

By the Committee on Financial Services and Representatives
Safley, Lippman, Cosgrove, Bainter, Flanagan, Lawson, Rayson,
Dennis, Ball, Tamargo and Wiles

1 A bill to be entitled
2 An act relating to workers' compensation
3 compliance; creating s. 205.0531, F.S.;
4 prohibiting local governments from issuing
5 occupational licenses under certain
6 circumstances; amending s. 440.02, F.S.;
7 providing definitions; amending s. 440.05,
8 F.S.; authorizing the Division of Workers'
9 Compensation of the Department of Labor and
10 Employment Security to revoke certifications of
11 election under certain circumstances; requiring
12 notice; directing the division to specify the
13 effective date and the expiration date of
14 certificates of election of exemption;
15 increasing the fee for a request for election;
16 providing for a renewal fee; requiring
17 notification of certain requirements; creating
18 s. 440.052, F.S.; requiring the division to
19 issue registration receipts to certain
20 independent contractors under certain
21 circumstances; providing requirements and
22 procedures for such receipts; authorizing the
23 division to assess a fee for independent
24 contractor registrations; amending s. 440.10,
25 F.S.; providing conditions under which a person
26 would be considered an independent contractor;
27 amending s. 440.103, F.S.; requiring employers
28 to present proof of compensation before
29 applying for a building permit; specifying
30 requirements for certificates of coverage;
31 amending s. 440.104, F.S.; clarifying certain

1 remedies available to losers of competitive
2 bidding; increasing recoverable damages;
3 amending s. 440.105, F.S.; specifying criteria
4 for commission of insurance fraud; providing
5 penalties; specifying time limitations on
6 certain proceedings for insurance fraud;
7 amending s. 440.107, F.S.; providing
8 legislative findings; authorizing the division
9 to issue certain orders for noncompliance;
10 requiring the division to assess a penalty for
11 noncompliance with workers' compensation
12 coverage requirements; authorizing the division
13 to conduct investigations; requiring employers
14 to keep records; authorizing the division to
15 administer oaths and issue subpoenas for
16 certain purposes; providing procedures;
17 providing for immunity from civil or criminal
18 liability under certain circumstances;
19 authorizing the division to enter and inspect
20 employer's places of employment under certain
21 circumstances; providing penalties for refusing
22 access or failing to comply with a subpoena;
23 amending s. 440.185, F.S.; specifying a notice
24 of injury to be a medical record; requiring
25 carriers to notify the division whether certain
26 policies are minimum premium policies; amending
27 s. 440.42, F.S.; authorizing workers'
28 compensation policies to require employers to
29 release certain employment and wage
30 information; providing limitations; amending s.
31 626.989, F.S.; requiring the Division of

1 Insurance Fraud of the Department of Insurance
2 and the Division of Workers' Compensation of
3 the Department of Labor and Employment Security
4 to periodically submit a joint performance
5 report to the Legislature; amending s. 627.413,
6 F.S.; specifying certain notice requirements
7 for minimum premium policies; authorizing the
8 department to impose a fine for noncompliance;
9 providing an effective date.

10

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

12

13 Section 1. Section 205.0531, Florida Statutes, is
14 created to read:

15 205.0531 Issuance of occupational license; compliance
16 with workers' compensation coverage requirements; nonpayment
17 of workers' compensation penalties.--A local government
18 authority shall not issue an occupational license to any
19 individual, business, or entity under this chapter, or renew
20 or transfer such license, unless the applicant provides proof
21 of workers' compensation coverage or proof that the applicant
22 has received a certificate of exemption from the coverage
23 requirements, proof that the applicant has received an
24 independent contractor registration receipt or, with respect
25 to applicants who are not required to secure coverage under
26 chapter 440 other than independent contractors which are
27 required to provide proof of a registration receipt, written
28 affirmation that the applicant is not required to secure
29 coverage under chapter 440 and does not owe any penalties for
30 noncompliance with workers' compensation coverage requirements
31 under s. 440.107. Any false statement made in connection with

1 the requirements of this section may subject the applicant to
2 prosecution under s. 440.105(4) or s. 837.06.

