

104TH CONGRESS
2D SESSION

H. R. 4238

To amend the Internal Revenue Code of 1986 to enhance tax incentives for charitable contributions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 27, 1996

Mr. BOEHNER introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Economic and Educational Opportunities, Transportation and Infrastructure, Commerce, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the Committee concerned

A BILL

To amend the Internal Revenue Code of 1986 to enhance tax incentives for charitable contributions, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Compassionate Community Act of 1996”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for
7 this Act is as follows:

Sec. 1. Short title and table of contents.

TITLE I—TAX INCENTIVES FOR CHARITABLE CONTRIBUTIONS

- Sec. 101. Charitable credit and enhancement of charitable deduction.
- Sec. 102. Credit for payment of wages while employee volunteers.

TITLE II—VOLUNTEER ENHANCEMENT

- Sec. 201. Compensatory time.

TITLE III—COMMON SENSE LEGAL AND REGULATORY REFORMS
FOR CHARITIES.

Subtitle A—Liability of Certain Tax Exempt Organizations Under CERCLA

- Sec. 301. Limitation for certain tax exempt organizations.

Subtitle B—Liability of Certain Tax Exempt Organizations Under OSHA

- Sec. 311. Notice of violation.
- Sec. 312. Employer defenses.

Subtitle C—Fair Labor Standards Act Obligations of Certain Tax Exempt
Organizations

- Sec. 321. Flexible and compressed schedules.

Subtitle D—Limited Damages in Negligence Claims

- Sec. 331. Suits against charitable organizations.

Subtitle E—Volunteer Protection

- Sec. 332. Findings and purpose.
- Sec. 333. No preemption of State tort law.
- Sec. 334. Limitation on liability for volunteers.
- Sec. 335. Certification requirement and adjustment of social services block
grant allotments.
- Sec. 336. Definitions.

Subtitle F—Charitable Medical Care

- Sec. 341. Exemption of health care professionals from negligence liability in the
provision of certain health care services without charge.

Subtitle G—Property Access

- Sec. 351. Property access.

Subtitle H—Volunteer Firefighter and Rescue Squad Worker Protection

- Sec. 361. Firefighter and rescue squad services.
- Sec. 362. Waiver of overtime compensation.
- Sec. 363. Coercion.

1 **TITLE I—TAX INCENTIVES FOR**
2 **CHARITABLE CONTRIBUTIONS**

3 **SEC. 101. CHARITABLE CREDIT AND ENHANCEMENT OF**
4 **CHARITABLE DEDUCTION.**

5 (a) CREDIT FOR CHARITABLE CONTRIBUTIONS.—

6 (1) IN GENERAL.—Subpart A of part IV of sub-
7 chapter A of chapter 1 of the Internal Revenue Code
8 of 1986 (relating to nonrefundable personal credits)
9 is amended by inserting after section 22 the follow-
10 ing new section:

11 **“SEC. 23. CHARITABLE CONTRIBUTIONS.**

12 “(a) IN GENERAL.—In the case of an individual,
13 there shall be allowed as a credit against the tax imposed
14 by this subtitle for the taxable year an amount equal to
15 the charitable contributions payment of which is made
16 within the taxable year.

17 “(b) LIMITATION.—The credit allowed under sub-
18 section (a) for the taxable year shall not exceed \$100
19 (\$200 in the case of a joint return).

20 “(c) CHARITABLE CONTRIBUTION.—For purposes of
21 this section, the term ‘charitable contribution’ has the
22 meaning given such term in section 170.

23 “(d) SPECIAL RULES.—For purposes of this section,
24 rules similar to the rules of the last sentence of section
25 170(a)(1) shall apply.

1 “(e) COORDINATION WITH DEDUCTION FOR CHARITABLE CONTRIBUTIONS.—

2 “(1) NO DOUBLE BENEFIT.—No deduction
3 shall be allowed under section 170 with respect to
4 any charitable contribution for which a credit is al-
5 lowed under this section.
6

7 “(2) ELECTION TO HAVE SECTION NOT
8 APPLY.—A taxpayer may elect, for any taxable year,
9 to have this section not apply.”

10 (2) CLERICAL AMENDMENT.—The table of sec-
11 tions for subpart A of part IV of subchapter A of
12 chapter 1 of such Code is amended by inserting
13 after the item relating to section 22 the following
14 new item:

“Sec. 23. Charitable Contributions.

15 (b) CERTAIN LIMITATIONS INAPPLICABLE TO CON-
16 TRIBUTIONS BY INDIVIDUALS TO 501(c)(3) ORGANIZA-
17 TIONS.—Paragraph (1) of section 170(b) of the Internal
18 Revenue Code of 1986 (relating to percentage limitations)
19 is amended by adding at the end the following new sub-
20 paragraph:

21 “(G) EXCEPTION FOR CONTRIBUTIONS TO
22 501(c)(3) ORGANIZATIONS.—The limitations of
23 subparagraphs (A), (B), (C), and (D) shall not
24 apply to charitable contributions to an organi-
25 zation described in section 501(c)(3) and ex-

1 empt from tax under section 501(a), and such
2 contributions shall not be taken into account
3 for purposes of applying such subparagraphs to
4 other charitable contributions.”

