

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact § 65.2-101 of the Code of Virginia, as it is currently effective and as it may become effective, relating to workers' compensation; exclusion of executive sedan drivers.

[S 590]

Approved

Be it enacted by the General Assembly of Virginia:

1. That § 65.2-101 of the Code of Virginia, as it is currently effective and as it may become effective, is amended and reenacted as follows:

§ 65.2-101. Definitions.

As used in this title:

"Award" means the grant or denial of benefits or other relief under this title or any rule adopted pursuant thereto.

"Average weekly wage" means:

A. 1. The earnings of the injured employee in the employment in which he was working at the time of the injury during the period of fifty-two weeks immediately preceding the date of the injury, divided by fifty-two; but if the injured employee lost more than seven consecutive calendar days during such period, although not in the same week, then the earnings for the remainder of the fifty-two weeks shall be divided by the number of weeks remaining after the time so lost has been deducted. When the employment prior to the injury extended over a period of less than fifty-two weeks, the method of dividing the earnings during that period by the number of weeks and parts thereof during which the employee earned wages shall be followed, provided that results fair and just to both parties will be thereby obtained. When, by reason of a shortness of time during which the employee has been in the employment of his employer or the casual nature or terms of his employment, it is impractical to compute the average weekly wages as above defined, regard shall be had to the average weekly amount which during the fifty-two weeks previous to the injury was being earned by a person of the same grade and character employed in the same class of employment in the same locality or community.

2. When for exceptional reasons the foregoing would be unfair either to the employer or employee, such other method of computing average weekly wages may be resorted to as will most nearly approximate the amount which the injured employee would be earning were it not for the injury.

B. Whenever allowances of any character made to an employee in lieu of wages are a specified part of the wage contract, they shall be deemed a part of his earnings. For the purpose of this title, the average weekly wage of the members of the Virginia National Guard and the Virginia State Defense Force, registered members on duty or in training of the United States Civil Defense Corps of this Commonwealth, and forest wardens shall be deemed to be such amount as will entitle them to the maximum compensation payable under this title; however, any award entered under the provisions of this title on behalf of members of the National Guard or their dependents, or registered members on duty or in training of the United States Civil Defense Corps of this Commonwealth or their dependents, shall be subject to credit for benefits paid them under existing or future federal law on account of injury or occupational disease covered by the provisions of this title.

C. Whenever volunteer firefighters, volunteer lifesaving or volunteer rescue squad members, volunteer law-enforcement chaplains, auxiliary or reserve police, and auxiliary or reserve deputy sheriffs are deemed employees under this title, their average weekly wage shall be deemed sufficient to produce the minimum compensation provided by this title for injured workers or their dependents.

D. The average weekly wage of persons, other than those covered in subdivision C of this definition, who respond to a hazardous materials incident at the request of the Department of Emergency Services shall be based upon the earnings of such persons from their primary employers.

"Change in condition" means a change in physical condition of the employee as well as any change in the conditions under which compensation was awarded, suspended, or terminated which would affect the right to, amount of, or duration of compensation.

"Commission" means the Virginia Workers' Compensation Commission as well as its former designation as the Virginia Industrial Commission.

"Employee" means:

A. 1. Every person, including a minor, in the service of another under any contract of hire or apprenticeship, written or implied, except (i) one whose employment is not in the usual course of the trade, business, occupation or profession of the employer or (ii) as otherwise provided in subdivision B of this definition.

2. Any apprentice, trainee, or retrainee who is regularly employed while receiving training or

58 instruction outside of regular working hours and off the job, so long as the training or instruction is
59 related to his employment and is authorized by his employer.

60 3. Members of the Virginia National Guard, whether on duty in a paid or unpaid status or when
61 performing voluntary service to their unit in a nonduty status at the request of their commander.

62 Income benefits for members of the National Guard shall be terminated when they are able to return
63 to their customary civilian employment or self-employment. If they are neither employed nor
64 self-employed, those benefits shall terminate when they are able to return to their military duties. If a
65 member of the National Guard who is fit to return to his customary civilian employment or
66 self-employment remains unable to perform his military duties and thereby suffers loss of military pay
67 which he would otherwise have earned, he shall be entitled to one day of income benefits for each unit
68 training assembly or day of paid training which he is unable to attend.

69 4. Members of the Virginia State Defense Force.

70 5. Registered members of the United States Civil Defense Corps of this Commonwealth, whether on
71 duty or in training.

