

**HB2105 – SB2251**

**TCA §50-6-106  
with amendment  
(Drafting Code # 012443)**

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**Representative Haynes**

**Senator Massey**

## **HB 2105 by \*Haynes. (SB 2251 by \*Massey.)**

The bill, as introduced, revises various provisions relative to certain employments not covered under the workers' compensation law. - Amends TCA Section 50-6-106.

**Fiscal Summary:** NOT SIGNIFICANT

### **Bill Summary**

Present law generally exempts a common carrier doing an interstate business while engaged in interstate commerce from Tennessee's workers' compensation law since they are already regulated by federal law. This only occurs, however, if a leased operator or a leased owner/operator of a motor vehicle under contract to a common carrier may elect to be covered under a workers' compensation insurance policy insuring the common carrier upon written agreement of the common carrier and by filing written notice of the contract with the division of workers' compensation.

This bill specifies that a leased operator or leased owner/operator who elects workers' compensation coverage under present law must establish the validity of and satisfy the terms and conditions of all contractual agreements between the parties prior to the payment of any claim for workers' compensation.

This bill also establishes the venue of any dispute arising out of or connected with the validity of the contractual relationship or terms of a written agreement upon which workers' compensation benefits are extended between a common carrier and a leased operator or leased owner/operator as the chancery court of the county where the contract was entered or the county of the principal place of business of the common carrier.

The bill proposes the following:

SECTION 1. Tennessee Code Annotated, Section 50-6-106(1)(B), is amended by adding the following between the first and second sentences:  
The leased operator or leased owner/operator electing coverage as provided in this section shall establish the validity of and satisfy the terms and conditions of all contractual agreements between the parties prior to the processing of any claim for workers' compensation.

*The Amendment changes the word "processing" above to "payment".*

SECTION 2. Tennessee Code Annotated, Section 50-6-106(1), is amended by adding the following new subdivision (C):

(C) The venue of any dispute arising out of or connected with the validity of the contractual relationship or terms of the written agreement upon which the workers' compensation benefits are extended between the common carrier and a leased operator or leased owner/operator shall be the chancery court of the county where the contract was entered or the county of the principal place of business of the common carrier.

The amendment adds a new Section (D) here:

(D) Whenever the leased operator, the leased owner/operator or the carrier files a suit to resolve a contract dispute pursuant to subdivision (C), the statute of limitations for filing a petition for benefit determination with the division shall be tolled for ninety (90) days after final judgment has been entered in the suite including all appeals. In cases where a leased operator or leased owner/operator has filed a petition for benefit determination before the leased operator, leased owner/operator or the carrier has filed a suit pursuant to subdivision (C) to resolve a contract dispute, the petition for benefit determination shall be held in abeyance by the division until final judgment, including all appeals, has been entered in the suit filed pursuant to subdivision (C).

SECTION 3. This act shall take effect July 1, 2014, the public welfare requiring it.

*The amendment deletes this Section and substitutes the following:*

SECTION 3. This act shall take effect July 1, 2014, the public welfare requiring it, and shall apply to injuries occurring on or after the effective date of this act.

The date of injury being on or after July 1, 2014 was specified for clarity.

HOUSE BILL 2105

By Haynes

AN ACT to amend Tennessee Code Annotated, Section 50-6-106, relative to workers' compensation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 50-6-106(1)(B), is amended by adding the following between the first and second sentences:

The leased operator or leased owner/operator electing coverage as provided in this section shall establish the validity of and satisfy the terms and conditions of all contractual agreements between the parties prior to the <sup>payment</sup> processing of any claim for workers' compensation. *per Amendment 012443*

SECTION 2. Tennessee Code Annotated, Section 50-6-106(1), is amended by adding the following new subdivision (C):

(C) The venue of any dispute arising out of or connected with the validity of the contractual relationship or terms of the written agreement upon which the workers' compensation benefits are extended between the common carrier and a leased operator or leased owner/operator shall be the chancery court of the county where the contract was entered or the county of the principal place of business of the common carrier.

*(D) Added per Amendment 012443*  
SECTION 3. This act shall take effect July 1, 2014, the public welfare requiring it.  
*Deleted per Amendment 012443*

Amendment No. \_\_\_\_\_

<b>FILED</b>
Date _____
Time _____
Clerk _____
Comm. Amdt. _____

\_\_\_\_\_  
Signature of Sponsor

**AMEND Senate Bill No. 2251\***

**House Bill No. 2105**

by deleting the word "processing" in SECTION 1 and substituting instead the word "payment".

**AND FURTHER AMEND** by adding the following language to SECTION 2 as a new subdivision:

(D) Whenever the leased operator, the leased owner/operator or the carrier files a suit to resolve a contract dispute pursuant to subdivision (C), the statute of limitations for filing a petition for benefit determination with the division shall be tolled for ninety (90) days after final judgment has been entered in the suit including all appeals. In cases where a leased operator or leased owner/operator has filed a petition for benefit determination before the leased operator, leased owner/operator or the carrier has filed a suit pursuant to subdivision (C) to resolve a contract dispute, the petition for benefit determination shall be held in abeyance by the division until final judgment, including all appeals, has been entered in the suit filed pursuant to subdivision (C).