5 (c) CONTRIBUTIONS MADE BY DUE DATE OF RE-
6 TURN.—Subsection (a) of section 170 of such Code (relat-
7 ing to charitable, etc., contributions and gifts) is amended
8 by adding at the end the following new paragraph:

9 “(4) CONTRIBUTIONS MADE BY INDIVIDUALS
10 BEFORE DUE DATE OF RETURN.—In the case of an
11 individual, if a charitable contribution is paid after
12 the close of a taxable year and on or before the due
13 date (determined without regard to extensions there-
14 of) of the return for such taxable year, then the tax-
15 payer may elect to treat such contribution as paid
16 during such taxable year. For purposes of this para-
17 graph, rules similar to the rules of the last sentence
18 of paragraph (2) shall apply.”

19 (d) INFORMATION REGARDING COMBINED FEDERAL
20 CAMPAIGN.—With each mailing by the Secretary of the
21 Treasury of tax return forms to a taxpayer in a State,
22 such Secretary shall include a list of all charities which
23 participate in the Combined Federal Campaign within
24 such State.

25 (e) EFFECTIVE DATES.—

1 (1) IN GENERAL.—The amendments made by
2 this section shall apply to contributions made after
3 the date of the enactment of this Act.

4 (2) CREDIT FOR CHARITABLE CONTRIBU-
5 TIONS.—The amendments made by subsection (a)
6 shall apply to contributions made after December
7 31, 1996.

8 (3) INFORMATION REGARDING COMBINED FED-
9 ERAL CAMPAIGN.—Subsection (d) shall apply to
10 mailings with respect to taxable years ending after
11 date of enactment.

12 **SEC. 102. CREDIT FOR PAYMENT OF WAGES WHILE EM-**
13 **PLOYEE VOLUNTEERS.**

14 (a) IN GENERAL.—Subpart B of part IV of sub-
15 chapter A of chapter 1 of the Internal Revenue Code of
16 1986 is amended by adding at the end the following new
17 section:

18 **“SEC. 30A. CREDIT FOR PAYMENT OF WAGES WHILE EM-**
19 **PLOYEE VOLUNTEERS.**

20 “(a) IN GENERAL.—In the case of an employer, there
21 shall be allowed as a credit against the tax imposed by
22 this chapter an amount, with respect to each employee of
23 such employer, equal to 60 percent of the product of—

24 “(1) the number of hours of services performed
25 by such employee (without compensation other than

1 by such employer) during the taxable year for an or-
2 ganization described in section 501(c)(3) and exempt
3 from tax under section 501(a), and

4 “(2) the hourly wage paid or accrued by such
5 employer to such employee for such hours.

6 “(b) LIMITATIONS.—

7 “(1) IN GENERAL.—With respect to any em-
8 ployee—

9 “(A) the number of hours taken into ac-
10 count under subsection (a)(1) shall not exceed
11 52, and

12 “(B) the hourly wage taken into account
13 under subsection (a)(2) shall not exceed \$20.00.

14 “(2) REGULAR PAY AS HOURLY WAGE.—In the
15 case of an employee other than a salaried employee,
16 the hourly wage taken into account under subsection
17 (a)(2) shall be determined on the basis of such em-
18 ployee’s regular pay and without regard to overtime
19 pay.

20 “(3) LIMITATION ON EMPLOYEES TAKEN INTO
21 ACCOUNT.—

22 “(A) NUMBER OF EMPLOYEES.—Not more
23 than 100 employees of an employer may be
24 taken into account under subsection (a) for any
25 taxable year.

1 “(B) EMPLOYEES AND FORMER EMPLOY-
2 EES OF CHARITABLE ORGANIZATION.—Sub-
3 section (a) shall not apply with respect to serv-
4 ices performed by an individual for any organi-
5 zation if such individual, at any time during the
6 taxable year or the preceding taxable year, was
7 an employee of such organization.

8 “(4) APPLICATION WITH OTHER CREDITS.—
9 The credit allowed by subsection (a) for any taxable
10 year shall not exceed the excess (if any) of—

11 “(A) the regular tax for the taxable year
12 reduced by the sum of the credits allowable
13 under subpart A and sections 27, 28, 29, and
14 30, over

15 “(B) the tentative minimum tax for the
16 taxable year.

17 “(c) APPLICATION TO SALARIED EMPLOYEES.—

18 “(1) HOURLY WAGE EQUIVALENT.—For pur-
19 poses of this section, the hourly wage of any salaried
20 employee shall be treated as being—

21 “(A) the wages (as defined in section
22 3121(a)) of such employee from the employer
23 for the taxable year, divided by

1 “(B) the number of hours worked by the
2 employee during the taxable year, determined
3 under regulations prescribed by the Secretary.

4 “(2) PERFORMANCE DURING NORMAL WORKING
5 HOURS.—Subsection (a) shall apply with respect to
6 services performed by a salaried employee only if
7 such services are performed during such employee’s
8 normal working hours (as determined under regula-
9 tions prescribed by the Secretary).

10 “(d) CERTIFICATION BY CHARITABLE ORGANIZA-
11 TION.—Subsection (a) shall not apply with respect to any
12 hour of service by an employee unless the employer re-
13 ceives, from the organization for which such service is per-
14 formed, a qualified certification that the employee pro-
15 vided such services to such organization for such hour. For
16 purposes of the preceding sentence, the term ‘qualified
17 certification’ means a written certification by an employee
18 of such organization who holds a position of responsibility
19 in such organization and has made every reasonable effort
20 (including supervision of such employer’s employee or del-
21 egation of such supervision to a qualified subordinate) to
22 ensure the accuracy of such certification.

23 “(e) COORDINATION WITH OTHER PROVISIONS.—No
24 credit or deduction shall be allowed under any other provi-

1 sion of this title for any amount for which a credit is al-
 2 lowed under this section.