72 6. Except as provided in subdivision B of this definition, all officers and employees of the
73 Commonwealth, including forest wardens, judges, clerks, deputy clerks and employees of juvenile and
74 domestic relations district courts and general district courts, who shall be deemed employees of the
75 Commonwealth.

76 7. Except as provided in subdivision B of this definition, all officers and employees of a municipal
77 corporation or political subdivision of the Commonwealth.

78 8. Except as provided in subdivision B of this definition, every executive officer, including president,
79 vice president, secretary, treasurer or other officer, elected or appointed in accordance with the charter
80 and bylaws of a corporation, municipal or otherwise.

81 9. Policemen and firefighters, sheriffs and their deputies, town sergeants and their deputies, county
82 and city commissioners of the revenue, county and city treasurers, attorneys for the Commonwealth, and
83 clerks of circuit courts and their deputies, officers and employees, who shall be deemed employees of
84 the respective cities, counties and towns in which their services are employed and by whom their
85 salaries are paid or in which their compensation is earnable.

86 10. Members of the governing body of any county, city or town in the Commonwealth, whenever
87 coverage under this title is extended to such members by resolution or ordinance duly adopted.

88 11. Volunteers, officers and employees of any commission or board of any authority created or
89 controlled by a local governing body, or any local agency or public service corporation owned, operated
90 or controlled by such local governing body, whenever coverage under this title is authorized by
91 resolution or ordinance duly adopted by the governing board of any county, city, town, or any political
92 subdivision thereof.

93 12. Except as provided in subdivision B of this definition, volunteer firefighters, volunteer lifesaving
94 or rescue squad members, volunteer law-enforcement chaplains, auxiliary or reserve police and auxiliary
95 or reserve deputy sheriffs, who shall be deemed employees of (i) the political subdivision or state
96 institution of higher education in which the principal office of such volunteer fire company, volunteer
97 lifesaving or rescue squad, volunteer law-enforcement chaplains, auxiliary or reserve police force or
98 auxiliary or reserve deputy sheriff force is located if the governing body of such political subdivision or
99 state institution of higher education has adopted a resolution acknowledging such volunteer firefighters,
100 volunteer lifesaving or rescue squad members, volunteer law-enforcement chaplains, auxiliary or reserve
101 police or auxiliary or reserve deputy sheriffs as employees for the purposes of this title; or (ii) in the
102 case of volunteer firefighters or volunteer lifesaving or rescue squad members, the companies or squads
103 for which volunteer services are provided whenever such companies or squads elect to be included as an
104 employer under this title.

105 13. Volunteer firefighters, volunteer lifesaving or rescue squad members, volunteer law-enforcement
106 chaplains, auxiliary or reserve police, auxiliary or reserve deputy sheriffs and any other persons who
107 respond to a hazardous materials incident upon request of the Department of Emergency Services
108 pursuant to a plan or agreement developed under § 44-146.35 or § 44-146.36, who shall be deemed
109 employees of the Department of Emergency Services for the purposes of this title.

110 14. Any sole proprietor or all partners of a business electing to be included as an employee under the
111 workers' compensation coverage of such business if the insurer is notified of this election. Any sole
112 proprietor or the partners shall, upon such election, be entitled to employee benefits and be subject to
113 employee responsibilities prescribed in this title.

114 When any partner or proprietor is entitled to receive coverage under this title, such person shall be
115 subject to all provisions of this title as if he were an employee; however, the notices required under
116 §§ 65.2-405 and 65.2-600 of this title shall be given to the insurance carrier, and the panel of physicians
117 required under § 65.2-603 shall be selected by the insurance carrier.

118 15. The independent contractor of any employer subject to this title at the election of such employer

119 provided (i) the independent contractor agrees to such inclusion and (ii) unless the employer is
 120 self-insured, the employer's insurer agrees in writing to such inclusion. All or part of the cost of the
 121 insurance coverage of the independent contractor may be borne by the independent contractor.

122 When any independent contractor is entitled to receive coverage under this section, such person shall
 123 be subject to all provisions of this title as if he were an employee, provided that the notices required
 124 under §§ 65.2-405 and 65.2-600 are given either to the employer or its insurance carrier.

125 However, nothing in this title shall be construed to make the employees of any independent
 126 contractor the employees of the person or corporation employing or contracting with such independent
 127 contractor.

128 16. The legal representative, dependents and any other persons to whom compensation may be
 129 payable when any person covered as an employee under this title shall be deceased.

