AN ACT concerning labor and employment; relating to high school
apprenticeships and on-the-job training programs; liability for students
and employers; amending K.S.A. 72-18,101 and 72-18,102 and K.S.A.
2018 Supp. 44-508 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2018 Supp. 44-508 is hereby amended to read as
follows: 44-508. As used in the workers compensation act:
(a) "Employer" includes: (1) Any person or body of persons,
corporate or unincorporated, and the legal representative of a deceased
employer or the receiver or trustee of a person, corporation, association or
partnership; (2) the state or any department, agency or authority of the
state, any city, county, school district or other political subdivision or
municipality or public corporation and any instrumentality thereof; and (3)
for the purposes of community service work, the entity for which the
community service work is being performed and the governmental agency
which assigned the community service work, if any, if either such entity or
such governmental agency has filed a written statement of election with
the director to accept the provisions under the workers compensation act
for persons performing community service work and in such case such
entity and such governmental agency shall be deemed to be the joint
employer of the person performing the community service work and both
shall have the rights, liabilities and immunities provided under the workers
compensation act for an employer with regard to the community service
work, except that the liability for providing benefits shall be imposed only
on the party which filed such election with the director, or on both if both
parties have filed such election with the director; for purposes of
community service work, "governmental agency" shall not include any
court or any officer or employee thereof and any case where there is
deemed to be a "joint employer" shall not be construed to be a case of dual
or multiple employment.
(b) "Workman" or "employee" or "worker" means any person who
has entered into the employment of or works under any contract of service
or apprenticeship with an employer. Such terms shall include, but not be
limited to: Executive officers of corporations; professional athletes;
persons serving on a volunteer basis as duly authorized law enforcement
officers, attendants, as defined in subsection (f) of K.S.A. 65-6112(f), and amendments thereto, drivers of ambulances as defined in subsection (d) of K.S.A. 65-6112(d), and amendments thereto, firefighters, but only to the extent and during such periods as they are so serving in such capacities; persons employed by educational, religious and charitable organizations, but only to the extent and during the periods that they are paid wages by such organizations; persons in the service of the state, or any department, agency or authority of the state, any city, school district, or other political subdivision or municipality or public corporation and any instrumentality thereof, under any contract of service, express or implied, and every official or officer thereof, whether elected or appointed, while performing official duties; persons in the service of the state as volunteer members of the Kansas department of civil air patrol, but only to the extent and during such periods as they are officially engaged in the performance of functions specified in K.S.A. 48-3302, and amendments thereto; volunteers in any employment, except as otherwise provided herein for certain high school students, if the employer has filed an election to extend coverage to such volunteers; minors, except as otherwise provided herein for certain high school students, whether such minors are legally or illegally employed; and persons performing community service work, but only to the extent and during such periods as they are performing community service work and if an election has been filed an election to extend coverage to such persons. Any reference to an employee who has been injured shall, where the employee is dead, include a reference to the employee's dependents, to the employee's legal representatives, or, if the employee is a minor or an incapacitated person, to the employee's guardian or conservator. Unless there is a valid election in effect which has been filed as provided in K.S.A. 44-542a, and amendments thereto, such terms shall not include individual employers, limited liability company members, partners or self-employed persons. High school students engaged in a school sponsored apprenticeship, work-based learning program, work-study program, technical, vocational or similar program sponsored by a school district and performing training or services without pay for an employer pursuant to that program, shall be considered a "workman," "employee" or "worker" of the school district for purposes of the workers compensation act and shall be covered under the school district's workers compensation insurance plan.

(c) (1) "Dependents" means such members of the employee's family as were wholly or in part dependent upon the employee at the time of the accident or injury.

(2) "Members of a family" means only surviving legal spouse and children; or if no surviving legal spouse or children, then parents or grandparents; or if no parents or grandparents, then grandchildren; or if no
grandchildren, then brothers and sisters. In the meaning of this section, parents include stepparents, children include stepchildren, grandchildren include stepgrandchildren, brothers and sisters include stepbrothers and stepsisters, and children and parents include that relation by legal adoption. In the meaning of this section, a surviving spouse shall not be regarded as a dependent of a deceased employee or as a member of the family, if the surviving spouse shall have for more than six months willfully or voluntarily deserted or abandoned the employee prior to the date of the employee's death.

(3) "Wholly dependent child or children" means:

(A) A birth child or adopted child of the employee except such a child whose relationship to the employee has been severed by adoption;

(B) a stepchild of the employee who lives in the employee's household;

(C) any other child who is actually dependent in whole or in part on the employee and who is related to the employee by marriage or consanguinity; or

(D) any child as defined in subsection (c)(3)(A), (3)(B) or (3)(C) who is less than 23 years of age and who is not physically or mentally capable of earning wages in any type of substantial and gainful employment or who is a full-time student attending an accredited institution of higher education or vocational education.

