

REFERENCE TITLE: **workers' compensation; service; definition**

State of Arizona
House of Representatives
Fifty-seventh Legislature
First Regular Session
2025

HB 2033

Introduced by
Representative Livingston

AN ACT

AMENDING SECTION 23-901, ARIZONA REVISED STATUTES; RELATING TO WORKERS' COMPENSATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 23-901, Arizona Revised Statutes, is amended to
3 read:

4 23-901. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Award" means the finding or decision of an administrative law
7 judge or the commission as to the amount of compensation or benefit due an
8 injured employee or the dependents of a deceased employee.

9 2. "Client" means an individual, association, company, firm,
10 partnership, corporation or any other legally recognized entity that is
11 subject to this chapter and that enters into a professional employer
12 agreement with a professional employer organization.

13 3. "Co-employee" means every person employed by an injured
14 employee's employer.

15 4. "Commission" means the industrial commission of Arizona.

16 5. "Compensation" means the compensation and benefits provided by
17 this chapter.

18 6. "Employee", "workman", "worker" and "operative" means:

19 (a) Every person in the service of this state or a county, city,
20 town, municipal corporation or school district, including regular members
21 of lawfully constituted police and fire departments of cities and towns,
22 whether by election, appointment or contract of hire.

23 (b) Every person in the service of any employer subject to this
24 chapter, including aliens and minors legally or illegally allowed to work
25 for hire, but not including a person whose employment is both:

26 (i) Casual.

27 (ii) Not in the usual course of the trade, business or occupation
28 of the employer.

29 (c) Lessees of mining property and the lessees' employees and
30 contractors engaged in the performance of work that is a part of the
31 business conducted by the lessor and over which the lessor retains
32 supervision or control are within the meaning of this paragraph employees
33 of the lessor, and are deemed to be drawing wages as are usually paid
34 employees for similar work. The lessor may deduct from the proceeds of
35 ores mined by the lessees the premium required by this chapter to be paid
36 for such employees.

37 (d) Regular members of volunteer fire departments organized
38 pursuant to title 48, chapter 5, article 1, regular firefighters of any
39 volunteer fire department, including private fire protection service
40 organizations, organized pursuant to title 10, chapters 24 through 40,
41 volunteer firefighters serving as members of a fire department of any
42 incorporated city or town or an unincorporated area without pay or without
43 full pay and on a part-time basis, and voluntary policemen and volunteer
44 firefighters serving in any incorporated city, town or unincorporated area
45 without pay or without full pay and on a part-time basis, are deemed to be

1 employees, but for the purposes of this chapter, the basis for computing
2 wages for premium payments and compensation benefits for regular members
3 of volunteer fire departments organized pursuant to title 48, chapter 5,
4 article 1, or organized pursuant to title 10, chapters 24 through 40,
5 regular members of any private fire protection service organization,
6 volunteer firefighters and volunteer policemen of these departments or
7 organizations shall be the salary equal to the beginning salary of the
8 same rank or grade in the full-time service with the city, town, volunteer
9 fire department or private fire protection service organization, provided
10 if there is no full-time equivalent then the salary equivalent shall be as
11 determined by resolution of the governing body of the city, town or
12 volunteer fire department or corporation.

13 (e) Members of the department of public safety reserve, organized
14 pursuant to section 41-1715, are deemed to be employees. For the purposes
15 of this chapter, the basis for computing wages for premium payments and
16 compensation benefits for a member of the department of public safety
17 reserve who is a peace officer shall be the salary received by officers of
18 the department of public safety for the officers' first month of regular
19 duty as an officer. For members of the department of public safety
20 reserve who are not peace officers, the basis for computing premiums and
21 compensation benefits is \$400 a month.

22 (f) Any person placed in on-the-job evaluation or in on-the-job
23 training under the department of economic security's temporary assistance
24 for needy families program or vocational rehabilitation program shall be
25 deemed to be an employee of the department for the purpose of coverage
26 under the state workers' compensation laws only. The basis for computing
27 premium payments and compensation benefits shall be \$200 per month. Any
28 person receiving vocational rehabilitation services under the department
29 of economic security's vocational rehabilitation program whose major
30 evaluation or training activity is academic, whether as an enrolled
31 attending student or by correspondence, or who is confined to a hospital
32 or penal institution, shall not be deemed to be an employee of the
33 department for any purpose.

34 (g) Regular members of a volunteer sheriff's reserve, which may be
35 established by resolution of the county board of supervisors, to assist
36 the sheriff in the performance of the sheriff's official duties. A roster
37 of the current members shall monthly be certified to the clerk of the
38 board of supervisors by the sheriff and shall not exceed the maximum
39 number authorized by the board of supervisors. Certified members of an
40 authorized volunteer sheriff's reserve shall be deemed to be employees of
41 the county for the purpose of coverage under the Arizona workers'
42 compensation laws and occupational disease disability laws and shall be
43 entitled to receive the benefits of these laws for any compensable
44 injuries or disabling conditions that arise out of and occur in the course
45 of the performance of duties authorized and directed by the sheriff.

