

Explanations of Option 5 -- LC 9899

Section 1 -- 39-71-116

P. 9 - Includes in 39-71-116 the definitions of volunteer (#37), taken from 39-71-118(2)(c); volunteer firefighter (#38), taken from 39-71-118(4)(a); and volunteer hours (#39), taken from 39-71-118(4)(b).

Section 2 -- 39-71-118

P. 10, p. 14 - Removes volunteer and volunteer firefighter from 39-71-118.

Pp. 10-11 - Revises references to casual employees. Takes out the language "if they are not otherwise covered by workers' compensation" because casual employees are exempt under 39-71-401 (meaning they are not otherwise covered). The part of the sentence that says "if an employer has elected to be bound..." and the addition of "only" reinforces the provision under 39-71-401(2) that they may be covered under certain conditions.

P. 13 -- puts reference to definition of volunteer in 39-71-116.

The part of subsection (2)(c) that says "except for a person who is otherwise entitled to coverage" has a reference to those who are otherwise entitled to coverage. This revision specifies who these people may be. The volunteer fire department addition is from new 39-71-118 (6)(a), which describes how a fire department may elect to include volunteer firefighters. The reference to members of search and rescue units is from 67-2-105, which refers to air search and rescue volunteers.

67-2-105. Air search and rescue volunteers -- expenses -- workers' compensation coverage. (1) The department may temporarily employ an aircrew member or other person who volunteers to aid in the aerial search for a missing aircraft being conducted by the department.

(2) The department and volunteer stand in the relationship of employer and employee for purposes of and as those terms are defined in Title 39, chapter 71. The department must have each volunteer covered by the Workers' Compensation Act in Title 39, chapter 71, during the course of the volunteer's assistance.

(3) Volunteers are not salaried employees and are not entitled to wages and benefits. The department may in its discretion reimburse volunteers for their otherwise uncompensated out-of-pocket expenses, including but not limited to their expenditures for fuel, oil, food, and lodging.

The reference to volunteers working with the Montana Heritage Preservation and Development Commission relates to 22-3-1003(5)(b).

(5) (a) The commission may use volunteers to further the purposes of this part. (b) The commission and volunteers stand in the relationship of employer and employee for purposes of and as those terms are defined in Title 39, chapter 71. The commission shall provide each volunteer with workers' compensation coverage, as provided in Title 39, chapter 71, during the course of the volunteer's assistance.

P. 14 - deletes definition of volunteer (which was moved to 39-71-116).

P. 14 -- Deletes definitions of volunteer firefighter and volunteer hours (moved to 39-71-116).

Pp. 15, 16 and 17 -- Subsections (b)(c)(d) on these pages (or variations of that theme) all refer to "in the event of an election" and describe how to handle "election of coverage." These sections are stricken and combined into a new Section 4. The rationale is to clean up the statute by removing the explanation of how to handle the election (which is described in parts of old subsections (5), (6), and (7) and removing this to new Section 4, starting on p. 22. Removes redundant language, such as last half of new subsection (6)(c), which repeats first half.

Section 3 -- 39-71-123

P. 21 -- replaces old 39-71-118(7)(c) with new section 4, subsection (4)(c), the same language.

New Section 4

- P. 22 - 25 - Removes language on elections for coverage from 39-71-118 (definition of employee) and creates new section on how to handle "elections for coverage". Subsection (1)(a) includes reference to "if coverage is not already required" as a reinforcement.
- P. 22 - Subsection (2)(a) is taken from 39-71-118(5)(a).
- Subsection (2)(b) is taken from 39-71-118(5)(b), with new language "If an employer elects coverage" instead of "In the event of an election."
- P. 23 - Subsection (2)(c) is taken from 39-71-118(5)(d). (FYI - 39-71-118(5)(c), referring to a change in elected wages, is consolidated on p. 24 under subsection (5).)
- Subsection (3)(a) is taken from 39-71-118(6)(a)
- Subsection (3)(b) combines 39-71-118(6)(d) with 39-71-401(4)(a).
- P. 24 - Subsection (3)(c) is taken from 39-71-118(6)(d). (FYI - 39-71-118(6)(c) is consolidated on p. 24 under subsection (5).)
- Subsection (4)(a) is taken from 39-71-118(7)(a).
- Subsection (4)(b) is taken from 39-71-118(7)(b).
- Subsection (4)(c) is the same as 39-71-118(7)(c).
- Subsection (5) incorporates same language as 39-71-118(5)(c) and (6)(c).
- P. 25 - Subsection (6) is taken from 39-71-401(4)(b).

Section 5 -- 39-71-201

- P. 25 - Removes reference to 39-71-401(6) because this subsection is made into its own section (Section 7).

Section 6 -- 39-71-401

- P. 32 - references new section 4 as the statute dealing with elections.
- P. 35 - fixes language in (B) to be parallel with (A).
- P. 36- fixes reference to readjust numbering. 39-71-118(10) is now 39-71-118(9).
- Pp. 37 - 38 - Subsection (4) has been incorporated into new section 4. The first sentence under 39-71-401(4)(a) is not needed, because that is what the law says.
- P. 38 - Subsection (6) is removed and made into new section 7.

New Section 7

This process, formerly included in 39-71-401, does not need to be in a section referring to exemptions and exclusions. A separate section may draw more attention to the information.

New Section 8

Codification of new sections 4 and 7.

New Section 9

Effective date of July 1, 2005, to match other work comp bills. No reference to injuries or occupational disease because these are administrative changes.