(d) "Accident" means an undesigned, sudden and unexpected traumatic event, usually of an afflictive or unfortunate nature and often, but not necessarily, accompanied by a manifestation of force. An accident shall be identifiable by time and place of occurrence, produce at the time symptoms of an injury, and occur during a single work shift. The accident must be the prevailing factor in causing the injury. "Accident" shall in no case be construed to include repetitive trauma in any form.

(e) "Repetitive trauma" refers to cases where an injury occurs as a result of repetitive use, cumulative traumas or microtraumas. The repetitive nature of the injury must be demonstrated by diagnostic or clinical tests. The repetitive trauma must be the prevailing factor in causing the injury. "Repetitive trauma" shall in no case be construed to include occupational disease, as defined in K.S.A. 44-5a01, and amendments thereto.

In the case of injury by repetitive trauma, the date of injury shall be the earliest of:

(1) The date the employee, while employed for the employer against whom benefits are sought, is taken off work by a physician due to the diagnosed repetitive trauma;

(2) the date the employee, while employed for the employer against whom benefits are sought, is placed on modified or restricted duty by a
physician due to the diagnosed repetitive trauma;

(3) the date the employee, while employed for the employer against
whom benefits are sought, is advised by a physician that the condition is
work-related; or

(4) the last day worked, if the employee no longer works for the
employer against whom benefits are sought.

In no case shall the date of accident be later than the last date worked.

(f) (1) "Personal injury" and "injury" mean any lesion or change in
the physical structure of the body, causing damage or harm thereto.
Personal injury or injury may occur only by accident, repetitive trauma or
occupational disease as those terms are defined.

(2) An injury is compensable only if it arises out of and in the course
of employment. An injury is not compensable because work was a
triggering or precipitating factor. An injury is not compensable solely
because it aggravates, accelerates or exacerbates a preexisting condition or
renders a preexisting condition symptomatic.

(A) An injury by repetitive trauma shall be deemed to arise out of
employment only if:

(i) The employment exposed the worker to an increased risk or
hazard which the worker would not have been exposed in normal non-
employment life;

(ii) the increased risk or hazard to which the employment exposed the
worker is the prevailing factor in causing the repetitive trauma; and

(iii) the repetitive trauma is the prevailing factor in causing both the
medical condition and resulting disability or impairment.

(B) An injury by accident shall be deemed to arise out of employment
only if:

(i) There is a causal connection between the conditions under which
the work is required to be performed and the resulting accident; and

(ii) the accident is the prevailing factor causing the injury, medical
condition, and resulting disability or impairment.

(3) (A) The words "arising out of and in the course of employment"
as used in the workers compensation act shall not be construed to include:

(i) Injury which occurred as a result of the natural aging process or by
the normal activities of day-to-day living;

(ii) accident or injury which arose out of a neutral risk with no
particular employment or personal character;

(iii) accident or injury which arose out of a risk personal to the
worker; or

(iv) accident or injury which arose either directly or indirectly from
idiopathic causes.

(B) The words "arising out of and in the course of employment" as
used in the workers compensation act shall not be construed to include
injuries to the employee occurring while the employee is on the way to assume the duties of employment or after leaving such duties, the proximate cause of which injury is not the employer's negligence. An employee shall not be construed as being on the way to assume the duties of employment or having left such duties at a time when the worker is on the premises owned or under the exclusive control of the employer or on the only available route to or from work which is a route involving a special risk or hazard connected with the nature of the employment that is not a risk or hazard to which the general public is exposed and which is a route not used by the public except in dealings with the employer. An employee shall not be construed as being on the way to assume the duties of employment, if the employee is a provider of emergency services responding to an emergency.

(C) The words, "arising out of and in the course of employment" as used in the workers compensation act shall not be construed to include injuries to employees while engaged in recreational or social events under circumstances where the employee was under no duty to attend and where the injury did not result from the performance of tasks related to the employee's normal job duties or as specifically instructed to be performed by the employer.

(g) "Prevailing" as it relates to the term "factor" means the primary factor, in relation to any other factor. In determining what constitutes the "prevailing factor" in a given case, the administrative law judge shall consider all relevant evidence submitted by the parties.

(h) "Burden of proof" means the burden of a party to persuade the trier of facts by a preponderance of the credible evidence that such party's position on an issue is more probably true than not true on the basis of the whole record unless a higher burden of proof is specifically required by this act.

(i) "Director" means the director of workers compensation as provided for in K.S.A. 75-5708, and amendments thereto.

(j) "Healthcare provider" means any person licensed, by the proper licensing authority of this state, another state or the District of Columbia, to practice medicine and surgery, osteopathy, chiropractic, dentistry, optometry, podiatry, audiology or psychology.

(k) "Secretary" means the secretary of labor.

