



# House of Representatives

General Assembly

**File No. 86**

January Session, 2013

Substitute House Bill No. 6434

*House of Representatives, March 20, 2013*

The Committee on Labor and Public Employees reported through REP. TERCYAK of the 26th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

***AN ACT CONCERNING VOLUNTEER FIRE DEPARTMENTS AND  
AMBULANCE COMPANIES AND THE DEFINITION OF EMPLOYER  
UNDER THE STATE OCCUPATIONAL SAFETY AND HEALTH ACT.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (d) of section 31-367 of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective*  
3 *October 1, 2013*):

4 (d) "Employer" means the state and any political subdivision  
5 thereof, and, except as provided in section 31-369, as amended by this  
6 act, any volunteer fire department and any volunteer ambulance  
7 company;

8 Sec. 2. Section 31-369 of the general statutes is repealed and the  
9 following is substituted in lieu thereof (*Effective October 1, 2013*):

10 (a) This chapter applies to all employers, employees and places of  
11 employment in the state except the following: (1) Employees of the

12 United States government; [and] (2) working conditions of employees  
13 over which federal agencies other than the United States Department  
14 of Labor exercise statutory authority to prescribe or enforce standards  
15 or regulations affecting occupational safety and health; and (3) any  
16 volunteer fire department or volunteer ambulance company that can  
17 demonstrate such department or company is regulated by the  
18 Occupational Safety and Health Act of 1970 (15 USC 651 et seq.).

19 (b) Nothing in this chapter shall be construed to supersede or in any  
20 manner affect any workers' compensation law or to enlarge, diminish  
21 or affect in any manner common law or statutory rights, duties or  
22 liabilities of employers or employees, under any law with respect to  
23 injuries, diseases or death of employees arising out of and in the course  
24 of employment.

25 Sec. 3. Section 31-375 of the general statutes is repealed and the  
26 following is substituted in lieu thereof (*Effective October 1, 2013*):

27 (a) [If] Except as provided in subsection (d) of this section, if, upon  
28 inspection or investigation, the commissioner or his authorized  
29 representative believes that an employer has violated any provision of  
30 sections 31-369 and 31-370, as amended by this act, any standard  
31 promulgated pursuant to section 31-372 or any regulations adopted  
32 pursuant to this chapter, he shall, with reasonable promptness, issue a  
33 citation to the employer. Each citation shall be in writing and shall  
34 describe with particularity the nature of the violation, including a  
35 reference to the provision of this chapter or the standard, regulation or  
36 order alleged to have been violated. The citation shall fix a reasonable  
37 time for the abatement of the violation.

38 (b) Each citation issued under this section or a copy or copies  
39 thereof shall be prominently posted as prescribed in regulations issued  
40 by the commissioner at or near each place a violation referred to in the  
41 citation occurred.

42 (c) No citation may be issued under this section after the expiration  
43 of six months following the occurrence of any violation.

44        (d) No citation may be issued under this section to a volunteer fire  
45        department or volunteer ambulance company unless such volunteer  
46        fire department's or volunteer ambulance company's violation resulted  
47        in serious bodily harm or death to a person.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2013</i>	31-367(d)
Sec. 2	<i>October 1, 2013</i>	31-369
Sec. 3	<i>October 1, 2013</i>	31-375

**LAB**        *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 14 \$	FY 15 \$
Labor Dept.	GF - Potential Revenue Loss	Minimal	Minimal

**Municipal Impact:** None

**Explanation**

The bill requires volunteer fire and ambulance companies to comply with the state's Occupational Health and Safety Act (Conn-OSHA) unless they can demonstrate they are covered by federal OSHA.

It also prevents the Department of Labor (DOL) from issuing a citation to a volunteer fire or ambulance company unless the violation resulted in serious bodily harm or death.

DOL has historically considered volunteer fire and ambulance companies within its jurisdiction. Accordingly, there is a potential, minimal revenue loss due to the bill's restriction on issuing a citation to such companies unless the violation resulted in serious bodily harm or death.

In FY 11, volunteer fire companies paid \$3,683 in penalties. It is unclear what portion, if any, of FY 11 penalties paid related to violations resulting in serious bodily harm or death.

The bill exempts volunteer fire and ambulance companies from Conn-OSHA if they can demonstrate compliance with Federal OSHA. This is not anticipated to have a fiscal impact as it is not expected to significantly reduce the number of investigations DOL performs.

***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

*Sources: Department of Labor*

**OLR Bill Analysis****sHB 6434*****AN ACT CONCERNING VOLUNTEER FIRE DEPARTMENTS AND AMBULANCE COMPANIES AND THE DEFINITION OF EMPLOYER UNDER THE STATE OCCUPATIONAL SAFETY AND HEALTH ACT.*****SUMMARY:**

This bill requires a volunteer fire department or volunteer ambulance company to comply with the state's Occupational Safety and Health Act (Conn-OSHA), unless it can demonstrate that it is under federal OSHA jurisdiction. By law, Conn-OSHA governs workplace safety for the state and its political subdivisions; thus, non-governmental volunteer fire and ambulance departments are not considered under its jurisdiction. They are also not covered by federal OSHA unless they are privately chartered and have paid employees.

Although the bill requires non-governmental volunteer fire and ambulance organizations to comply with Conn-OSHA, it prohibits the labor commissioner from issuing a citation for a Conn-OSHA violation, unless the violation resulted in someone's serious bodily harm or death. In effect, the commissioner will be unable to issue citations and penalties for non-serious violations, but she will be able to issue citations and penalties for serious violations that result in serious bodily harm or death. The commissioner will also be able to levy other penalties that do not require a citation under existing law (CGS § 31-382), such as a \$10,000 fine for willful or repeated violations, or a \$1,000 fine for willfully obstructing a Conn-OSHA investigation.

EFFECTIVE DATE: October 1, 2013

**BACKGROUND*****Related Case***

In *Mayfield v. Goshen Volunteer Fire Company* (301 Conn. 739 (2011)),

the state Supreme Court ruled that a volunteer fire company that was privately chartered and not under the control of a municipality was not a political subdivision of the state and therefore not subject to Conn-OSHA jurisdiction.

**COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 11 Nay 0 (03/07/2013)