3 “(f) PARTNERS AND PARTNERSHIPS.—For purposes
 4 of this section, in the case of any partnership—

5 “(1) the term ‘employer’ includes such partner-
 6 ship, with respect to any partner, and

7 “(2) the term ‘employee’ includes a partner.”

8 (b) CLERICAL AMENDMENT.—The table of sections
 9 for subpart B of part IV of subchapter A of chapter 1
 10 of such Code is amended by adding at the end the follow-
 11 ing new item:

“Sec. 30A. Credit for payment of wages while employee volun-
 teers.”

12 (c) EFFECTIVE DATE.—The amendments made by
 13 this section shall apply to services performed after Decem-
 14 ber 31, 1996.

15 **TITLE II—VOLUNTEER** 16 **ENHANCEMENT**

17 **SEC. 201. COMPENSATORY TIME.**

18 To give workers the scheduling flexibility they need
 19 to more fully participate in charitable activities, section
 20 7(o) of the Fair Labor Standards Act of 1938 (29 U.S.C.
 21 207(o)) is amended to read as follows:

22 “(o)(1) An employee may receive, in accordance with
 23 this subsection and in lieu of monetary overtime com-
 24 pensation, compensatory time off at a rate not less than

1 1½ hours for each hour of employment for which overtime
2 compensation is required by this section.

3 “(2) An employer may provide compensatory time
4 under paragraph (1) only pursuant to—

5 “(A) applicable provisions of a collective bar-
6 gaining agreement, memorandum of understanding,
7 or any other agreement between the employer and
8 representative of such employees; or

9 “(B) in the case of employees not covered by
10 subparagraph (A), an agreement or understanding
11 arrived at between the employer and employee before
12 the performance of the work.

13 “(3) An employee, who is not an employee of a public
14 agency, may accrue not more than 240 hours of compen-
15 satory time. Not later than January 31 of each calendar
16 year, the employee’s employer shall provide monetary com-
17 pensation for any compensatory time off accrued during
18 the preceding calendar year which was not used prior to
19 December 31 of the preceding year at a rate not less than
20 1½ times the regular rate earned by the employee at the
21 time the employee receives such payment. An employer
22 may designate and communicate to the employer’s employ-
23 ees a 12-month period other than the calendar year, in
24 which case such compensation shall be provided not later
25 than 31 days after the end of such 12-month period.

1 “(4) If the work of an employee of a public agency
2 for which compensatory time may be provided included
3 work in a public safety activity, an emergency response
4 activity, or a seasonal activity, the employee engaged in
5 such work may accrue not more than 480 hours of com-
6 pensatory time for hours worked after April 15, 1986. If
7 such work was any other work, the employee engaged in
8 such work may accrue not more than 240 hours of com-
9 pensatory time for hours worked after April 15, 1986. Any
10 such employee who, after April 15, 1986, has accrued 480
11 or 240 hours, as the case may be, of compensatory time
12 off shall, for additional overtime hours of work, be paid
13 overtime compensation.

14 “(5) An employee who has accrued compensatory
15 time off authorized to be provided under paragraph (1)
16 shall, upon termination of employment, be paid for the un-
17 used compensatory time at a rate of compensation not less
18 than—

19 “(A) the average regular rate received by such
20 employee during the last 3 years of the employee’s
21 employment, or

22 “(B) the final regular rate received by such em-
23 ployee, whichever is higher.

24 “(6) An employee—

1 “(A) who has accrued compensatory time off
2 authorized to be provided under paragraph (1), and

3 “(B) who has requested the use of such com-
4 pensatory time,

5 shall be permitted by the employee’s employer to use such
6 time within a reasonable period after making the request
7 if the use of the compensatory time does not unduly dis-
8 rupt the operations of the employer.

9 “(7) For purposes of this subsection—

10 “(A) the term ‘overtime compensation’ means
11 the compensation required by subsection (a), and

12 “(B) the terms ‘compensatory time’ and ‘com-
13 pensatory time off’ mean hours during which an em-
14 ployee is not working, which are not counted as
15 hours worked during the applicable workweek or
16 other work period for purposes of overtime com-
17 pensation, and for which the employee is com-
18 pensated at the employee’s regular rate.”.

1 **TITLE III—COMMON SENSE**
2 **LEGAL AND REGULATORY RE-**
3 **FORMS FOR CHARITIES.**

4 **Subtitle A—Liability of Certain Tax**
5 **Exempt Organizations Under**
6 **CERCLA**

7 **SEC. 301. LIMITATION FOR CERTAIN TAX EXEMPT ORGANI-**
8 **ZATIONS.**

9 (a) EXEMPTIONS.—Section 107 of the Comprehen-
10 sive Environmental Response, Compensation, and Liabil-
11 ity Act of 1980 is amended by adding the following new
12 subsection after subsection (m):

13 “(n) LIMITATION FOR CERTAIN TAX EXEMPT ORGA-
14 NIZATIONS.—No organization described in section
15 501(c)(3) of the Internal Revenue Code of 1986 and ex-
16 empt from tax under section 501(a) of such Code shall
17 be liable under this section or section 106 with respect
18 to a release or threatened release from a facility if such
19 organization’s liability is based solely on the person’s sta-
20 tus under paragraph (1) of subsection (a) as owner of the
21 facility unless such organization—

22 “(1) was the sole owner of such facility during
23 the period when hazardous substances, pollutants, or
24 contaminants were placed at the facility;

1 “(2) the person seeking to hold such organiza-
2 tion liable provides specific evidence that—

3 “(A) the organization caused or contrib-
4 uted, or participated in causing or contributing,
5 to a release or threat of release at the facility;
6 and

7 “(B) failed to exercise due care with re-
8 spect to the hazardous substance or pollutant
9 or contaminant concerned, including pre-
10 cautions against foreseeable acts of third par-
11 ties, taking into consideration the characteris-
12 tics of such hazardous substance, in light of all
13 relevant facts and circumstances.