3 Section 2. Subsections (37), (38), and (39) are added
4 to section 440.02, Florida Statutes, to read:

5 440.02 Definitions.--When used in this chapter, unless
6 the context clearly requires otherwise, the following terms
7 shall have the following meanings:

8 (37) "Corporate officer" or "officer of the
9 corporation" means any person who fills an office provided for
10 in the corporate charter or articles of incorporation filed
11 with the Division of Corporations of the Department of State
12 or as permitted or required by chapter 607.

13 (38) "Partner" means any person who is a member of a
14 partnership which is formed by two or more persons to carry on
15 as coowners of a business with the understanding that there
16 will be a proportional sharing of the profits and losses
17 between such persons. For the purposes of this chapter, a
18 partner is a person who participates fully in the management
19 of the partnership and who is personally liable for its debts.

20 (39) "Sole proprietor" means a natural person who owns
21 a form of business in which that person owns all the assets of
22 the business and is solely liable for all the debts of the
23 business.

24 Section 3. Section 440.05, Florida Statutes, is
25 amended to read:

26 440.05 Election of exemption; revocation of election;
27 notice; certification.--

28 (1) Each corporate officer who elects not to accept
29 the provisions of this chapter or who, after electing such
30 exemption, revokes that exemption shall mail to the division
31

1 in Tallahassee notice to such effect in accordance with a form
2 to be prescribed by the division.

3 (2) Each sole proprietor or partner who elects to be
4 included in the definition of "employee" or who, after such
5 election, revokes that election must mail to the division in
6 Tallahassee notice to such effect, in accordance with a form
7 to be prescribed by the division.

8 (3) Each sole proprietor, partner, or officer of a
9 corporation who is actively engaged in the construction
10 industry and who elects an exemption from this chapter or who,
11 after electing such exemption, revokes that exemption, must
12 mail a written notice to such effect to the division on a form
13 prescribed by the division. The notice of election to be
14 exempt from the provisions of this chapter must be notarized
15 and under oath. The election must list the name, federal tax
16 identification number, social security number, and all
17 certified or registered licenses issued pursuant to chapter
18 489 held by the person seeking the exemption. The form must
19 identify each sole proprietorship, partnership, or corporation
20 that employs the person electing the exemption and must list
21 the social security number or federal tax identification
22 number of each such employer. In addition, the election form
23 must provide that the sole proprietor, partner, or officer
24 electing an exemption is not entitled to benefits under this
25 chapter, must provide that the election does not exceed
26 exemption limits for officers and partnerships provided in s.
27 440.02, and must certify that any employees of the sole
28 proprietor, partner, or officer electing an exemption are
29 covered by workers' compensation insurance. Upon receipt of
30 the notice of the election to be exempt and a determination
31 that the notice meets the requirements of this subsection, the

1 division shall issue a certification of the election to the
2 sole proprietor, partner, or officer. The division shall
3 revoke a certification of election when the division finds the
4 person no longer meets the requirements for exemption.The
5 certificate of election must list the names of the sole
6 proprietorship, partnership, or corporation listed in the
7 request for exemption. A new certificate of election must be
8 obtained each time the person is employed by a new sole
9 proprietorship, partnership, or corporation that is not listed
10 on the certificate of election. A copy of the certificate of
11 election must be sent to each workers' compensation carrier
12 identified in the request for exemption. ~~The certification of~~
13 ~~the election is valid until the sole proprietor, partner, or~~
14 ~~officer revokes her or his election.~~Upon filing a notice of
15 revocation of election, a sole proprietor, partner, or officer
16 who is a subcontractor must notify her or his contractor. Upon
17 revocation of a certificate of election of exemption by the
18 division, the division shall notify the workers' compensation
19 carriers and employers identified in the request for
20 exemption.

21 (4) A notice given under subsection (1), subsection
22 (2), or subsection (3) is not effective until the division
23 determines that the notice meets the requirements for
24 exemption or until 30 days after the date it is mailed to the
25 division in Tallahassee, whichever occurs first. However, if
26 an accident or occupational disease occurs less than 30 days
27 after the effective date of the insurance policy under which
28 the payment of compensation is secured or the date the
29 employer qualified as a self-insurer, such notice is effective
30 as of 12:01 a.m. of the day following the date it is mailed to
31 the division in Tallahassee.

1 (5) Certificates of election to be exempt and
2 certificates of election to be included as an employee in
3 effect on September 30, 1998, shall expire on the last day of
4 the certificateholder's birth month following September 30,
5 1998. Any person who holds a certificate of exemption or
6 inclusion as an employee that is in effect on September 30,
7 1998, and who desires to retain such status, must request a
8 new election of exemption or inclusion as an employee by the
9 last day of their birth month following September 30, 1998.

