

HOUSE BILL No. 2039

By Representative Carter

1-12

9 AN ACT concerning the workers compensation act; relating to excep-
10 tions to coverage; amending K.S.A. 44-505 and repealing the existing
11 section.
12

13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 44-505 is hereby amended to read as follows: 44-
15 505. (a) Subject to the provisions of K.S.A. 44-506 and amendments
16 thereto, the workers compensation act shall apply to all employments
17 wherein employers employ employees within this state except that such
18 act shall not apply to:

19 (1) Agricultural pursuits and employments incident thereto, other
20 than those employments in which the employer is the state, or any de-
21 partment, agency or authority of the state;

22 (2) any employment, other than those employments in which the em-
23 ployer is the state, or any department, agency or authority of the state,
24 wherein the employer had a total gross annual payroll for the preceding
25 calendar year of not more than \$20,000 for all employees and wherein
26 the employer reasonably estimates that such employer will not have a
27 total gross annual payroll for the current calendar year of more than
28 \$20,000 for all employees, except that no wages paid to an employee who
29 is a member of the employer's family by marriage or consanguinity shall
30 be included as part of the total gross annual payroll of such employer for
31 purposes of this subsection;

32 (3) any employment, other than those employments in which the em-
33 ployer is the state, or any department, agency or authority of the state,
34 wherein the employer has not had a payroll for a calendar year and
35 wherein the employer reasonably estimates that such employer will not
36 have a total gross annual payroll for the current calendar year of more
37 than \$20,000 for all employees, except that no wages paid to an employee
38 who is a member of the employer's family by marriage or consanguinity
39 shall be included as a part of the total gross annual payroll of such em-
40 ployer for purposes of this subsection;

41 (4) the employment of any firefighters who are members of a fire-
42 men's relief association for whom a valid statement of election to except
43 such members from the provisions of the workers compensation act has

1 been filed with the director by the governing body of such firemen's relief
2 association as provided in K.S.A. 44-505d and amendments thereto; ~~or~~

3 (5) services performed by a qualified real estate agent as an inde-
4 pendent contractor. For the purposes of this act a qualified real estate
5 agent shall be deemed to be an independent contractor if such qualified
6 real estate agent is licensed by the Kansas real estate commission as a
7 salesperson under the real estate brokers' and salespersons' license act
8 and for whom: (A) Substantially all of the remuneration, whether or not
9 paid in cash, for the services performed by such individual as a real estate
10 salesperson is directly related to sales or other output, including the per-
11 formance of services, rather than to the number of hours worked; and
12 (B) the services performed by the individual are performed pursuant to
13 a written contract between such individual and the person for whom the
14 services are performed and such contract provides that the individual will
15 not be treated as an employee with respect to such services for state tax
16 purposes; *or*

17 (6) *services performed by an individual as a sports official for a pri-
18 vate, nonprofit organization which sponsors an amateur sports event. For
19 the purposes of this act, sports official includes any person, who performs
20 services as an umpire, referee, judge, scorekeeper or timekeeper or other
21 individual who is a neutral participant in such amateur sports event.
22 Sports official does not include any person, otherwise employed by the
23 private, nonprofit organization which sponsors such amateur sports
24 event, who performs services as a sports official as part of such person's
25 regular employment.*

26 (b) Each employer who employs employees in employments which
27 are excepted from the provisions of the workers compensation act as
28 provided in subsection (a) of this section, shall be entitled to come within
29 the provisions of such act by: (1) Becoming a member in and by main-
30 taining a membership in a qualified group-funded ~~workers' workers~~ workers com-
31 pensation pool, as provided by K.S.A. 44-581 to 44-591, inclusive, and
32 amendments thereto; or (2) filing with the director a written statement
33 of election to accept thereunder. Such written statement of election shall
34 be effective from the date of filing until such time as the employer files
35 a written statement withdrawing such election with the director. All writ-
36 ten statements of election or of withdrawal of election filed pursuant to
37 this subsection shall be in such form as may be required by the director
38 by rules and regulations.

39 (c) This act shall not apply in any case where the accident occurred
40 prior to the effective date of this act. All rights which accrued by reason
41 of any such accident shall be governed by the laws in effect at that time.

42 Sec. 2. K.S.A. 44-505 is hereby repealed.

1 Sec. 3. This act shall take effect and be in force from and after its
2 publication in the statute book.