14 The exemption provided by this subsection shall not apply
15 in the case of an organization that is the sole owner of
16 the facility concerned.”

17 (b) EFFECTIVE DATE.—The amendment made by
18 subsection (a) shall take effect with respect to all actions
19 brought before, on, or after the enactment of this Act
20 other than an action in which final judgment has been
21 rendered by a court of competent jurisdiction before the
22 date of enactment of this Act or an action that has been
23 resolved by a judicially approved settlement before such
24 date of enactment.

1 **Subtitle B—Liability of Certain Tax**
2 **Exempt Organizations Under**
3 **OSHA**

4 **SEC. 311. NOTICE OF VIOLATION.**

5 Section 9 of the Occupational Safety and Health Act
6 of 1970 (29 U.S.C. 658) is amended by adding at the end
7 the following new subsection:

8 “(d)(1) In the case of an employer described in sec-
9 tion 501(c)(3) of the Internal Revenue Code of 1986 and
10 exempt from taxation under section 501(a) of such Code,
11 this subsection shall apply in lieu of subsection (a). Except
12 as provided in subsection (b), in the case of an employer
13 described in section 501(c)(3) of the Internal Revenue
14 Code of 1986 and exempt from taxation under section
15 501(a) of such Code, if, upon inspection or investigation,
16 the Secretary or the Secretary’s authorized representative
17 believes that such employer or an employee of such an em-
18 ployer has violated a requirement of section 5, of any
19 standard, rule or order prescribed pursuant to section 6,
20 or of any regulations prescribed pursuant to this Act, the
21 Secretary shall with reasonable promptness so notify the
22 employer. Each such notice shall be in writing and shall
23 describe with particularity the nature of the violation and
24 the recommendations for abatement. In addition, the no-
25 tice shall fix a reasonable time for abatement of the al-

1 leged violation. Such time for abatement shall be not less
2 than 30 days, except that a shorter period may be allowed
3 if the condition constitutes a direct threat to employees
4 and a shorter period is reasonable under all of the cir-
5 cumstances.

6 “(2) If upon a follow up inspection the Secretary be-
7 lieves that a violation of a standard, rule, or order pre-
8 scribed under section 6, or a violation of any regulation
9 prescribed pursuant to this Act, previously identified in
10 a notice as provided in paragraph (1), remains and the
11 time provided for its abatement has expired, the Secretary
12 may issue a citation to the employer. Each such citation
13 shall be in writing and shall describe with particularity
14 the nature of the violation, including a reference to the
15 provision of the Act, standard, rule, regulation, or order
16 alleged to have been violated. Notwithstanding the issu-
17 ance of a notice under paragraph (1), the Secretary shall
18 not issue a citation under this paragraph with respect to
19 de minimis violations which have no direct or immediate
20 relationship to safety or health. For purposes of this para-
21 graph, a violation of any requirement for posting, record-
22 keeping, reporting, notification, or compiling or maintain-
23 ing written documents or records shall be considered a de
24 minimis violation unless the Secretary establishes that
25 such violation has a direct relationship to the safety or

1 health of employees or reflects an intent to mislead or de-
2 ceive the Secretary or any employee. For purposes of this
3 Act, a citation issued under this paragraph shall be treat-
4 ed as a citation issued under subsection (a).

5 “(3) The notice required in paragraph (1) before is-
6 suance of a citation shall not be required in the case of
7 any alleged violation causing death or serious injury to
8 an employee or which constitutes an imminent danger to
9 an employee.”.

10 **SEC. 312. EMPLOYER DEFENSES.**

11 Section 9 of the Occupational Safety and Health Act
12 of 1970 (29 U.S.C. 658), as amended by section 311, is
13 amended by adding at the end the following:

14 “(f) No citation with respect to an alleged violation
15 may be issued under subsection (b) to an employer de-
16 scribed in section 501(c)(3) of the Internal Revenue Code
17 of 1986 and exempt from tax under section 501(a) of such
18 Code, unless the employer knew or with the exercise of
19 reasonable diligence would have known of the presence of
20 such alleged violation. No citation shall be issued under
21 subsection (b) to such an employer for an alleged violation
22 of any standard, rule, or order promulgated pursuant to
23 section 6, or any other regulation promulgated under this
24 Act if such employer demonstrates that—

1 “(1) employees of such employer have been pro-
2 vided with any training and equipment required by
3 the standard or rule at issue;

4 “(2) work rules designed to prevent such a vio-
5 lation have been established and communicated to
6 employees by such employer and the employer has
7 taken reasonable measures to implement such work
8 rules and to discipline employees when violations of
9 such work rules have been discovered; and

10 “(3) the failure of employees to observe work
11 rules led to the violation.

12 “(g) A citation issued under subsection (b) to an em-
13 ployer described in section 501(c)(3) of the Internal Reve-
14 nue Code of 1986 and exempt from tax under section
15 501(a) of such Code, who violates the requirements of any
16 standard, rule, or order promulgated pursuant to section
17 6 or any other regulation promulgated under this Act shall
18 be vacated if such employer demonstrates that employees
19 of such employer were protected by alternative methods
20 substantially equal or more protective of the employee’s
21 safety and health than those required by such standard,
22 rule, order, or regulation in the factual circumstances un-
23 derlying the citation.

