

**Department of Legislative Services**  
Maryland General Assembly  
2005 Session

**FISCAL AND POLICY NOTE**  
**Revised**

Senate Bill 34

(Senator Kittleman)

Finance

Economic Matters

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**Workers' Compensation - Students in Unpaid Work-Based Learning  
Experiences - Waiver**

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This bill exempts from required workers' compensation coverage a student employed by a sole proprietor in an unpaid work-based learning experience if a parent or guardian provides an affirmative written waiver from coverage.

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**Fiscal Summary**

**State Effect:** None.

**Local Effect:** Minimal decrease in expenditures by local boards of education for workers' compensation costs for students placed in unpaid work-based learning experiences for which a waiver is provided.

**Small Business Effect:** Potential meaningful.

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**Analysis**

**Bill Summary:** The bill provides that a parent or guardian of a student employed by a sole proprietor in a work-based learning experience can provide a waiver from workers' compensation coverage if a written affirmative waiver is given stating that the student is not to be considered a covered employee. The waiver must be submitted prior to the start of the work-based learning experience and state the specific work-based learning experience for which it applies.

Each county board of education must develop a waiver form that includes at the top in at least 22-point the statement: “Attention parent: when you sign this document, you agree to waive all workers’ compensation coverage for your child if your child is injured on the job.”

**Current Law:** Chapter 354 of 2003 provides that a county board of education that places a student in a structured, unpaid work-based learning experience with an employer may choose to secure workers’ compensation coverage for the student. The employer is otherwise responsible to secure workers’ compensation coverage for the student. If a board secures the coverage, the participating employer must reimburse the board the lesser of the cost of the workers’ compensation premium or \$250 and the student is considered to be an employee of the employer under workers’ compensation law. The student is covered against medical expenses that result from an injury while engaged in an unpaid work-based learning experience. The law was applicable to students in unpaid work-based learning experiences beginning with the 2003-2004 school year.

With certain exceptions, the liability of an employer under the workers’ compensation law is exclusive, and the compensation provided to a covered employee under the law is in place of any right of action against any person. When a person other than an employer is liable for a compensable injury, the covered employee may either file a workers’ compensation claim against the employer or bring an action for damages against the person liable for the injury.

**Background:** The number of students in work-based learning experiences is not readily available. Unpaid work-based learning experience is a program that provides a student with structured employer-supervised learning that occurs in the workplace, links with classroom instruction, is coordinated by a county board of education, and is conducted in accordance with the terms of an individual written work-based learning agreement between the board and the employer.

**Local Fiscal Effect:** The decrease in the cost of providing workers’ compensation coverage for students under this bill cannot be accurately estimated at this time. Any decrease in cost to a county board of education is assumed to be minimal.

**Small Business Effect:** Small businesses where students in unpaid work-based learning experiences work would not be covered by workers’ compensation are not protected from tort liability for injuries suffered by the students if the parent or guardian signed a waiver excluding the student from coverage.

## Additional Information

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Uninsured Employers' Fund, Workers' Compensation Commission, Injured Workers' Insurance Fund, Maryland State Department of Education, Subsequent Injury Fund, Department of Legislative Services

**Fiscal Note History:** First Reader - March 3, 2005  
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