

House Bill 402 (AS PASSED HOUSE AND SENATE)

By: Representatives Lumsden of the 12th, England of the 116th, Broadrick of the 4th, Coleman of the 97th, Dickson of the 6th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 9 of Title 33 and Chapter 9 of Title 34 of the Official Code of Georgia
2 Annotated, relating to regulation of insurance rates and workers' compensation, respectively,
3 so as to encourage employers to provide work based learning opportunities for students
4 age 16 and older; to provide for an optional reduction in workers' compensation premiums
5 for employers that provide work based learning; to provide that work based learning students
6 are covered under workers' compensation insurance; to establish criteria for employers
7 providing work based learning; to provide for legislative findings; to provide for related
8 matters; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

11 The General Assembly finds that it would be beneficial to students, employers, and the
12 economic health of the state to assist in providing highly trained, technologically
13 sophisticated, and career oriented students which will aid in the development of a successful
14 twenty-first century work force. By opening their doors to work based learning
15 opportunities, employers can play an active role in shaping the quality of their future work
16 force, by preparing potential leaders for their company and their community, and by helping
17 shape future curriculum to create an educated work force for their industry as a whole. Work
18 based learning programs can provide students the opportunity to work and learn in a
19 real-world environment and prepare them for future career opportunities. Such work based
20 learning opportunities can be accomplished by developing partnerships between and among
21 the business community, industry, students, parents, school systems, and postsecondary
22 education institutions.

SECTION 2.

23
24 Chapter 9 of Title 33 of the Official Code of Georgia Annotated, relating to regulation of
25 insurance rates, is amended by adding a new Code section to read as follows:

26 "33-9-40.3.

27 (a) For each policy of workers' compensation insurance issued or renewed in the state on
28 and after July 1, 2016, there may be granted by the insurer up to a 5 percent reduction in
29 the premium for such policy if the insured has been certified by the State Board of
30 Education to the State Board of Workers' Compensation as a work based learning employer
31 pursuant to Article 12 of Chapter 9 of Title 34 and has notified its insurer in writing of such
32 certification.

33 (b) If granted, the premium discount provided by this Code section shall be applied to an
34 insured's policy of workers' compensation insurance pro rata as of the date the insured
35 receives such certification and shall continue for as long as the insured maintains the
36 certification; provided, however, that an insurer shall not be required to credit the actual
37 amount of the premium discount to the account of the insured until the final premium audit
38 under such policy. Certification of an insured shall be required for each year in which a
39 premium discount is granted.

40 (c) If it is determined that an insured misrepresented its qualifications for certification
41 pursuant to Article 12 of Chapter 9 of Title 34, the workers' compensation insurance policy
42 of such insured may be subject to an additional premium for the purposes of reimbursement
43 of a previously granted premium discount and to cancellation in accordance with the
44 provisions of the policy.

45 (d) Each insurer shall make an annual report, in accordance with guidelines established by
46 the Commissioner, to the rating and statistical organization designated by the
47 Commissioner illustrating the total dollar amount of the premium discounts applied
48 pursuant to this Code section.

49 (e) The Commissioner shall conduct a study to determine the impact of the premium
50 discounts provided pursuant to this Code section in encouraging employers to provide work
51 based learning opportunities for students age 16 or older.

52 (f) The Commissioner shall be authorized to promulgate rules and regulations necessary
53 for the implementation and enforcement of this Code section."

54 **SECTION 3.**

55 Chapter 9 of Title 34 of the Official Code of Georgia Annotated, relating to workers'
56 compensation, is amended by adding a new Code section to read as follows:

57 "34-9-2.4.

58 (a) As used in this Code section, the term:

59 (1) 'Work based learning placement' or 'placement' shall have the same meaning as in
60 Code Section 34-9-430.

61 (2) 'Work based learning student' or 'student' shall have the same meaning as in Code
62 Section 34-9-430.