24 “(h) Notwithstanding any other provision of law, in
25 the case of an employer described in section 501(c)(3) of

1 the Internal Revenue Code of 1986 and exempt from tax
2 under section 501(a) of such Code, compliance with a re-
3 quirement under this Act or any other Federal regulatory
4 requirement designed to protect human health or safety
5 shall be a defense against a citation or any civil or admin-
6 istrative action for a violation of a requirement under this
7 or any other law, where the requirements under the 2 laws
8 are potentially in conflict. For purposes of this subsection,
9 the term ‘potentially in conflict’ means a requirement that
10 overlaps with, is inconsistent with, or conflicts with, a re-
11 quirement under this Act, and includes labeling require-
12 ments for the same product and training requirements
13 that are related to the same hazard.

14 “(i) Subsections (f), (g), and (h) shall not be con-
15 strued to eliminate or modify other defenses which may
16 exist to any citation.”.

17 **Subtitle C—Fair Labor Standards**
18 **Act Obligations of Certain Tax**
19 **Exempt Organizations**

20 **SEC. 321. FLEXIBLE AND COMPRESSED SCHEDULES.**

21 The Fair Labor Standards Act of 1938 is amended
22 by inserting after section 13 (29 U.S.C. 213) the following
23 new section:

1 **“SEC. 13A. FLEXIBLE AND COMPRESSED SCHEDULES.**

2 “(a) PURPOSE.—The purpose of this section is to bal-
3 ance the demands of workplaces with the needs of families
4 in the United States.

5 “(b) COMPRESSED SCHEDULES.—

6 “(1) IN GENERAL.—Notwithstanding any other
7 provision of law, a tax-exempt employer may estab-
8 lish programs that allow the use of a compressed
9 schedule that consists of—

10 “(A) in the case of a schedule of a full-
11 time employee, a 160-hour basic work require-
12 ment, over a 4-week period, that is scheduled
13 for less than 20 workdays; and

14 “(B) in the case of a schedule of a part-
15 time employee, a basic work requirement of less
16 than 160 hours, over a 4-week period, that is
17 scheduled for less than 20 workdays.

18 “(2) OVERTIME COMPENSATION PROVISIONS.—
19 Section 7 and any other provision of law that relates
20 to premium pay for overtime work shall not apply to
21 the hours that constitute such a compressed sched-
22 ule.

23 “(3) COMPUTATION OF OVERTIME.—In the case
24 of any full-time employee, hours worked in excess of
25 such a compressed schedule shall be overtime hours
26 and shall be paid for as provided by the applicable

1 provisions referred to in paragraph (2). In the case
2 of any part-time employee on such a compressed
3 schedule, overtime pay shall begin to be paid after
4 the same number of hours of work after which a
5 full-time employee on a similar schedule would begin
6 to receive overtime pay.

7 “(c) FLEXIBLE SCHEDULES.—

8 “(1) IN GENERAL.—Notwithstanding any other
9 provision of law, a tax-exempt employer may estab-
10 lish programs that allow the use of flexible schedules
11 that include—

12 “(A) designated hours and days during
13 which an employee on such a schedule must be
14 present for work; and

15 “(B) designated hours during which an
16 employee on such a schedule may elect the time
17 of the arrival of such employee at and depart-
18 ture of such employee from work, solely for
19 such purpose or, if and to the extent permitted,
20 for the purpose of accumulating credit hours to
21 reduce the length of the workweek or another
22 workday.

23 “(2) OVERTIME COMPENSATION PROVISIONS.—

24 For purposes of determining compensation for over-

1 time hours in the case of an employee participating
2 in a program under this subsection—

3 “(A) the tax-exempt employer may, on re-
4 quest of the employee, grant the employee com-
5 pensatory time off in lieu of payment for such
6 overtime hours, whether or not irregular or oc-
7 casional in nature and notwithstanding section
8 7 or any other provision of law; or

9 “(B) the employee shall be compensated
10 for such overtime hours in accordance with such
11 provisions, as applicable.

12 “(3) COMPUTATION OF OVERTIME.—Notwith-
13 standing the provisions of law referred to in para-
14 graph (2)(A), an employee shall not be entitled to be
15 compensated for credit hours worked except to the
16 extent such employee is allowed to have such hours
17 taken into account with respect to the basic work re-
18 quirement of the employee.

19 “(4) ACCUMULATION AND COMPENSATION.—

20 “(A) ACCUMULATION.—A full-time em-
21 ployee on a flexible schedule under this sub-
22 section can accumulate not more than 48 credit
23 hours, and a part-time employee can accumu-
24 late not more than $\frac{1}{4}$ of the hours in the basic
25 work requirement, over a 4-week period, of the

1 employee, for carryover from a 4-week period to
2 a succeeding 4-week period for credit to the
3 basic work requirement for such period.

4 “(B) COMPENSATION.—Any employee who
5 is on a flexible schedule program under this
6 subsection and who is no longer subject to such
7 a program shall be paid at the then current
8 rate of basic pay of the employee for—

9 “(i) in the case of a full-time em-
10 ployee, not more than 48 credit hours ac-
11 cumulated by such employee; or

12 “(ii) in the case of a part-time em-
13 ployee, the number of credit hours (not in
14 excess of $\frac{1}{4}$ of the hours in the basic work
15 requirement, over a 4-week period, of the
16 employee) accumulated by such employee.