130 17. Jail officers and jail superintendents employed by regional jails or jail farm boards or authorities,
 131 whether created pursuant to Article 3.1 (§ 53.1-95.2 et seq.) or Article 5 (§ 53.1-105 et seq.) of Chapter
 132 3 of Title 53.1, or an act of assembly.

133 B. "Employee" shall not mean:

134 1. Officers and employees of the Commonwealth who are elected by the General Assembly, or
 135 appointed by the Governor, either with or without the confirmation of the Senate. This exception shall
 136 not apply to any "state employee" as defined in § 51.1-101 nor to Supreme Court Justices, judges of the
 137 Court of Appeals, judges of the circuit or district courts, members of the Workers' Compensation
 138 Commission and the State Corporation Commission, or the Superintendent of State Police.

139 2. Officers and employees of municipal corporations and political subdivisions of the Commonwealth
 140 who are elected by the people or by the governing bodies, and who act in purely administrative
 141 capacities and are to serve for a definite term of office.

142 3. Any person who is a licensed real estate salesperson, or a licensed real estate broker associated
 143 with a real estate broker, if (i) substantially all of the salesperson's or associated broker's remuneration is
 144 derived from real estate commissions, (ii) the services of the salesperson or associated broker are
 145 performed under a written contract specifying that the salesperson is an independent contractor, and (iii)
 146 such contract includes a provision that the salesperson or associated broker will not be treated as an
 147 employee for federal income tax purposes.

148 4. Any taxicab *or executive sedan* driver, provided the Commission is furnished evidence that such
 149 individual is excluded from taxation by the Federal Unemployment Tax Act.

150 5. Casual employees.

151 6. Domestic servants.

152 7. Farm and horticultural laborers, unless the employer regularly has in service more than two
 153 full-time employees.

154 8. Employees of any person, firm or private corporation, including any public service corporation,
 155 that has regularly in service less than three employees in the same business within this Commonwealth,
 156 unless such employees and their employers voluntarily elect to be bound by this title. However, this
 157 exemption shall not apply to the operators of underground coal mines or their employees.

158 9. Employees of any common carrier by railroad engaging in commerce between any of the several
 159 states or territories or between the District of Columbia and any of the states or territories and any
 160 foreign nation or nations, and any person suffering injury or death while he is employed by such carrier
 161 in such commerce. This title shall not be construed to lessen the liability of any such common carrier or
 162 to diminish or take away in any respect any right that any person so employed, or the personal
 163 representative, kindred or relation, or dependent of such person, may have under the act of Congress
 164 relating to the liability of common carriers by railroad to their employees in certain cases, approved
 165 April 22, 1908, or under §§ 8.01-57 through 8.01-62 or § 56-441.

166 10. Employees of common carriers by railroad who are engaged in intrastate trade or commerce.
 167 However, this title shall not be construed to lessen the liability of such common carriers or take away or
 168 diminish any right that any employee or, in case of his death, the personal representative of such
 169 employee of such common carrier may have under §§ 8.01-57 through 8.01-61 or § 56-441.

170 11. Except as provided in subdivision A of this definition, a member of a volunteer fire-fighting,
 171 lifesaving or rescue squad when engaged in activities related principally to participation as a member of
 172 such squad whether or not the volunteer continues to receive compensation from his employer for time
 173 away from the job.

174 "Employer" includes (i) any person, the Commonwealth or any political subdivision thereof and any
 175 individual, firm, association or corporation, or the receiver or trustee of the same, or the legal
 176 representative of a deceased employer, using the service of another for pay; and (ii) any volunteer fire
 177 company or volunteer lifesaving or rescue squad electing to be included and maintaining coverage as an
 178 employer under this title. If the employer is insured, it includes his insurer so far as applicable.

179 "Executive officer" means the president, vice president, secretary, treasurer or other officer, elected or

180 appointed in accordance with the charter and bylaws of a corporation.

181 "Filed" means hand delivered to the Commission's office in Richmond or any regional office
182 maintained by the Commission; sent by telegraph, electronic mail or facsimile transmission; or posted at
183 any post office of the United States Postal Service by certified or registered mail. Filing by first-class
184 mail, telegraph, electronic mail or facsimile transmission shall be deemed completed only when the
185 application actually reaches a Commission office.

186 "Injury" means only injury by accident arising out of and in the course of the employment or
187 occupational disease as defined in Chapter 4 (§ 65.2-400 et seq.) of this title and does not include a
188 disease in any form, except when it results naturally and unavoidably from either of the foregoing
189 causes.