63 (b) Notwithstanding the provisions of paragraph (2) of Code Section 34-9-1:

64 (1) A work based learning student in a paid work based learning placement for an
65 employer shall be deemed an employee of such employer for purposes of workers'
66 compensation coverage; and

67 (2) A work based learning student in an unpaid work based learning placement for an
68 employer shall be deemed an employee of such employer for purposes of workers'
69 compensation coverage unless all of the following conditions apply:

70 (A) The placement, even though it includes actual operation of the facilities of the
71 employer, is similar to training which would be given in an educational environment;

72 (B) The placement is for the benefit of the student;

73 (C) The student does not displace regular employees, but works under close
74 supervision of existing staff;

75 (D) The employer that provides the training derives no immediate advantage from the
76 activities of the student; and on occasion its operations may actually be impeded;

77 (E) The student is not necessarily entitled to a job at the conclusion of the placement;
78 and

79 (F) The employer and the student understand that the student is not entitled to wages
80 for the time spent in the placement."

81 **SECTION 4.**

82 Said chapter is further amended by adding a new article to read as follows:

83 "ARTICLE 12

84 34-9-430.

85 As used in this article, the term:

86 (1) 'Employer' means a person or entity that is subject to the provisions of this chapter
87 but shall not include the state or any department, agency, or instrumentality of the state;

- 88 any county; any county or independent school system; any municipal corporation; or any
 89 employer which is self-insured for the purposes of this chapter.
 90 (2) 'Employer member of a group self-insurance fund' means any employer who is a
 91 member of a fund certified pursuant to Code Section 34-9-153.
 92 (3) 'Self-insured employer' means any employer certified pursuant to Code
 93 Section 34-9-127.
 94 (4) 'Work based learning coordinator' means a school employee who coordinates and
 95 supervises students in work based learning placements.
 96 (5) 'Work based learning employer' means an employer who provides work based
 97 learning placements in accordance with this article.
 98 (6) 'Work based learning placement' or 'placement' means an arrangement between a
 99 business or industry partner and a local school system in which students are released for
 100 a portion of the school day for structured learning at an employer's job site in either a paid
 101 or unpaid position while receiving academic credit. Work based learning placements
 102 include, but are not limited to, employability skill development, service learning,
 103 cooperative education, internship, youth apprenticeship, and clinical experiences.
 104 (7) 'Work based learning student' means a student age 16 or older in a work based
 105 learning placement for an employer.

106 34-9-431.

- 107 (a) A work based learning employer that has been certified pursuant to this Code section
 108 may be eligible for a premium discount under such employer's workers' compensation
 109 insurance policy pursuant to Code Section 33-9-40.3.
 110 (b) The State Board of Education shall certify to the State Board of Workers'
 111 Compensation that a work based learning employer meets the following requirements:
 112 (1) Enters into a training agreement with one or more work based learning students, the
 113 student's parent or guardian, and the school's work based learning coordinator;
 114 (2) Develops, in conjunction with the school's work based learning coordinator, a
 115 detailed training plan for the work based learning student that focuses on development
 116 of technical skills and employability skills;
 117 (3) Assigns a mentor to the work based learning student and assist in monitoring the
 118 progress of such student;
 119 (4) Provides workers' compensation insurance coverage for the work based learning
 120 student;
 121 (5) Complies with all federal, state, and local laws and regulations regarding the
 122 employment of students; and
 123 (6) Complies with the rules and regulations of the State Board of Education.

124 34-9-432.
125 A self-insured employer or an employer member of a group self-insurance fund that
126 provides work based learning placements for one or more work based learning students
127 substantially in accordance with Code Section 34-9-431 and that complies with all other
128 provisions of this article required of employers in order to qualify for insurance premium
129 discounts may be certified by the State Board of Education to the State Board of Workers'
130 Compensation as a work based learning employer in compliance with this article."

131 **SECTION 5.**

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