17 “(d) PARTICIPATION.—

18 “(1) IN GENERAL.—Except as provided in para-
19 graph (3), no employee may be required to partici-
20 pate in a program described in this section.

21 “(2) PROHIBITION OF COERCION.—

22 “(A) An employer may not directly or indi-
23 rectly intimidate, threaten, or coerce, or at-
24 tempt to intimidate, threaten, or coerce, any
25 employee for the purpose of interfering with

1 such employee's rights under this section to
2 elect a time of arrival or departure, to elect or
3 not to elect to work a compressed work sched-
4 ule, to work or not to work credit hours, or to
5 request or not to request compensatory time off
6 in lieu of payment for overtime hours.

7 “(B) For the purpose of subsection (A),
8 the term ‘intimidate, threaten, or coerce’ in-
9 cludes, but is not limited to, promising to con-
10 fer or conferring any benefit (such as appoint-
11 ment, promotion, or compensation), or effecting
12 or threatening to effect any reprisal (such as
13 deprivation of appointment, promotion, or com-
14 pensation).”

15 “(3) COLLECTIVE BARGAINING AGREEMENT.—
16 In a case in which a valid collective bargaining
17 agreement exists, an employee may only be required
18 to participate in such a program in accordance with
19 the agreement.

20 “(e) APPLICATION OF PROGRAMS IN THE CASE OF
21 COLLECTIVE BARGAINING AGREEMENTS.—

22 “(1) APPLICABLE REQUIREMENTS.—In the case
23 of employees in a unit represented by an exclusive
24 representative, any flexible or compressed schedule
25 described in subsection (b) or (c), respectively, and

1 the establishment and termination of any such
2 schedule, shall be subject to the provisions of this
3 section and the terms of a collective bargaining
4 agreement between the employer and the exclusive
5 representative.

6 “(2) INCLUSION OF EMPLOYEES.—Employees
7 within a unit represented by an exclusive representa-
8 tive shall not be included within any program under
9 this section except to the extent expressly provided
10 under a collective bargaining agreement between the
11 employer and the exclusive representative.

12 “(3) COLLECTIVE BARGAINING AGREEMENTS.—
13 Nothing in this section shall be construed to dimin-
14 ish the obligation of an employer to comply with any
15 collective bargaining agreement or any employment
16 benefits program or plan that provides lesser or
17 greater rights to employees than the benefits estab-
18 lished under this section.

19 “(f) DEFINITIONS.—

20 “(1) BASIC WORK REQUIREMENT.—The term
21 ‘basic work requirement’ means the number of
22 hours, excluding overtime hours, that an employee is
23 required to work or is required to account for by
24 leave or otherwise.

1 “(2) COLLECTIVE BARGAINING.—The term ‘col-
2 lective bargaining’ means the performance of the
3 mutual obligation of the representative of an em-
4 ployer and the exclusive representative of employees
5 in an appropriate unit to meet at reasonable times
6 and to consult and bargain in a good-faith effort to
7 reach agreement with respect to the conditions of
8 employment affecting such employees and to exe-
9 cute, if requested by either party, a written docu-
10 ment incorporating any collective bargaining agree-
11 ment reached, but the obligation referred to in this
12 paragraph does not compel either party to agree to
13 a proposal or to make a concession.

14 “(3) COLLECTIVE BARGAINING AGREEMENT.—
15 The term ‘collective bargaining agreement’ means an
16 agreement entered into as a result of collective bar-
17 gaining.

18 “(4) CREDIT HOURS.—The term ‘credit hours’
19 means any hours, within a flexible schedule estab-
20 lished under subsection (c), that are in excess of the
21 basic work requirement of an employee and that the
22 employee elects to work so as to vary the length of
23 a workweek or a workday.

24 “(5) EMPLOYEE.—The term ‘employee’ means
25 an employee, as defined in section 3, except that the

1 term shall not include an employee, as defined in
2 section 6121(2) of title 5, United States Code.

3 “(6) EXCLUSIVE REPRESENTATIVE.—The term
4 ‘exclusive representative’ means any labor organiza-
5 tion that—

6 “(A) is certified as the exclusive represent-
7 ative of employees in an appropriate unit pursu-
8 ant to Federal law; or

9 “(B) was recognized by an employer imme-
10 diately before the date of enactment of this sec-
11 tion as the exclusive representative of employees
12 in an appropriate unit—

13 “(i) on the basis of an election; or

14 “(ii) on any basis other than an elec-
15 tion;

16 and continues to be so recognized.

17 “(7) OVERTIME HOURS.—The term ‘overtime
18 hours’—

19 “(A) when used with respect to flexible
20 schedule programs under subsection (c), means
21 all hours in excess of 8 hours in a day or 40
22 hours in a week that are officially ordered in
23 advance, but does not include credit hours; and

24 “(B) when used with respect to compressed
25 schedule programs under subsection (b), means

1 any hours in excess of the specified hours that
2 constitute the compressed schedule.

3 “(8) TAX-EXEMPT EMPLOYER.—The term ‘tax-
4 exempt employer’ means an employer, as defined in
5 section 3, which is described in section 501(c)(3) of
6 the Internal Revenue Code of 1986 and exempt from
7 tax under section 501(a) of such Code, except that
8 the term shall not include any person acting in rela-
9 tion to an employee, as defined in section 6121(2)
10 of title 5, United States Code.”