190 § 65.2-101. (Delayed effective date) Definitions.

191 As used in this title:

192 "Award" means the grant or denial of benefits or other relief under this title or any rule adopted
193 pursuant thereto.

194 "Average weekly wage" means:

195 A. 1. The earnings of the injured employee in the employment in which he was working at the time
196 of the injury during the period of fifty-two weeks immediately preceding the date of the injury, divided
197 by fifty-two; but if the injured employee lost more than seven consecutive calendar days during such
198 period, although not in the same week, then the earnings for the remainder of the fifty-two weeks shall
199 be divided by the number of weeks remaining after the time so lost has been deducted. When the
200 employment prior to the injury extended over a period of less than fifty-two weeks, the method of
201 dividing the earnings during that period by the number of weeks and parts thereof during which the
202 employee earned wages shall be followed, provided that results fair and just to both parties will be
203 thereby obtained. When, by reason of a shortness of time during which the employee has been in the
204 employment of his employer or the casual nature or terms of his employment, it is impractical to
205 compute the average weekly wages as above defined, regard shall be had to the average weekly amount
206 which during the fifty-two weeks previous to the injury was being earned by a person of the same grade
207 and character employed in the same class of employment in the same locality or community.

208 2. When for exceptional reasons the foregoing would be unfair either to the employer or employee,
209 such other method of computing average weekly wages may be resorted to as will most nearly
210 approximate the amount which the injured employee would be earning were it not for the injury.

211 B. Whenever allowances of any character made to an employee in lieu of wages are a specified part
212 of the wage contract, they shall be deemed a part of his earnings. For the purpose of this title, the
213 average weekly wage of the members of the Virginia National Guard and the Virginia State Defense
214 Force, registered members on duty or in training of the United States Civil Defense Corps of this
215 Commonwealth, and forest wardens shall be deemed to be such amount as will entitle them to the
216 maximum compensation payable under this title; however, any award entered under the provisions of
217 this title on behalf of members of the National Guard or their dependents, or registered members on
218 duty or in training of the United States Civil Defense Corps of this Commonwealth or their dependents,
219 shall be subject to credit for benefits paid them under existing or future federal law on account of injury
220 or occupational disease covered by the provisions of this title.

221 C. Whenever volunteer firefighters, volunteer lifesaving or volunteer rescue squad members,
222 volunteer law-enforcement chaplains, auxiliary or reserve police, and auxiliary or reserve deputy sheriffs
223 are deemed employees under this title, their average weekly wage shall be deemed sufficient to produce
224 the minimum compensation provided by this title for injured workers or their dependents.

225 D. The average weekly wage of persons, other than those covered in subdivision C of this definition,
226 who respond to a hazardous materials incident at the request of the Department of Emergency Services
227 shall be based upon the earnings of such persons from their primary employers.

228 "Change in condition" means a change in physical condition of the employee as well as any change
229 in the conditions under which compensation was awarded, suspended, or terminated which would affect
230 the right to, amount of, or duration of compensation.

231 "Commission" means the Virginia Workers' Compensation Commission as well as its former
232 designation as the Virginia Industrial Commission.

233 "Employee" means:

234 A. 1. Every person, including a minor, in the service of another under any contract of hire or
235 apprenticeship, written or implied, except (i) one whose employment is not in the usual course of the
236 trade, business, occupation or profession of the employer or (ii) as otherwise provided in subdivision B
237 of this definition.

238 2. Any apprentice, trainee, or retrainee who is regularly employed while receiving training or
239 instruction outside of regular working hours and off the job, so long as the training or instruction is
240 related to his employment and is authorized by his employer.

241 3. Members of the Virginia National Guard, whether on duty in a paid or unpaid status or when
242 performing voluntary service to their unit in a nonduty status at the request of their commander.

243 Income benefits for members of the National Guard shall be terminated when they are able to return
244 to their customary civilian employment or self-employment. If they are neither employed nor
245 self-employed, those benefits shall terminate when they are able to return to their military duties. If a
246 member of the National Guard who is fit to return to his customary civilian employment or
247 self-employment remains unable to perform his military duties and thereby suffers loss of military pay
248 which he would otherwise have earned, he shall be entitled to one day of income benefits for each unit
249 training assembly or day of paid training which he is unable to attend.

250 4. Members of the Virginia State Defense Force.

251 5. Registered members of the United States Civil Defense Corps of this Commonwealth, whether on
252 duty or in training.

