

House Bill 548 (AS PASSED HOUSE AND SENATE)

By: Representative Martin of the 47th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 34-9-1 of the Official Code of Georgia Annotated, relating to
2 definitions relative to workers' compensation, so as to provide that individuals who are
3 parties to a franchise agreement shall not be considered employees; to repeal conflicting
4 laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 style="text-align:center">**SECTION 1.**

7 Code Section 34-9-1 of the Official Code of Georgia Annotated, relating to definitions
8 relative to workers' compensation, is amended by revising paragraph (2) as follows:

9 "(2) 'Employee' means every person in the service of another under any contract of hire
10 or apprenticeship, written or implied, except a person whose employment is not in the
11 usual course of the trade, business, occupation, or profession of the employer; and, except
12 as otherwise provided in this chapter, minors are included even though working in
13 violation of any child labor law or other similar statute; provided, however, that nothing
14 contained in this chapter shall be construed as repealing or altering any such law or
15 statute. Any reference to any employee who has been injured shall, if the employee dies,
16 include such employee's legal representatives, dependents, and other persons to whom
17 compensation may be payable pursuant to this chapter. All firefighters, law enforcement
18 personnel, and personnel of emergency management or civil defense agencies, emergency
19 medical services, and rescue organizations whose compensation is paid by the state or
20 any county or municipality, regardless of the method of appointment, and all full-time
21 county employees and employees of elected salaried county officials are specifically
22 included in this definition. There shall also be included within such term any volunteer
23 firefighter of any county or municipality of this state, but only for services rendered in
24 such capacity which are not prohibited by Code Section 38-3-36 and only if the
25 governing authority of the county or municipality for which such services are rendered
26 shall provide by appropriate resolution for inclusion of such volunteer firefighters; any

27 volunteer law enforcement personnel of any county or municipality of this state who are
28 certified by the Georgia Peace Officer Standards and Training Council, for volunteer law
29 enforcement services rendered in such capacity which are not prohibited by Code Section
30 38-3-36 and only if the governing authority of the county or municipality for which such
31 services are rendered shall provide by appropriate resolution for inclusion of such
32 volunteer law enforcement personnel; any person who is a volunteer member or worker
33 of an emergency management or civil defense organization, emergency medical service,
34 or rescue organization, whether governmental or not, of any county or municipality of
35 this state for volunteer services, which are not prohibited by Code Section 38-3-36,
36 rendered in such capacity and only if the governing authority of the county or
37 municipality for which such services are rendered shall provide by appropriate resolution
38 for inclusion of such volunteer members or workers; and any person certified by the
39 Department of Community Health or the Georgia Composite Medical Board and
40 registered with any county or municipality of this state as a medical first responder for
41 any volunteer first responder services rendered in such capacity, which are not prohibited
42 by Code Section 38-3-36 and only if the governing authority of the county or
43 municipality for which such services are rendered shall provide by appropriate resolution
44 for inclusion of such responders. The various elected county officers and elected
45 members of the governing authority of an individual county shall also be included in this
46 definition, if the governing authority of said county shall provide therefor by appropriate
47 resolution. For the purposes of workers' compensation coverage, employees of county
48 and district health agencies established under Chapter 3 of Title 31 are deemed and shall
49 be considered employees of the State of Georgia and employees of community service
50 boards established under Chapter 2 of Title 37 shall be considered to be employees of the
51 state. For the purpose of workers' compensation coverage, members of the Georgia
52 National Guard and the State Defense Force serving on state active duty pursuant to an
53 order by the Governor are deemed and shall be considered to be employees of this state.
54 A person shall be an independent contractor and not an employee if such person has a
55 written contract as an independent contractor and if such person buys a product and
56 resells it, receiving no other compensation, or provides an agricultural service or such
57 person otherwise qualifies as an independent contractor. Notwithstanding the foregoing
58 provisions of this paragraph, any officer of a corporation may elect to be exempt from
59 coverage under this chapter by filing written certification of such election with the insurer
60 or, if there is no insurer, the State Board of Workers' Compensation as provided in Code
61 Section 34-9-2.1. For purposes of this chapter, an owner-operator as such term is defined
62 in Code Section 40-2-87 shall be deemed to be an independent contractor. Inmates or
63 persons participating in a work release program, community service program, or similar

64 program as part of the punishment for violation of a municipal ordinance pursuant to
65 Code Section 36-32-5 or a county ordinance or a state law shall not be deemed to be an
66 employee while participating in work or training or while going to and from the work site
67 or training site, unless such inmate or person is employed for private gain in violation of
68 Code Section 42-1-5 or Code Section 42-8-70 or unless the municipality or county had
69 voluntarily established a policy, on or before January 1, 1993, to provide workers'
70 compensation benefits to such individuals. Individuals who are parties to a franchise
71 agreement as set out by the Federal Trade Commission franchise disclosure rule, 16
72 C.F.R. 436.1 through 436.11, shall not be deemed employees for purposes of this
73 chapter."

74 **SECTION 2.**

75 All laws and parts of laws in conflict with this Act are repealed.