11 **Subtitle D—Limited Damages in** 12 **Negligence Claims**

13 **SEC. 331. SUITS AGAINST CHARITABLE ORGANIZATIONS.**

14 In any civil action brought for negligence against an
15 organization described in section 501(c)(3) of the Internal
16 Revenue Code of 1986 the amount of non-economic dam-
17 ages that may be recovered may be not more than
18 \$250,000.

19 **Subtitle E—Volunteer Protection**

20 **SEC. 332. FINDINGS AND PURPOSE.**

21 (a) FINDINGS.—The Congress finds and declares
22 that—

23 (1) the willingness of volunteers to offer their
24 services is deterred by potential personal liability for

1 simple mistakes made in the course of volunteer
2 service;

3 (2) as a result, many nonprofit public and pri-
4 vate organizations and governmental entities, includ-
5 ing voluntary associations, social service agencies,
6 educational institutions, local governments, founda-
7 tions, and other civic programs, have been adversely
8 affected through the withdrawal of volunteers from
9 boards of directors and service in other capacities;

10 (3) the contribution of these programs to their
11 communities is thereby diminished, resulting in
12 fewer and higher cost programs than would be ob-
13 tainable if volunteers were participating; and

14 (4) because Federal funds are expended on use-
15 ful and cost-effective social service programs which
16 depend heavily on volunteer participation, protection
17 of voluntarism through clarification and limitation of
18 the personal liability risks assumed by the volunteer
19 in connection with such participation is an appro-
20 priate subject for Federal encouragement of State
21 reform.

22 (b) PURPOSE.—It is the purpose of this Act to pro-
23 mote the interests of social service program beneficiaries
24 and taxpayers and to sustain the availability of programs
25 and nonprofit organizations and governmental entities

1 which depend on volunteer contributions by encouraging
2 reasonable reform of State laws to provide protection from
3 personal financial liability to volunteers serving with non-
4 profit organizations and governmental entities for actions
5 undertaken in good faith on behalf of such organizations.

6 **SEC. 333. NO PREEMPTION OF STATE TORT LAW.**

7 Nothing in this Act shall be construed to preempt the
8 laws of any State governing tort liability actions.

9 **SEC. 334. LIMITATION ON LIABILITY FOR VOLUNTEERS.**

10 (a) LIABILITY PROTECTION FOR VOLUNTEERS.—Ex-
11 cept as provided in subsections (b) and (d), any volunteer
12 of a nonprofit organization or governmental entity shall
13 incur no personal financial liability for any tort claim al-
14 leging damage or injury from any act or omission of the
15 volunteer on behalf of the organization or entity if—

16 (1) such volunteer was acting in good faith and
17 within the scope of such volunteer’s official functions
18 and duties with the organization or entity; and

19 (2) such damage or injury was not caused by
20 willful and wanton misconduct by such volunteer.

21 (b) CONCERNING RESPONSIBILITY OF VOLUNTEERS
22 WITH RESPECT TO ORGANIZATIONS.—Nothing in this
23 section shall be construed to affect any civil action brought
24 by any nonprofit organization or any governmental entity
25 against any volunteer of such organization or entity.

1 (c) NO EFFECT ON LIABILITY OF ORGANIZATION.—
2 Nothing in this section shall be construed to affect the
3 liability of any nonprofit organization or governmental en-
4 tity with respect to injury caused to any person.

5 (d) EXCEPTIONS TO VOLUNTEER LIABILITY PRO-
6 TECTION.—A State may impose one or more of the follow-
7 ing conditions on and exceptions to the granting of liabil-
8 ity protection to any volunteer of an organization or entity
9 required by subsection (a):

10 (1) The organization or entity must adhere to
11 risk management procedures, including mandatory
12 training of volunteers, as defined by the Secretary of
13 Health and Human Services by regulation.

14 (2) The organization or entity shall be liable for
15 the acts or omissions of its volunteers to the same
16 extent as an employer is liable, under the laws of
17 that State, for the acts or omissions of its employ-
18 ees.

19 (3) The protection from liability does not
20 apply—

21 (A) if the volunteer was operating a motor
22 vehicle, vessel, aircraft, or other vehicle for
23 which the State involved requires the operator
24 or vehicle owner to maintain insurance;

1 (B) in the case of a suit brought by an ap-
2 propriate officer of a State or local government
3 to enforce a Federal, State, or local law; and

4 (C) to the extent the claim would be cov-
5 ered under any insurance policy.

6 (4) The protection from liability shall apply
7 only if the organization or entity provides a finan-
8 cially secure source of recovery for individuals who
9 suffer injury as a result of actions taken by a volun-
10 teer on behalf of the organization or entity. A finan-
11 cially secure source of recovery may be an insurance
12 policy within specified limits, comparable coverage
13 from a risk pooling mechanism, equivalent assets, or
14 alternative arrangements that satisfy the State that
15 the entity will be able to pay for losses up to a speci-
16 fied amount. Separate standards for different types
17 of liability exposure may be specified.

18 **SEC. 335. CERTIFICATION REQUIREMENT AND ADJUST-**
19 **MENT OF SOCIAL SERVICES BLOCK GRANT**
20 **ALLOTMENTS.**

21 (a) CERTIFICATION AND BLOCK GRANT ALLOT-
22 MENTS.—In the case of any State which certifies, not later
23 than 2 years after the date of the enactment of this Act,
24 to the Secretary of Health and Human Services that it
25 has enacted, adopted, or otherwise has in effect State law

1 which substantially complies with section 4(a), the Sec-
2 retary shall increase by 1 percent the fiscal year allotment
3 which would otherwise be made to such State to carry out
4 the Social Services Block Grant Program under title XX
5 of the Social Security Act.

