

1 A bill to be entitled
2 An act relating to public records; creating s.
3 440.108, F.S.; providing an exemption from
4 public records requirements for certain
5 information obtained in administering the
6 Workers' Compensation Law; providing for the
7 applicability of confidentiality provisions;
8 authorizing the furnishing of information under
9 certain conditions; providing for future review
10 and repeal; providing a finding of public
11 necessity; providing a contingent effective
12 date.

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

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16 Section 1. Section 440.108, Florida Statutes, is
17 created to read:

18 440.108 Investigatory records relating to workers'
19 compensation employer compliance; confidentiality.--

20 (1) All investigatory records of the Division of
21 Workers' Compensation made or received pursuant to s. 440.107
22 and any records necessary to complete an investigation are
23 confidential and exempt from the provisions of s. 119.07(1)
24 and s. 24(a), Art. I of the State Constitution until the
25 investigation is completed or ceases to be active. For
26 purposes of this section, an investigation is considered
27 "active" while such investigation is being conducted by the
28 division with a reasonable, good-faith belief that it may lead
29 to the filing of administrative, civil, or criminal
30 proceedings. An investigation does not cease to be active if
31 the agency is proceeding with reasonable dispatch and there is

1 a good-faith belief that action may be initiated by the agency
2 or other administrative or law enforcement agency. After an
3 investigation is completed or ceases to be active, records
4 relating to the investigation remain confidential and exempt
5 from the provisions of s. 119.07(1) and s. 24(a), Art. I of
6 the State Constitution if disclosure would:

7 (a) Jeopardize the integrity of another active
8 investigation;

9 (b) Reveal a trade secret, as defined in s. 688.002;

10 (c) Reveal business or personal financial information;

11 (d) Reveal the identity of a confidential source;

12 (e) Defame or cause unwarranted damage to the good
13 name or reputation of an individual or jeopardize the safety
14 of an individual; or

15 (f) Reveal investigative techniques or procedures.

16 (2) This exemption is subject to the Open Government
17 Sunset Review Act of 1995 in accordance with s. 119.15, and
18 shall stand repealed on October 2, 2003, unless reviewed and
19 saved from repeal through reenactment by the Legislature.

20 Section 2. The Legislature finds that it is a public
21 necessity that these investigatory and examination records be
22 held confidential and exempt during an investigation in order
23 not to compromise the investigation and disseminate
24 potentially inaccurate information. To the extent this
25 information is made available to the public, those persons
26 being investigated will not have access to such information
27 which would potentially defeat the purpose of the
28 investigation. This would impede the effective and efficient
29 operation of investigatory governmental functions.

30 Additionally, the Legislature finds that it is a public
31 necessity that trade secrets or business or personal financial

1 records remain confidential and exempt after an investigation
2 is completed or ceases to be active because the disclosure of
3 such information would injure the affected party in the
4 marketplace. Further, information that would defame or cause
5 unwarranted damage to the name or reputation of an individual,
6 or jeopardize the safety of an individual, must remain
7 confidential and exempt after an investigation is completed or
8 ceases to be active to protect that individual's name or
9 reputation or personal safety. As well, information that would
10 jeopardize the integrity of another active investigation or
11 that would reveal investigative techniques or procedures must
12 remain confidential and exempt after an investigation is
13 completed or ceases to be active in order to permit the
14 effective and efficient operation of the program.

15 Section 3. This act shall take effect on the effective
16 date of Senate Bill 1406, or similar legislation, relating to
17 the powers of the Division of Workers' Compensation of the
18 Department of Labor and Employment Security.

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