253 6. Except as provided in subdivision B of this definition, all officers and employees of the
254 Commonwealth, including forest wardens, judges, clerks, deputy clerks and employees of family courts
255 and general district courts, who shall be deemed employees of the Commonwealth.

256 7. Except as provided in subdivision B of this definition, all officers and employees of a municipal
257 corporation or political subdivision of the Commonwealth.

258 8. Except as provided in subdivision B of this definition, every executive officer, including president,
259 vice president, secretary, treasurer or other officer, elected or appointed in accordance with the charter
260 and bylaws of a corporation, municipal or otherwise.

261 9. Policemen and firefighters, sheriffs and their deputies, town sergeants and their deputies, county
262 and city commissioners of the revenue, county and city treasurers, attorneys for the Commonwealth, and
263 clerks of circuit courts and their deputies, officers and employees, who shall be deemed employees of
264 the respective cities, counties and towns in which their services are employed and by whom their
265 salaries are paid or in which their compensation is earnable.

266 10. Members of the governing body of any county, city or town in the Commonwealth, whenever
267 coverage under this title is extended to such members by resolution or ordinance duly adopted.

268 11. Volunteers, officers and employees of any commission or board of any authority created or
269 controlled by a local governing body, or any local agency or public service corporation owned, operated
270 or controlled by such local governing body, whenever coverage under this title is authorized by
271 resolution or ordinance duly adopted by the governing board of any county, city, town, or any political
272 subdivision thereof.

273 12. Except as provided in subdivision B of this definition, volunteer firefighters, volunteer lifesaving
274 or rescue squad members, volunteer law-enforcement chaplains, auxiliary or reserve police and auxiliary
275 or reserve deputy sheriffs, who shall be deemed employees of (i) the political subdivision or state
276 institution of higher education in which the principal office of such volunteer fire company, volunteer
277 lifesaving or rescue squad, volunteer law-enforcement chaplains, auxiliary or reserve police force or
278 auxiliary or reserve deputy sheriff force is located if the governing body of such political subdivision or
279 state institution of higher education has adopted a resolution acknowledging such volunteer firefighters,
280 volunteer lifesaving or rescue squad members, volunteer law-enforcement chaplains, auxiliary or reserve
281 police or auxiliary or reserve deputy sheriffs as employees for the purposes of this title, or (ii) in the
282 case of volunteer firefighters or volunteer lifesaving or rescue squad members, the companies or squads
283 for which volunteer services are provided whenever such companies or squads elect to be included as an
284 employer under this title.

285 13. Volunteer firefighters, volunteer lifesaving or rescue squad members, volunteer law-enforcement
286 chaplains, auxiliary or reserve police, auxiliary or reserve deputy sheriffs and any other persons who
287 respond to a hazardous materials incident upon request of the Department of Emergency Services
288 pursuant to a plan or agreement developed under § 44-146.35 or § 44-146.36, who shall be deemed
289 employees of the Department of Emergency Services for the purposes of this title.

290 14. Any sole proprietor or all partners of a business electing to be included as an employee under the
291 workers' compensation coverage of such business if the insurer is notified of this election. Any sole
292 proprietor or the partners shall, upon such election, be entitled to employee benefits and be subject to
293 employee responsibilities prescribed in this title.

294 When any partner or proprietor is entitled to receive coverage under this title, such person shall be
295 subject to all provisions of this title as if he were an employee; however, the notices required under
296 §§ 65.2-405 and 65.2-600 of this title shall be given to the insurance carrier, and the panel of physicians
297 required under § 65.2-603 shall be selected by the insurance carrier.

298 15. The independent contractor of any employer subject to this title at the election of such employer
299 provided (i) the independent contractor agrees to such inclusion and (ii) unless the employer is
300 self-insured, the employer's insurer agrees in writing to such inclusion. All or part of the cost of the
301 insurance coverage of the independent contractor may be borne by the independent contractor.

302 When any independent contractor is entitled to receive coverage under this section, such person shall
303 be subject to all provisions of this title as if he were an employee, provided that the notices required
304 under §§ 65.2-405 and 65.2-600 are given either to the employer or its insurance carrier.

305 However, nothing in this title shall be construed to make the employees of any independent
306 contractor the employees of the person or corporation employing or contracting with such independent
307 contractor.

308 16. The legal representative, dependents and any other persons to whom compensation may be
309 payable when any person covered as an employee under this title shall be deceased.