**AND FURTHER AMEND** by deleting SECTION 3 and substituting instead the following:

SECTION 3. This act shall take effect July 1, 2014, the public welfare requiring it, and shall apply to injuries occurring on or after the effective date of this act.



0685894241



\*012443\*

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL NOTE**

**SB 2251 - HB 2105**

February 10, 2014

**SUMMARY OF BILL:** Requires any leased operator or leased owner/operator, of a motor vehicle under contract to a common carrier, that elects to be covered under any policy of workers' compensation insurance that insures the common carrier upon written agreement, to establish the validity of and satisfy the terms and conditions of all contractual agreements between the parties prior to the processing of any claim for workers' compensation. Requires any dispute arising out of the validity of the contractual relationship or the terms of the written agreement to be held in the chancery court of the county where the contract was entered, or the county of the principal place of business of the common carrier.

**ESTIMATED FISCAL IMPACT:**

**NOT SIGNIFICANT**

Assumptions:

- According to the Division of Workers' Compensation (DWC), this bill will not require the division to add any additional employees, purchase equipment, or significantly alter division practices; therefore, any fiscal impact is considered not significant.
- DWC indicates that any change in the number of workers' compensation claims as a result of this bill is expected to be minimal.

**IMPACT TO COMMERCE:**

**NOT SIGNIFICANT**

Assumption:

- Given no significant impact to the number of workers' compensation claims, any impact to commerce or the number of Tennessee jobs is expected to be not significant.

**SB 2251 - HB 2105**

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "Lucian D. Geise". The signature is fluid and cursive, with the first name "Lucian" written in a larger, more prominent script than the last name "Geise".

Lucian D. Geise, Executive Director

/dwl

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**Tenn. Code Ann. § 50-6-106** (Copy w/ Cite)

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*Tenn. Code Ann. § 50-6-106*

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\*\*\* Current through the 2013 Regular Session \*\*\*

Title 50 Employer And Employee  
Chapter 6 Workers' Compensation Law  
Part 1 General Provisions

Tenn. Code Ann. § 50-6-106 (2013)

**First of 2 versions of this section**

**50-6-106. Employments not covered. [Effective until July 1, 2014. See the version effective on July 1, 2014.]**

This chapter shall not apply to:

(1) (A) Any common carrier doing an interstate business while engaged in interstate commerce, which common carrier and the interstate business are already regulated as to employer's liability or workers' compensation by act of congress, it being the purpose of this law to regulate all such business that the congress has not regulated in the exercise of its jurisdiction to regulate interstate commerce; provided, that this chapter shall apply to those employees of the common carriers with respect to whom a rule of liability is not provided by act of congress; provided, further, that no common carrier by motor vehicle operating pursuant to a certificate of public convenience and necessity shall be deemed the employer of a leased-operator or owner-operator of a motor vehicle or vehicles under a contract to such a common carrier;

(B) Notwithstanding subdivision (1)(A), a leased operator or a leased owner/operator of a motor vehicle under contract to a common carrier may elect to be covered under any policy of workers' compensation insurance insuring the common carrier upon written agreement of the common carrier, by filing written notice of the contract, on a form prescribed by the commissioner, with the division; provided, that the election shall in no way terminate or affect the independent contractor status of the leased operator or leased owner/operator for any other purpose than to permit workers' compensation coverage. The election of coverage may be terminated by the leased operator, leased owner/operator, or common carrier by providing written notice of the termination to the division and to all other parties consenting to the prior election. The termination shall be effective thirty (30) days from the date of the notice to all other parties consenting to the prior election and to the division;

(2) Any person whose employment at the time of injury is casual, that is, one who is not employed in the usual course of trade, business, profession or occupation of the employer;

(3) Domestic servants and employers of domestic servants;

(4) Farm or agricultural laborers and employers of those laborers;

(5) In cases where fewer than five (5) persons are regularly employed, except as provided in § 50-6-902; provided, that in those cases the employer may accept this chapter by filing written notice of the acceptance with the division at least thirty (30) days before the happening of any accident or death, and may at any time withdraw the acceptance by giving like notice of withdrawal;

(6) The state, counties of the state and municipal corporations; provided, that the state, any county or municipal corporation may accept this chapter by filing written notice of the acceptance with the division under the administrator, at least thirty (30) days before the happening of any accident or death, and may at any time withdraw the acceptance by giving like notice of the withdrawal. The state, any county or municipal corporation may accept this chapter as to any department or division of the state, county or municipal corporation by filing written notice of acceptance with the division under the administrator, at least thirty (30) days before the happening of any accident or death and may, at any time, withdraw acceptance for the division or department by giving like notice of the withdrawal, and the acceptance by the state, county or municipal corporation for any department or division of the state, county or municipal corporation shall have effect only of making the department or division designated subject to the terms of this chapter; or

(7) Any person performing voluntary service as a ski patrolperson who receives no compensation for the services other than meals, lodging or the use of ski tow or ski lift facilities or any combination of meals, lodging and the use of ski tow or ski lift facilities.