1 Compensation benefits and premium payments shall be based on the salary
2 received by a regular full-time deputy sheriff of the county involved for
3 the first month of regular patrol duty as an officer for each certified
4 member of a volunteer sheriff's reserve. This subdivision does not
5 provide compensation coverage for any member of a sheriff's posse who is
6 not a certified member of an authorized volunteer sheriff's reserve except
7 as a participant in a search and rescue mission or a search and rescue
8 training mission.

9 (h) A working member of a partnership may be deemed to be an
10 employee entitled to the benefits provided by this chapter on written
11 acceptance, by endorsement, at the discretion of the insurance carrier for
12 the partnership of an application for coverage by the working partner.
13 The basis for computing premium payments and compensation benefits for the
14 working partner shall be an assumed average monthly wage of not less than
15 \$600 or more than the maximum wage provided in section 23-1041 and is
16 subject to the discretionary approval of the insurance carrier. Any
17 compensation for permanent partial or permanent total disability payable
18 to the partner is computed on the lesser of the assumed monthly wage
19 agreed to by the insurance carrier on the acceptance of the application
20 for coverage or the actual average monthly wage received by the partner at
21 the time of injury.

22 (i) The sole proprietor of a business subject to this chapter may
23 be deemed to be an employee entitled to the benefits provided by this
24 chapter on written acceptance, by endorsement, at the discretion of the
25 insurance carrier of an application for coverage by the sole proprietor.
26 The basis for computing premium payments and compensation benefits for the
27 sole proprietor is an assumed average monthly wage of not less than \$600
28 or more than the maximum wage provided by section 23-1041 and is subject
29 to the discretionary approval of the insurance carrier. Any compensation
30 for permanent partial or permanent total disability payable to the sole
31 proprietor shall be computed on the lesser of the assumed monthly wage
32 agreed to by the insurance carrier on the acceptance of the application
33 for coverage or the actual average monthly wage received by the sole
34 proprietor at the time of injury.

35 (j) A member of the Arizona national guard, Arizona state guard or
36 unorganized militia shall be deemed a state employee and entitled to
37 coverage under the Arizona workers' compensation law at all times while
38 the member is receiving the payment of the member's military salary from
39 this state under competent military orders or on order of the governor.
40 Compensation benefits shall be based on the monthly military pay rate to
41 which the member is entitled at the time of injury, but not less than a
42 salary of \$400 per month or more than the maximum provided by the workers'
43 compensation law. Arizona compensation benefits shall not inure to a
44 member compensable under federal law.

(k) Certified ambulance drivers and attendants who serve without pay or without full pay on a part-time basis are deemed to be employees and entitled to the benefits provided by this chapter and the basis for computing wages for premium payments and compensation benefits for certified ambulance personnel shall be \$400 per month.

(l) Volunteer workers of a licensed health care institution may be deemed to be employees and entitled to the benefits provided by this chapter on written acceptance by the insurance carrier of an application by the health care institution for coverage of such volunteers. The basis for computing wages for premium payments and compensation benefits for volunteers shall be \$400 per month.

(m) Personnel who participate in a search or rescue operation or a search or rescue training operation that carries a mission identifier assigned by the division of emergency management as provided in section 35-192.01 and who serve without compensation as volunteer state employees. The basis for computation of wages for premium purposes and compensation benefits is the total volunteer man-hours recorded by the division of emergency management in a given quarter multiplied by the amount determined by the appropriate risk management formula.

(n) Personnel who participate in emergency management training, exercises or drills that are duly enrolled or registered with the division of emergency management or any political subdivision as provided in section 26-314, subsection C and who serve without compensation as volunteer state employees. The basis for computation of wages for premium purposes and compensation benefits is the total volunteer man-hours recorded by the division of emergency management or political subdivision during a given training session, exercise or drill multiplied by the amount determined by the appropriate risk management formula.

(o) Regular members of the Arizona game and fish department reserve, organized pursuant to section 17-214. The basis for computing wages for premium payments and compensation benefits for a member of the reserve is the salary received by game rangers and wildlife managers of the Arizona game and fish department for the game rangers' and wildlife managers' first month of regular duty.

(p) Every person employed pursuant to a professional employer agreement.

(q) A working member of a limited liability company who owns less than fifty percent of the membership interest in the limited liability company.

(r) A working member of a limited liability company who owns fifty percent or more of the membership interest in the limited liability company may be deemed to be an employee entitled to the benefits provided by this chapter on the written acceptance, by endorsement, of an application for coverage by the working member at the discretion of the insurance carrier for the limited liability company. The basis for

1 computing wages for premium payments and compensation benefits for the
2 working member is an assumed average monthly wage of \$600 or more but not
3 more than the maximum wage provided in section 23-1041 and is subject to
4 the discretionary approval of the insurance carrier. Any compensation for
5 permanent partial or permanent total disability payable to the working
6 member is computed on the lesser of the assumed monthly wage agreed to by
7 the insurance carrier on the acceptance of the application for coverage or
8 the actual average monthly wage received by the working member at the time
9 of injury.