6 (b) CONTINUATION OF INCREASE.—Any increase
7 made under subsection (a) in an allotment to a State shall
8 remain in effect only if the State makes a certification
9 to the Secretary of Health and Human Services, not later
10 than the end of each 1-year period occurring successively
11 after the end of the 2-year period described in subsection
12 (a), that it has in effect State law which substantially com-
13 plies with section 4(a).

14 **SEC. 336. DEFINITIONS.**

15 For purposes of this subtitle—

16 (1) the term “volunteer” means an individual
17 performing services for a nonprofit organization or
18 a governmental entity who does not receive—

19 (A) compensation (including reimburse-
20 ment or allowance for expenses), or

21 (B) any other thing of value in lieu of com-
22 pensation,

23 in excess of \$300, and such term includes a volun-
24 teer serving as a director, officer, trustee, or direct
25 service volunteer;

1 for any civil damages for any act or omission result-
2 ing from the rendering of a health care service de-
3 scribed in paragraph (2) unless the act or omission
4 was the result of gross negligence or willful mis-
5 conduct.

6 (2) HEALTH CARE SERVICE DESCRIBED.—

7 (A) IN GENERAL.—A health care service
8 described in this paragraph is a health care
9 service which is—

10 (i) voluntarily rendered by a health
11 care professional—

12 (I) within the scope of the health
13 care professional’s license or certifi-
14 cation; and

15 (II) without charge to the recipi-
16 ent of such service (or any health in-
17 surance plan or program under which
18 the recipient is covered); and

19 (ii) offered and rendered in, or upon
20 referral from, a free medical clinic.

21 (B) FREE MEDICAL CLINIC.—

22 (i) IN GENERAL.—For purposes of
23 subparagraph (A)(iii), a free medical clinic
24 is a private, not-for-profit entity which—

1 (I) is described in section
2 501(c)(3) of the Internal Revenue
3 Code of 1986 and exempt from tax-
4 ation under section 501(a);

5 (II) is licensed if required by the
6 State in which it is located; and

7 (III) provides free outpatient
8 health care services, a majority of
9 which are rendered to individuals
10 whose income does not exceed 200
11 percent of the poverty line.

12 (ii) POVERTY LINE.—For purposes of
13 clause (i)(III), the term “poverty line” has
14 the same meaning given such term in sec-
15 tion 673(2) of the Community Services
16 Block Grant Act (42 U.S.C. 9902(2)).

17 (b) REQUIREMENTS PRIOR TO FURNISHING THE
18 SERVICE.—Subsection (a)(1) shall apply only if a health
19 care professional before furnishing a health care service—

20 (1) agrees to furnish the health care service vol-
21 untarily and without charge to the recipient of such
22 service (or any health insurance plan or program
23 under which the recipient is covered); and

24 (2) provides the recipient of the health care
25 service with adequate notice, as determined by the

1 Secretary of Health and Human Services, of the
2 health care professional’s limited liability with re-
3 spect to the service.

4 (c) PREEMPTION.—The provisions of this section
5 shall preempt any State law to the extent such law is in-
6 consistent with such provisions. The provisions of this sec-
7 tion shall not preempt any State law that provides greater
8 incentives or protections to a health care professional ren-
9 dering a health care service described in subsection (a)(2).

10 (d) EFFECTIVE DATE.—This section shall apply with
11 respect to health care services furnished on or after the
12 date of the enactment of this Act.

13 **Subtitle G—Property Access**

14 **SEC. 351. PROPERTY ACCESS.**

15 Section 8(a)(1) of the National Labor Relations Act
16 is amended by adding after “section 7” the following:
17 “*Provided*, That an employer is not required to allow ac-
18 cess to its business property to employees or nonemployees
19 for purposes of union organizing, solicitation, distribution,
20 picketing, or other union advocacy or activities, even if the
21 employer allows such access to organizations for chari-
22 table, civic, or religious purposes.”.

1 **Subtitle H—Volunteer Firefighter**
2 **and Rescue Squad Worker Pro-**
3 **tection**

4 **SEC. 361. FIREFIGHTER AND RESCUE SQUAD SERVICES.**

5 Paragraph (4) of section 3(e) of the Fair Labor
6 Standards Act of 1938 (29 U.S.C. 303(e)) is amended by
7 adding after subparagraph (B) the following:

8 “(C) The term ‘employee’ does not include a fire-
9 fighter or a member of a rescue squad during the period
10 in which the firefighter or rescue squad member volunteers
11 the firefighter’s or member’s services at a location where
12 the firefighter or member is not then or regularly em-
13 ployed.”.

14 **SEC. 362. WAIVER OF OVERTIME COMPENSATION.**

15 The employer of a firefighter or member of a rescue
16 squad is not required to pay the firefighter or member
17 overtime compensation under section 7 of the Fair Labor
18 Standards Act of 1938 for a period—

19 (1) when the firefighter or member volunteered
20 their services to the employer, and

21 (2) for which the firefighter or member signed
22 a legally binding waiver of such compensation.

1 **SEC. 363. COERCION.**

2 Section 7 of the Fair Labor Standards Act of 1938
3 (29 U.S.C. 207) is amended by adding at the end the fol-
4 lowing:

5 “(r) No employer may require (directly or indi-
6 rectly) an employee who is a firefighter or member
7 of a rescue squad to volunteer the employee’s fire-
8 fighting or rescue squad services during any period
9 in which such employee would be entitled to receive
10 compensation for overtime employment under sub-
11 section (a) if section 3(e)(4)(C) was not in effect.”.

○