10 (6) Certificates of exemption and certificates of
11 inclusion issued pursuant to this section shall remain in
12 effect for 2 years after the date of issuance. The division
13 shall list both the effective date and the expiration date on
14 the face of the certificate. At least 60 days prior to the
15 expiration date of a certificate of exemption or a certificate
16 of inclusion issued after September 30, 1998, the division
17 shall send notice of the expiration date and an application
18 for renewal to the certificateholder at the address on the
19 certificate.

20 ~~(7)(5)~~ Any contractor responsible for compensation
21 under s. 440.10 may register in writing with the workers'
22 compensation carrier for any subcontractor and shall
23 thereafter be entitled to receive written notice from the
24 carrier of any cancellation or nonrenewal of the policy.

25 ~~(8)(6)~~ The division shall ~~may~~ assess a \$100 fee for,
26 ~~not to exceed \$50, with each exemption request and a \$50 fee~~
27 for each request to renew an exemption pursuant to subsection
28 ~~(1) and (3) for election or renewal of election under this~~
29 section. The division shall assess a \$50 fee for each request,
30 to be included in the definition of employee, or renewal of
31 such request, pursuant to subsection (2).The funds collected

1 by the division pursuant to this subsection shall be deposited
2 into the Workers' Compensation Trust Fund and shall be used
3 for the purposes set forth in s. 440.50, including monitoring
4 and enforcing compliance with the requirements of this
5 chapter, performing the specific responsibilities under this
6 section and s. 440.052, and verifying information provided on
7 applications for election or renewal of election of exemption,
8 registration of independent contractors under s. 440.052, and
9 notifications required under this section and under s.
10 440.052, to administer this section and auditing to audit the
11 businesses that pay the fee for compliance with any
12 requirements of this chapter.

13 (9) The division shall notify all persons holding a
14 certificate of election of exemption as of the effective date
15 of this act of the requirements of this section.

16 Section 4. Effective July 1, 1998, section 440.052,
17 Florida Statutes, is created to read:

18 440.052 Independent contractor registration;
19 eligibility; expiration and renewal; fees.--The division shall
20 issue an independent contractor registration receipt to any
21 person claiming independent contractor status and submitting
22 an affidavit declaring satisfaction of the requirements of s.
23 440.02(13)(d)1. in support of their claim and stating that
24 they knowingly forfeit the right to receive benefits or
25 compensation under this chapter. Any person receiving
26 independent contractor registration receipts shall notify the
27 division if there is a change in their status such that they
28 are no longer an independent contractor. Failure to notify
29 the division of the change in status could result in actions
30 specified in s. 440.107. Any person receiving an independent
31 contractor registration receipt under this section shall not

1 be relieved of their obligation to provide workers'
2 compensation coverage for their employees. The division shall
3 assess a \$100 fee for each initial independent contractor
4 registration receipt and a \$50 fee for each renewal of such
5 receipt. The fee for the initial independent contractor
6 registration receipt shall be \$75 if the affidavit is
7 submitted on or before August 1, 1998. Each independent
8 contractor registration receipt is current for 2 years after
9 the effective date, which shall be listed on the face of the
10 receipt along with the expiration date. At least 60 days
11 prior to the expiration date of an independent contractor
12 registration receipt, the division shall send notice of the
13 expiration date and an application for renewal to the
14 receptholder at the address listed on the receipt. The
15 department may revoke an independent contractor registration
16 receipt if the department determines that a person no longer
17 satisfies the requirements of s. 440.02(13)(d)1.

18 Section 5. Paragraph (g) of subsection (1) of section
19 440.10, Florida Statutes, is amended to read:

20 440.10 Liability for compensation.--

21 (1)

22 (g) For purposes of this section, a person is
23 conclusively presumed to be an independent contractor if:

24 1. The independent contractor provides the general
25 contractor with a current independent contractor registration
26 receipt issued by the division ~~an affidavit stating that he or~~
27 ~~she meets all the requirements of s. 440.02(13)(d); or and~~

28 2. The independent contractor provides the general
29 contractor with a valid certificate of workers' compensation
30 insurance ~~or a valid certificate of exemption issued by the~~
31 ~~division.~~

1
2 A sole proprietor, ~~independent contractor~~, partner, or officer
3 of a corporation who elects exemption from this chapter by
4 filing a certificate of election under s. 440.05, or an
5 independent contractor who provides a current independent
6 contractor registration receipt issued by the division, may
7 not recover benefits or compensation under this chapter.

