

California Labor Code Section 3352(a)



(a) “Employee,” excludes the following:

- (1) A person defined in subdivision (d) of Section 3351 who is employed by his or her parent, spouse, or child.
- (2) A person performing services in return for aid or sustenance only, received from any religious, charitable, or relief organization.
- (3) A person holding an appointment as deputy clerk or deputy sheriff appointed for his or her own convenience, and who does not receive compensation from the county or municipal corporation or from the citizens of that county or municipal corporation for his or her services as the deputy. This exclusion is operative only as to employment by the county or municipal corporation and does not deprive that person of recourse against a private person employing him or her for injury occurring in the course of, and arising out of, the employment.
- (4) A person performing voluntary services at or for a recreational camp, hut, or lodge operated by a nonprofit organization, exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code, of which he or she or a member of his or her family is a member and who does not receive compensation for those services, other than meals, lodging, or transportation.
- (5) A person performing voluntary service as a ski patrolman who does not receive compensation for those services, other than meals or lodging or the use of ski tow or ski lift facilities.
- (6) A person employed by a ski lift operator to work at a snow ski area who is relieved of, and is not performing any, prescribed duties, while participating in recreational activities on his or her own initiative.
- (7) A person, other than a regular employee, participating in sports or athletics who does not receive compensation for the participation other than the use of athletic equipment, uniforms, transportation, travel, meals, lodgings, or other expenses incidental thereto.
- (8) A person described in subdivision (d) of Section 3351 whose employment by the employer to be held liable, during the 90 calendar days immediately preceding the date of injury, for injuries as described in Section 5411, or during the 90 calendar days immediately preceding the date of the last employment in an occupation exposing the employee to the hazards of the disease or injury, for diseases or injuries as described in Section 5412, comes within either of the following descriptions:

(A) The employment was, or was contracted to be, for less than 52 hours.

(B) The employment was, or was contracted to be, for wages of not more than one hundred dollars (\$100).

(9) A person performing voluntary service for a public agency or a private, nonprofit organization who does not receive remuneration for the services, other than meals, transportation, lodging, or reimbursement for incidental expenses.

(10) A person, other than a regular employee, performing officiating services relating to amateur sporting events sponsored by a public agency or private, nonprofit organization, who does not receive remuneration for these services, other than a stipend for each day of service no greater than the amount established by the Department of Human Resources as a per diem expense for employees or officers of the state. The stipend shall be presumed to cover incidental expenses involved in officiating, including, but not limited to, meals, transportation, lodging, rule books and courses, uniforms, and appropriate equipment.

(11) A student participating as an athlete in amateur sporting events sponsored by a public agency or public or private nonprofit college, university, or school, who does not receive remuneration for the participation, other than the use of athletic equipment, uniforms, transportation, travel, meals, lodgings, scholarships, grants-in-aid, or other expenses incidental thereto.

(12) A law enforcement officer who is regularly employed by a local or state law enforcement agency in an adjoining state and who is deputized to work under the supervision of a California peace officer pursuant to paragraph (4) of subdivision (a) of Section 832.6 of the Penal Code.

(13) A law enforcement officer who is regularly employed by the Oregon State Police, the Nevada Department of Public Safety, or the Arizona Department of Public Safety and who is acting as a peace officer in this state pursuant to subdivision (a) of Section 830.39 of the Penal Code.

(14) A person, other than a regular employee, performing services as a sports official for an entity sponsoring an intercollegiate or interscholastic sports event, or any person performing services as a sports official for a public agency, public entity, or a private nonprofit organization, which public agency, public entity, or private nonprofit organization sponsors an amateur sports event. For purposes of this subdivision, "sports official" includes an umpire, referee, judge, scorekeeper, timekeeper, or other person who is a neutral participant in a sports event.

(15) A person who is an owner-builder, as defined in subdivision (a) of Section 50692 of the Health and Safety Code, who is participating in a mutual self-help housing program, as defined in Section 50087 of the Health and Safety Code, sponsored by a nonprofit corporation.

(16) (A) (i) An officer or member of the board of directors, as described in subdivision (c) of Section 3351, if he or she owns at least 10 percent of the issued and outstanding

stock of the corporation, or at least 1 percent of the issued and outstanding stock of the corporation if that officer's or member's parent, grandparent, sibling, spouse, or child owns at least 10 percent of the issued and outstanding stock of the corporation and that officer or member is covered by a health insurance policy or a health care service plan, and executes a written waiver of his or her rights under this chapter stating under penalty of perjury that the person is a qualifying officer or director. The waiver shall be effective upon the date of receipt and acceptance by the corporation's insurance carrier. The insurance carrier, with the consent of the individual executing the waiver, may elect to backdate the acceptance of the waiver up to 15 days prior to the date of receipt of the waiver. The insurance carrier, insurance agent, or insurance broker is not required to investigate, verify, or confirm the accuracy of the facts contained in the waiver. There is a conclusive presumption that a person who executes a waiver pursuant to this subdivision is not covered by workers' compensation benefits.