**HISTORY:** Acts 1919, ch. 123, § 6; 1923, ch. 84, §§ 2, 5; Shan. Supp., § 3608a142; Code 1932, § 6856; Acts 1941, ch. 20, § 1; 1941, ch. 90, § 2; 1943, ch. 120, § 1; C. Supp. 1950, § 6856; Acts 1976, ch. 495, § 1; 1976, ch. 602, § 1; impl. am. Acts 1980, ch. 534, § 1; T.C.A. (orig. ed.), § 50-906; Acts 1988, ch. 525, § 1; 1997, ch. 330, § 2; 1999, ch. 520, § 41; 2010, ch. 1149, § 15.

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\*\*\* Current through the 2013 Regular Session \*\*\*

Title 50 Employer And Employee  
Chapter 6 Workers' Compensation Law  
Part 1 General Provisions

Tenn. Code Ann. § 50-6-106 (2013)

### Second of 2 versions of this section

#### **50-6-106. Employments not covered. [Effective on July 1, 2014. See the version effective until July 1, 2014.]**

This chapter shall not apply to:

(1) (A) Any common carrier doing an interstate business while engaged in interstate commerce, which common carrier and the interstate business are already regulated as to employer's liability or workers' compensation by act of congress, it being the purpose of this law to regulate all such business that the congress has not regulated in the exercise of its jurisdiction to regulate interstate commerce; provided, that this chapter shall apply to those employees of the common carriers with respect to whom a rule of liability is not provided by act of congress; provided, further, that no common carrier by motor vehicle operating pursuant to a certificate of public convenience and necessity shall be deemed the employer of a leased-operator or owner-operator of a motor vehicle or vehicles under a contract to such a common carrier;

(B) Notwithstanding subdivision (1)(A), a leased operator or a leased owner/operator of a motor vehicle under contract to a common carrier may elect to be covered under any policy of workers' compensation insurance insuring the common carrier upon written agreement of the common carrier, by filing written notice of the contract, on a form prescribed by the administrator, with the division; provided, that the election shall in no way terminate or affect the independent contractor status of the leased operator or leased owner/operator for any other purpose than to permit workers' compensation coverage. The election of coverage may be terminated by the leased operator, leased owner/operator, or common carrier by providing written notice of the termination to the division and to all other parties consenting to the prior election. The termination shall be effective thirty (30) days from the date of the notice to all other parties consenting to the prior election and to the division;

(2) Any person whose employment at the time of injury is casual, that is, one who is not employed in the usual course of trade, business, profession or occupation of the employer;

(3) Domestic servants and employers of domestic servants;

(4) Farm or agricultural laborers and employers of those laborers;

(5) In cases where fewer than five (5) persons are regularly employed, except as provided in § 50-6-902; provided, that in those cases the employer may accept this chapter by filing written notice of the acceptance with the division at least thirty (30) days before the happening of any accident or death, and may at any time withdraw the acceptance by giving like notice of withdrawal;

(6) The state, counties of the state and municipal corporations; provided, that the state, any county or municipal corporation may accept this chapter by filing written notice of the acceptance with the division under the administrator, at least thirty (30) days before the happening of any accident or death, and may at any time withdraw the acceptance by giving like notice of the withdrawal. The state, any county or municipal corporation may accept this chapter as to any department or division of the state, county or municipal corporation by filing written notice of acceptance with the division under the administrator, at least thirty (30) days before the happening of any accident or death and may, at any time, withdraw acceptance for the division or department by giving like notice of the withdrawal, and the acceptance by the state, county or municipal corporation for any department or division of the state, county or municipal corporation shall have effect only of making the department or division designated subject to the terms of this chapter; or

(7) Any person performing voluntary service as a ski patrolperson who receives no compensation for the services other than meals, lodging or the use of ski tow or ski lift facilities or any combination of meals, lodging and the use of ski tow or ski lift facilities.

**HISTORY:** Acts 1919, ch. 123, § 6; 1923, ch. 84, §§ 2, 5; Shan. Supp., § 3608a142; Code 1932, § 6856; Acts 1941, ch. 20, § 1; 1941, ch. 90, § 2; 1943, ch. 120, § 1; C. Supp. 1950, § 6856; Acts 1976, ch. 495, § 1; 1976, ch. 602, § 1; impl. am. Acts 1980, ch. 534, § 1; T.C.A. (orig. ed.), § 50-906; Acts 1988, ch. 525, § 1; 1997, ch. 330, § 2; 1999, ch. 520, § 41; 2010, ch. 1149, § 15; 2013, ch. 282, § 1.

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