COMMITTEE REPORT

February 25, 2016

**H. 3576**

Introduced by Reps. Bannister, Merrill, Murphy, Atwater, Collins, Gagnon, Hamilton, Hicks, Pitts, Sandifer, G.R. Smith, Tallon, Whitmire, Henderson and Herbkersman

S. Printed 2/25/16--S.

Read the first time March 5, 2015.

**THE COMMITTEE ON**

**LABOR, COMMERCE AND INDUSTRY**

To whom was referred a Bill (H. 3576) to amend the Code of Laws of South Carolina, 1976, by adding Section 41‑1‑120 so as to provide that certain written agreements between nonprofit youth sports organizations, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, page 2, by striking subsection (A)(2) in its entirety.

Amend the bill further, as and if amended, page 2, by striking subsections (B)(1) and (2) in their entirety and inserting:

/ (1) an independent contractor and not an employee of the nonprofit youth sports organization for the purposes listed in (A)(1) and (2);

(2) not entitled to workers’ compensation benefits in connection with his or her contract with the nonprofit youth sports organization; and /

Amend the bill further, as and if amended, page 2, by striking lines 31-32 and inserting:

/ independent contractor relationship exists for purposes of required coverage under the state unemployment compensation law or any civil action instituted by a third party /

Renumber sections to conform.

Amend title to conform.

THOMAS C. ALEXANDER for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 41‑1‑120 SO AS TO PROVIDE THAT CERTAIN WRITTEN AGREEMENTS BETWEEN NONPROFIT YOUTH SPORTS ORGANIZATIONS AND COACHES PROVIDE CONCLUSIVE EVIDENCE THAT THE COACH IS AN INDEPENDENT CONTRACTOR RATHER THAN AN EMPLOYEE OF THE ORGANIZATION AND THAT THE ORGANIZATION IS EXEMPT FROM CERTAIN OBLIGATIONS CONCERNING WORKERS’ COMPENSATION COVERAGE, UNEMPLOYMENT INSURANCE COVERAGE, AND INCOME TAX WITHHOLDINGS, TO PROVIDE SPECIFIC REQUIREMENTS FOR THESE WRITTEN AGREEMENTS, TO PROVIDE THESE WRITTEN AGREEMENTS ARE NOT CONCLUSIVE PROOF OF THE EXISTENCE OF AN INDEPENDENT CONTRACTOR RELATIONSHIP FOR PURPOSES OF ANY CIVIL ACTIONS INSTITUTED BY THIRD PARTIES, AND TO DEFINE THE TERM “NONPROFIT YOUTH SPORTS ORGANIZATION”.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 1, Title 41 of the 1976 Code is amended by adding:

“Section 41‑1‑120. (A) Notwithstanding another provision of law, a written agreement between a nonprofit youth sports organization and a coach which specifies that the coach is an independent contractor and not an employee of the nonprofit youth sports organization and also which otherwise satisfies the requirements of this subsection constitutes conclusive evidence that the relationship between the nonprofit youth sports organization and the coach is that of an independent contractor relationship rather than an employment relationship for the purposes of this section, and that the nonprofit youth sports organization consequently is not obligated to:

(1) secure compensation for the coach pursuant to the workers’ compensation law;

(2) secure unemployment insurance coverage for the coach according to the provisions of this chapter; and

(3) withhold federal and state income taxes from money paid to the coach for services he provides to the organization pursuant to the contract.

(B) A written agreement provided in subsection (A) must contain a conspicuously located disclosure appearing in bold‑faced, underlined, or large type. This agreement must be acknowledged by the parties as indicated by their signatures, initials, or other means to evince that the parties have read and understand the disclosure. This disclosure clearly must state that the coach is:

(1) an independent contractor and not an employee of the nonprofit youth sports organization;

(2) not entitled to workers’ compensation benefits or unemployment benefits in connection with his or her contract with the nonprofit youth sports organization; and

(3) obligated to pay federal and state income tax on any money paid pursuant to the contract for coaching services, and that as a consequence the nonprofit youth sports organization will not withhold any amounts from the coach for purposes of satisfying the coach’s income tax liability.

(C) A written agreement between a nonprofit youth sports organization and a coach formed pursuant to this subsection may not, in and of itself, be construed as conclusive evidence that an independent contractor relationship exists for purposes of any civil action instituted by a third party.

(D) As used in this section, ‘nonprofit youth sports organization’ means an organization that is exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and is primarily engaged in conducting organized sports programs for persons under twenty‑one years of age.”

SECTION 2. This act takes effect upon approval by the Governor.

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