

ALABAMA: SUMMARY OF WORKERS' COMPENSATION PROVISIONS

GENERAL PROVISIONS

General:

The Alabama Workers' Compensation Act (the Act), Alabama Code Title 25, Chapter 5 (Ala. Code § 25-5-1, et seq.) is a purely statutory cause of action, liberally designed to favor employees, as employees give up certain tort rights, in exchange for a more certain, immediate and limited reward. Fault is essentially irrelevant.

Covered Employees:

Ala. Code § 25-5-50: Employees covered under the Act include all employees other than: (1) domestic employees; (2) farm laborers; (3) casual employees (not in the usual course of trade), (4) employees working for employers with fewer than five employees; or (5) municipalities with a population under 2,000. However, employers not subject to the Act may elect to opt in. Note: Except for death benefits, undocumented immigrants are *not statutorily precluded from receipt of workers' compensation benefits*.

Employer:

Ala. Code § 25-5-1(4): An "employer" = "[e]very person who employs another to perform a service for hire and pays wages . . . to the person" (service companies for self-insurers or insurers entitled to the employer's rights, immunities and remedies).

General and Special Employers:

If a general employer (often a staffing company or a professional employer organization (PEO)) lends an employee to a special employer, the special employer becomes liable for workers' compensation if: (a) the employee has made a contract of hire, express or implied, with the special employer; (b) the work being done is essentially that of the special employer; and (c) the special employer has the right to control the details of the work. When all three of these conditions are satisfied, both employers are liable for workers' compensation and protected by the exclusivity provisions of same.

Employee:

Ala. Code § 25-5-1(5): An "employee" is, "... every person in the service of another under any contract of hire, express or implied, oral or written, including aliens . . . [and] minors . . . legally permitted to work . . ." In analyzing an employer-employee relationship versus an independent contractor relationship (the Act does not apply), the courts look at the reserved right of control by the claimed employer over how a worker performs his/her work duties. Factors tending to demonstrate a right of control are: (1) direct evidence that demonstrates a right or the exercise of control; (2) the method by which the injured individual received payment for health services; (3) whether the equipment is furnished by the alleged employer; and (4) whether the individual has the right to terminate.

Every case is different. For further questions, please contact Trey Dowdey at 205.314.2409 or trey.dowdey@swiftcurrie.com.

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