310 17. Jail officers and jail superintendents employed by regional jails or jail farm boards or authorities,
311 whether created pursuant to Article 3.1 (§ 53.1-95.2 et seq.) or Article 5 (§ 53.1-105 et seq.) of Chapter
312 3 of Title 53.1, or an act of assembly.

313 B. "Employee" shall not mean:

314 1. Officers and employees of the Commonwealth who are elected by the General Assembly, or
315 appointed by the Governor, either with or without the confirmation of the Senate. This exception shall
316 not apply to any "state employee" as defined in § 51.1-101 nor to Supreme Court Justices, judges of the
317 Court of Appeals, judges of the circuit or district courts, members of the Workers' Compensation
318 Commission and the State Corporation Commission, or the Superintendent of State Police.

319 2. Officers and employees of municipal corporations and political subdivisions of the Commonwealth
320 who are elected by the people or by the governing bodies, and who act in purely administrative
321 capacities and are to serve for a definite term of office.

322 3. Any person who is a licensed real estate salesperson, or a licensed real estate broker associated
323 with a real estate broker, if (i) substantially all of the salesperson's or associated broker's remuneration is
324 derived from real estate commissions, (ii) the services of the salesperson or associated broker are
325 performed under a written contract specifying that the salesperson is an independent contractor, and (iii)
326 such contract includes a provision that the salesperson or associated broker will not be treated as an
327 employee for federal income tax purposes.

328 4. Any taxicab or executive sedan driver, provided the Commission is furnished evidence that such
329 individual is excluded from taxation by the Federal Unemployment Tax Act.

330 5. Casual employees.

331 6. Domestic servants.

332 7. Farm and horticultural laborers, unless the employer regularly has in service more than two
333 full-time employees.

334 8. Employees of any person, firm or private corporation, including any public service corporation,
335 that has regularly in service less than three employees in the same business within this Commonwealth,
336 unless such employees and their employers voluntarily elect to be bound by this title. However, this
337 exemption shall not apply to the operators of underground coal mines or their employees.

338 9. Employees of any common carrier by railroad engaging in commerce between any of the several
339 states or territories or between the District of Columbia and any of the states or territories and any
340 foreign nation or nations, and any person suffering injury or death while he is employed by such carrier
341 in such commerce. This title shall not be construed to lessen the liability of any such common carrier or
342 to diminish or take away in any respect any right that any person so employed, or the personal
343 representative, kindred or relation, or dependent of such person, may have under the act of Congress
344 relating to the liability of common carriers by railroad to their employees in certain cases, approved
345 April 22, 1908, or under §§ 8.01-57 through 8.01-62 or § 56-441.

346 10. Employees of common carriers by railroad who are engaged in intrastate trade or commerce.
347 However, this title shall not be construed to lessen the liability of such common carriers or take away or
348 diminish any right that any employee or, in case of his death, the personal representative of such
349 employee of such common carrier may have under §§ 8.01-57 through 8.01-61 or § 56-441.

350 11. Except as provided in subdivision A of this definition, a member of a volunteer fire-fighting,
351 lifesaving or rescue squad when engaged in activities related principally to participation as a member of
352 such squad whether or not the volunteer continues to receive compensation from his employer for time
353 away from the job.

354 "Employer" includes (i) any person, the Commonwealth or any political subdivision thereof and any
355 individual, firm, association or corporation, or the receiver or trustee of the same, or the legal
356 representative of a deceased employer, using the service of another for pay; and (ii) any volunteer fire
357 company or volunteer lifesaving or rescue squad electing to be included and maintaining coverage as an
358 employer under this title. If the employer is insured, it includes his insurer so far as applicable.

359 "Executive officer" means the president, vice president, secretary, treasurer or other officer, elected or
360 appointed in accordance with the charter and bylaws of a corporation.

361 "Filed" means hand delivered to the Commission's office in Richmond or any regional office
362 maintained by the Commission; sent by telegraph, electronic mail or facsimile transmission; or posted at

363 any post office of the United States Postal Service by certified or registered mail. Filing by first-class
364 mail, telegraph, electronic mail or facsimile transmission shall be deemed completed only when the
365 application actually reaches a Commission office.

366 "Injury" means only injury by accident arising out of and in the course of the employment or
367 occupational disease as defined in Chapter 4 (§ 65.2-400 et seq.) of this title and does not include a
368 disease in any form, except when it results naturally and unavoidably from either of the foregoing
369 causes.

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