(ii) A written waiver that is executed pursuant to this subparagraph, including, but not limited to, a written waiver that was executed prior to January 1, 2017, and is accepted by the insurance carrier on or before December 31, 2017, may be deemed to be accepted by the insurance carrier as of January 1, 2017. The written waiver shall remain in effect until the officer or member of the board of directors provides the corporation's insurance carrier with a written withdrawal of the waiver.

(B) Notwithstanding subparagraph (A), an officer or director of a private corporation who is the sole shareholder of the private corporation, unless the officer, director, or private corporation has elected to be subject to liability for workers' compensation pursuant to subdivision (a) of Section 4151.

(17) (A) An individual who is a general partner of a partnership or a managing member of a limited liability company who executes a written waiver of his or her rights under this chapter stating under penalty of perjury that the person is a qualifying general partner or managing member. The waiver shall be effective upon the date of receipt and acceptance by the partnership's or limited liability company's insurance carrier. The insurance carrier, with the consent of the individual executing the waiver, may elect to backdate the acceptance of the waiver up to 15 days prior to the date of receipt of the waiver. The insurance carrier, insurance agent, or insurance broker is not required to investigate, verify, or confirm the accuracy of the facts contained in the waiver. There is a conclusive presumption that a person who executes a waiver pursuant to this subdivision is not covered by workers' compensation benefits.

(B) A written waiver that is executed pursuant to this paragraph, including, but not limited to, a written waiver that was executed prior to January 1, 2017, and is accepted by the insurance carrier on or before December 31, 2017, may be deemed to be accepted by the insurance carrier as of January 1, 2017. The written waiver shall remain in effect until the general partner provides the partnership's insurance carrier or the managing member provides the limited liability company's insurance carrier with a written withdrawal of the waiver.

(18) (A) (i) An owner of a professional corporation, as defined in Section 13401 of the Corporations Code, who is a practitioner rendering the professional services for which the professional corporation is organized and who executes a document, in writing and

under penalty of perjury, both waiving his or her rights under this chapter and stating that he or she is covered by a health insurance policy or a health care service plan. The owner shall provide a copy of the waiver to all other owners of the professional corporation and the professional corporation shall keep a copy of the waiver on file. The waiver is effective upon the date of receipt and acceptance by the professional corporation's insurance carrier. The insurance carrier, with the consent of the individual executing the waiver, may elect to backdate the acceptance of the waiver up to 15 days prior to the date of receipt of the waiver. The insurance carrier, insurance agent, or insurance broker is not required to investigate, verify, or confirm the accuracy of the facts contained in the waiver. There is a conclusive presumption that a person who executes a waiver pursuant to this subdivision is not covered by workers' compensation benefits.

(ii) A written waiver that is executed pursuant to this subparagraph and is accepted by the insurance carrier on or before December 31, 2017, may be deemed to be accepted by the insurance carrier as of January 1, 2017. The written waiver shall remain in effect until the owner provides the professional corporation's insurance carrier with a written withdrawal of the waiver.

(B) Notwithstanding subparagraph (A), an owner of a private professional corporation who is the sole shareholder of the private professional corporation, unless the owner or private professional corporation has elected to be subject to liability for workers' compensation pursuant to subdivision (a) of Section 4151.

(19) (A) (i) An officer or member of the board of directors of a cooperative corporation organized pursuant to the Cooperative Corporation Law, as set forth in Part 2 (commencing with Section 12200) of Division 3 of Title 1 of the Corporations Code, who executes a document, in writing and under penalty of perjury, both waiving his or her rights under this chapter and stating that he or she is covered by both a health care service plan or health insurance policy, and a disability insurance policy that is comparable in scope and coverage, as determined by the Insurance Commissioner, to a workers' compensation policy. The officer or member of the board of directors shall provide a copy of the waiver to all other officers and members of the board of directors of the cooperative corporation, and the cooperative corporation shall keep a copy of the waiver on file. The waiver is effective upon the date of receipt and acceptance by the cooperative corporation's insurance carrier. The insurance carrier, with the consent of the individual executing the waiver, may elect to backdate the acceptance of the waiver up to 15 days prior to the date of receipt of the waiver. The insurance carrier, insurance agent, or insurance broker is not required to investigate, verify, or confirm the accuracy of the facts contained in the waiver. There is a conclusive presumption that a person who executes a waiver pursuant to this subdivision is not covered by workers' compensation benefits.

(ii) A written waiver that is executed pursuant to this subparagraph and is accepted by the insurance carrier on or before December 31, 2017, may be deemed to be accepted by the insurance carrier as of January 1, 2017. The written waiver shall remain in effect until the officer or member of the board provides the cooperative corporation's insurance carrier with a written withdrawal of the waiver.

(B) Notwithstanding subparagraph (A), an officer or director of a private cooperative corporation who is the sole shareholder of the private cooperative corporation, unless the

officer, director, or private cooperative corporation has elected to be subject to liability for workers' compensation pursuant to subdivision (a) of Section 4151.

(b) (1) This section shall become operative on July 1, 2018.

(2) A policy or contract that is entered into or renewed in compliance with this section is subject to this section as it read on the date that the policy or contract was entered into or renewed.

(Repealed (in Sec. 3) and added by Stats. 2017, Ch. 770, Sec. 4. (SB 189) Effective January 1, 2018. Section operative July 1, 2018, by its own provisions.)