10 (s) A working shareholder of a corporation who owns less than fifty
11 percent of the beneficial interest in the corporation.

12 (t) A working shareholder of a corporation who owns fifty percent
13 or more of the beneficial interest in the corporation may be deemed to be
14 an employee entitled to the benefits provided by this chapter on the
15 written acceptance, by endorsement, of an application for coverage by the
16 working shareholder at the discretion of the insurance carrier for the
17 corporation. The basis for computing wages for premium payments and
18 compensation benefits for the working shareholder is an assumed average
19 monthly wage of \$600 or more but not more than the maximum wage provided
20 in section 23-1041 and is subject to the discretionary approval of the
21 insurance carrier. Any compensation for permanent partial or permanent
22 total disability payable to the working shareholder is computed on the
23 lesser of the assumed monthly wage agreed to by the insurance carrier on
24 the acceptance of the application for coverage or the actual average
25 monthly wage received by the working shareholder at the time of injury.

26 7. "General order" means an order applied generally throughout this
27 state to all persons under jurisdiction of the commission.

28 8. "Heart-related or perivascular injury, illness or death" means
29 myocardial infarction, coronary thrombosis or any other similar sudden,
30 violent or acute process involving the heart or perivascular system, or
31 any death resulting therefrom, and any weakness, disease or other
32 condition of the heart or perivascular system, or any death resulting
33 therefrom.

34 9. "Insurance carrier" means every insurance carrier duly
35 authorized by the director of the department of insurance and financial
36 institutions to write workers' compensation or occupational disease
37 compensation insurance in this state.

38 10. "Interested party" means the employer, the employee, or if the
39 employee is deceased, the employee's estate, the surviving spouse or
40 dependents, the commission, the insurance carrier or their representative.

41 11. "Mental injury, illness or condition" means any mental,
42 emotional, psychotic or neurotic injury, illness or condition.

43 12. "Order" means and includes any rule, direction, requirement,
44 standard, determination or decision other than an award or a directive by
45 the commission or an administrative law judge relative to any entitlement

1 to compensation benefits, or to the amount of compensation benefits, and
2 any procedural ruling relative to the processing or adjudicating of a
3 compensation matter.

4 13. "Personal injury by accident arising out of and in the course
5 of employment" means any of the following:

6 (a) Personal injury by accident arising out of and in the course of
7 employment.

8 (b) An injury caused by the wilful act of a third person directed
9 against an employee because of the employee's employment, but does not
10 include a disease unless resulting from the injury.

11 (c) An occupational disease that is due to causes and conditions
12 characteristic of and peculiar to a particular trade, occupation, process
13 or employment, and not the ordinary diseases to which the general public
14 is exposed, and subject to section 23-901.01 or 23-901.09 or, for
15 heart-related, perivascular or pulmonary cases, section 23-1105.

16 14. "Professional employer agreement" means a written contract
17 between a client and a professional employer organization:

18 (a) In which the professional employer organization expressly
19 agrees to co-employ all or a majority of the employees providing services
20 for the client. In determining whether the professional employer
21 organization employs all or a majority of the employees of a client, any
22 person employed pursuant to the terms of the professional employer
23 agreement after the initial placement of client employees on the payroll
24 of the professional employer organization shall be included.

25 (b) That is intended to be ongoing rather than temporary in nature.

26 (c) In which employer responsibilities for worksite employees,
27 including hiring, firing and disciplining, are expressly allocated between
28 the professional employer organization and the client in the agreement.

29 15. "Professional employer organization" means any person engaged
30 in the business of providing professional employer services. Professional
31 employer organization does not include a temporary help firm or an
32 employment agency.

33 16. "Professional employer services" means the service of entering
34 into co-employment relationships under this chapter to which all or a
35 majority of the employees providing services to a client or to a division
36 or work unit of a client are covered employees.

37 17. "Serve" or "service" means either:

38 (a) Mailing to the last known address of the receiving party.

39 (b) Transmitting by ~~other means, including~~ electronic
40 transmission, ~~with the written consent of the receiving party~~ IN A MANNER
41 REASONABLY CALCULATED TO ACHIEVE EFFECTIVE SERVICE UNLESS THE RECEIVING
42 PARTY OPTS OUT BY PROVIDING WRITTEN NOTICE TO THE OTHER PARTY.

43 18. "Special order" means an order other than a general order.

44 19. "Weakness, disease or other condition of the heart or
45 perivascular system" means arteriosclerotic heart disease, cerebral

1 vascular disease, peripheral vascular disease, cardiovascular disease,
2 angina pectoris, congestive heart trouble, coronary insufficiency,
3 ischemia and all other similar weaknesses, diseases and conditions, and
4 also previous episodes or instances of myocardial infarction, coronary
5 thrombosis or any similar sudden, violent or acute process involving the
6 heart or perivascular system.
7 20. "Workers' compensation" means workmen's compensation as used in
8 article XVIII, section 8, Constitution of Arizona.