

By the Committee on Banking and Insurance and Senator
Diaz-Balart

311-1761B-98

1 A bill to be entitled
2 An act relating to rulemaking authority with
3 respect to occupational safety and health
4 (RAB); amending s. 442.006, F.S.; authorizing
5 rules for the Division of Safety investigations
6 of public-sector employers; amending s.
7 442.008, F.S.; authorizing rules for the
8 Division of Safety relating to recordkeeping
9 responsibilities for public-sector employers;
10 amending s. 442.011, F.S.; eliminating an
11 annual report; amending s. 442.20, F.S.;
12 authorizing rulemaking for the Division of
13 Safety for the adoption of federal standards;
14 providing that specified references to federal
15 officials in adopted federal standards refer to
16 specified state officials for the purpose of
17 state law; amending s. 627.0915, F.S.;
18 authorizing rulemaking for the Division of
19 Safety for workplace-safety programs for
20 clients of help-supply services companies;
21 providing an effective date.

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23 Be It Enacted by the Legislature of the State of Florida:

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25 Section 1. Subsection (3) is added to section 442.006,
26 Florida Statutes, to read:

27 442.006 Investigations by the division; refusal to
28 admit; penalty.--

29 (3) The division by rule may adopt procedures for
30 conducting investigations of public-sector employers under
31 this chapter.

1 Section 2. Subsection (4) is added to section 442.008,
2 Florida Statutes, to read:

3 442.008 Division authority.--The division shall:

4 (4) Adopt rules prescribing recordkeeping
5 responsibilities for public-sector employers, which may
6 include rules for maintaining a log and summary of
7 occupational injuries, diseases, and illnesses and for
8 producing on request a notice of injury and employee accident
9 investigation records, and rules prescribing a retention
10 schedule for such records.

11 Section 3. Section 442.011, Florida Statutes, is
12 amended to read:

13 442.011 Carrier consultations.--Each insurance carrier
14 writing workers' compensation insurance in this state, each
15 employer qualifying as an individual self-insurer under s.
16 440.38, each self-insurance fund under s. 624.461, and each
17 assessable mutual insurer under s. 628.6011 must provide
18 safety consultations to each of its policyholders who requests
19 such consultations. Each such carrier or self-insurer must
20 inform its policyholders of the availability of such
21 consultations ~~and must report annually on its safety and~~
22 ~~health programs and consultations to the division in such form~~
23 ~~and at such time as the division prescribes.~~ The division is
24 responsible for approving all safety and health programs. The
25 division shall aid all insurance carriers and self-insurers in
26 establishing their safety and health programs by setting out
27 criteria in an appropriate format.

28 Section 4. Subsection (2) of section 442.20, Florida
29 Statutes, is amended and subsection (5) is added to that
30 section to read:

31 442.20 Workplace safety.--

1 (2) The Division of Safety shall have the authority to
2 adopt rules for the purpose of assuring safe working
3 conditions for all workers by authorizing the enforcement of
4 effective standards, assisting and encouraging employers to
5 maintain safe working conditions, and by providing for
6 education and training in the field of safety. For
7 public-sector employers, the division may by rule adopt
8 Subparts C through T and Subpart Z of 29 C.F.R. Part 1910;
9 Subparts C through Z of 29 C.F.R. Part 1926; Subparts A
10 through D, Subpart I, and Subpart M of 29 C.F.R. Part 1928;
11 Subparts A through G of 29 C.F.R. Part 1917; Subparts A
12 through L and Subpart Z of 29 C.F.R. Part 1915; Subparts A
13 through J of 29 C.F.R. Part 1918, as revised July 1, 1993,
14 provided that 29 C.F.R. 1910.156 applies to volunteer
15 firefighters and fire departments operated by the state of
16 political subdivisions; the National Fire Protection
17 Association, Inc., Standard 1500, paragraph 5-7 (Personal
18 Alert Safety System) (1992 edition); and ANSI A 10.4-1990.

19 (5) All references to the Assistant Secretary of the
20 Occupational Safety and Health Administration and to the
21 Director of the National Institute for Occupational Safety and
22 Health and their authorized representatives in the adopted
23 federal Occupational Safety and Health Administration
24 standards shall, for purposes of this section mean, the
25 Director of the Division of Safety of the Department of Labor
26 and Employment Security or his or her authorized
27 representatives.

28 Section 5. Section 627.0915, Florida Statutes, is
29 amended to read:

30 627.0915 Rate filings; workers' compensation,
31 drug-free workplace, and safe employers.--The Department of

1 Insurance shall approve rating plans for workers' compensation
2 insurance that give specific identifiable consideration in the
3 setting of rates to employers that either implement a
4 drug-free workplace program pursuant to rules adopted by the
5 Division of Workers' Compensation of the Department of Labor
6 and Employment Security or implement a safety program approved
7 by the Division of Safety pursuant to rules adopted by the
8 Division of Safety of the Department of Labor and Employment
9 Security or implement both a drug-free workplace program and a
10 safety program. The Division of Safety may by rule require
11 that the client of a help-supply-services company comply with
12 the essential requirements of a workplace-safety program as a
13 condition for receiving a premium credit.The plans must take
14 effect January 1, 1994, must be actuarially sound, and must
15 state the savings anticipated to result from such drug-testing
16 and safety programs.

17 Section 6. This act shall take effect upon becoming a
18 law.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 1346

The committee substitute eliminates rulemaking authority for the following rules identified by the Division of Safety as exceeding statutory authority:

1. The notice of death reporting requirement, currently required to be reported to the Division of Workers' Compensation;
2. Right of entry without delay;
3. The annual report on safety and consultation activities required of carriers; and
4. Certain definition of terms used.

The committee substitute eliminates the annual reporting requirement of carriers, limits the rulemaking authority of the division for investigative procedures solely to public-sector employers only, and provides rulemaking authority for the adoption of specified federal standards for public-sector employers only.