving a copy of the affidavit; and

3. The employer's workers' compensation insurance carrier or plan. The person executing and holding the validated affidavit may not collect compensation under the Workers' Compensation Act, Section 1 et seq. of Title 85 of the Oklahoma Statutes, for an injury or occupational illness from an employer to whom the person has furnished a validated affidavit.

F. A person that requires a worker to obtain a validated affidavit as a condition of performing work to avoid compliance with the Workers' Compensation Act is subject to:

1. The penalty provided for in Section 12 of Title 85 of the Oklahoma Statutes; and

2. The penalties and procedures provided for in Sections 63.1 through 63.3 of Title 85 of the Oklahoma Statutes.

SECTION 2. This act shall become effective September 1, 1991.

43-1-245

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