(l) "Construction design professional" means any person who is an architect, professional engineer, landscape architect or land surveyor who has been issued a license by the state board of technical professions to practice such technical profession in Kansas or any corporation organized to render professional services through the practice of one or more of such technical professions in Kansas under the professional corporation law of Kansas or any corporation issued a certificate of authorization under
K.S.A. 74-7036, and amendments thereto, to practice one or more of such technical professions in Kansas.

(m) "Community service work" means: (1) Public or community service performed as a result of a contract of diversion or of assignment to a community corrections program or conservation camp or suspension of sentence or as a condition of probation or in lieu of a fine imposed by court order; or (2) public or community service or other work performed as a requirement for receipt of any kind of public assistance in accordance with any program administered by the secretary for children and families.

(n) "Utilization review" means the initial evaluation of appropriateness in terms of both the level and the quality of health care and health services provided a patient, based on accepted standards of the health care profession involved. Such evaluation is accomplished by means of a system which identifies the utilization of health care services above the usual range of utilization for such services, which is based on accepted standards of the health care profession involved, and which refers instances of possible inappropriate utilization to the director for referral to a peer review committee.

(o) "Peer review" means an evaluation by a peer review committee of the appropriateness, quality and cost of health care and health services provided a patient, which is based on accepted standards of the health care profession involved and which is conducted in conjunction with utilization review.

(p) "Peer review committee" means a committee composed of health care providers licensed to practice the same health care profession as the health care provider who rendered the health care services being reviewed.

(q) "Group-funded self-insurance plan" includes each group-funded workers compensation pool, which is authorized to operate in this state under K.S.A. 44-581 through 44-592, and amendments thereto, each municipal group-funded pool under the Kansas municipal group-funded pool act which is covering liabilities under the workers compensation act, and any other similar group-funded or pooled plan or arrangement that provides coverage for employer liabilities under the workers compensation act and is authorized by law.

(r) On and after the effective date of this act, "workers compensation board" or "board" means the workers compensation appeals board established under K.S.A. 44-555c, and amendments thereto.

(s) "Usual charge" means the amount most commonly charged by health care providers for the same or similar services.

(t) "Customary charge" means the usual rates or range of fees charged by health care providers in a given locale or area.

(u) "Functional impairment" means the extent, expressed as a percentage, of the loss of a portion of the total physiological capabilities of
the human body as established by competent medical evidence and based on the fourth edition of the American medical association guides to the evaluation of impairment, if the impairment is contained therein.

(v) "Authorized treating physician" means a licensed physician or other health care provider authorized by the employer or insurance carrier or both, or appointed pursuant to court-order to provide those medical services deemed necessary to diagnose and treat an injury arising out of and in the course of employment.

(w) "Mail" means the use of the United States postal service or other land based delivery service or transmission by electronic means, including delivery by fax, e-mail or other electronic delivery method designated by the director of workers compensation.

Sec. 2. K.S.A. 72-18,101 is hereby amended to read as follows: 72-18,101. The board of education of any school district may purchase insurance contracts to insure against loss resulting from sickness or bodily injury or death by accident, on the part of students who are injured:

On school premises, or, during school sponsored activities; or during travel to and from or participation in a work-based learning program involving training or work activities conducted at the premises of or under the direction of an employer participating in the program. For purposes of this section, "work-based learning program" has the meaning as provided in section 4, and amendments thereto.

Sec. 3. K.S.A. 72-18,102 is hereby amended to read as follows: 72-18,102. The board of education of any school district may purchase insurance contracts for the benefit of students, to insure against loss resulting from loss, theft of, or damage to, the personal property of students: While on school premises, or, during school sponsored activities; or during participation in a work-based learning program involving training or work activities conducted at the premises of or under the direction of an employer participating in the program. For purposes of this section, "work-based learning program" has the meaning as provided in section 4, and amendments thereto.

New Sec. 4. (a) An employer who accepts a secondary student in a work-based learning program shall not be subject to civil liability for any claim arising from the student's negligent act or omission.

(b) An employer who accepts a secondary student in a work-based learning program shall not be subject to civil liability for any claim arising from the employer's negligent act or omission.

(c) Nothing in this section shall provide immunity for gross negligence or willful misconduct.

(d) As used in this section, "work-based learning program" means a learning program in a secondary curriculum that:

(1) Includes, but is not limited to, work study, on-the-job training, job
shadowing, internships, practicums, apprenticeships, co-ops and industry-led service-learning projects;

(2) is incorporated into coursework or related to a specific field of study;

(3) integrates knowledge and theory learned in the classroom with the practical application and development of technical skills and proficiencies in a professional work setting; and

(4) may or may not include wages, salary or other compensation to the secondary student.

Sec. 5. K.S.A. 72-18,101 and 72-18,102 and K.S.A. 2018 Supp. 44-508 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.