8 Section 6. Section 440.103, Florida Statutes, is
9 amended to read:

10 440.103 Building permits; identification of minimum
11 premium policy.--Except as otherwise provided in this chapter,
12 every employer shall, as a condition to receiving a building
13 permit, show proof that it has secured compensation for its
14 employees under this chapter as provided in ss. 440.10 and
15 440.38. Such proof of compensation must be evidenced by a
16 certificate of coverage issued by the carrier, a valid
17 exemption certificate approved by the division, a current
18 independent contractor registration receipt issued by the
19 division, or a copy of the employer's authority to self-insure
20 and shall be presented each time the employer applies for a
21 building permit. As provided in s. 627.413(5), each
22 certificate of coverage must show, on its face, whether or not
23 coverage is secured under the minimum premium provisions of
24 rules adopted by rating organizations licensed by the
25 Department of Insurance ~~the National Council of Compensation~~
26 ~~insurers rules~~. The words "minimum premium policy" or
27 equivalent ~~similar~~ language shall ~~may~~ be typed, printed,
28 stamped, or legibly handwritten.

29 Section 7. Subsections (1), (2), and (3) of section
30 440.104, Florida Statutes, are amended to read:

31 440.104 Competitive bidder; civil actions.--

1 (1) Any person engaged in the construction industry,
2 as provided in s. 440.02(7), who loses a competitive bid for a
3 contract shall have a cause of ~~may bring an~~ action for damages
4 against the ~~another~~ person ~~who is~~ awarded the contract for
5 which the bid was made, if the person making the losing bid
6 establishes that the winning bidder knew or should have known
7 that he or she was in violation ~~knowingly violated the~~
8 ~~provisions~~ of s. 440.10, s. 440.105, or s. 440.38 while
9 performing the work under the contract.

10 (2) To recover in an action brought under this
11 section, a party must establish a violation of s. 440.10, s.
12 440.105, or s. 440.38 by a preponderance of the evidence.

13 (3) Upon establishing that the winning bidder knew or
14 should have known of the violation ~~occurred~~, the person shall
15 recover as liquidated damages 30 ~~10~~ percent of the total
16 amount bid on the contract by the person bringing the action,
17 or \$15,000 ~~\$5,000~~, whichever is greater.

18 Section 8. Subsections (4), (5), (6), and (7) of
19 section 440.105, Florida Statutes, are amended, and subsection
20 (9) is added to said said, to read:

21 440.105 Prohibited activities; penalties;
22 limitations.--

23 (4) Whoever violates any provision of this subsection
24 commits insurance fraud ~~a felony of the third degree~~,
25 punishable as provided in paragraph (f) ~~s. 775.082, s.~~
26 ~~775.083, or s. 775.084.~~

27 (a) It shall be unlawful for any employer to
28 knowingly:

29 1. Present or cause to be presented any false,
30 fraudulent, or misleading oral or written statement to any
31 person as evidence of compliance with s. 440.38.

1 2. Make a deduction from the pay of any employee
2 entitled to the benefits of this chapter for the purpose of
3 requiring the employee to pay any portion of premium paid by
4 the employer to a carrier or to contribute to a benefit fund
5 or department maintained by such employer for the purpose of
6 providing compensation or medical services and supplies as
7 required by this chapter.

8 3. Fail to secure payment of compensation if required
9 to do so by this chapter.

10 (b) It shall be unlawful for any person:

11 1. To knowingly make, or cause to be made, any false,
12 fraudulent, or misleading oral or written statement for the
13 purpose of obtaining or denying any benefit or payment under
14 this chapter.

15 2. To present or cause to be presented any written or
16 oral statement as part of, or in support of, a claim for
17 payment or ~~of~~ other benefit pursuant to any provision of this
18 chapter, knowing that such statement contains any false,
19 incomplete, or misleading information concerning any fact or
20 thing material to such claim.

21 3. To prepare or cause to be prepared any written or
22 oral statement that is intended to be presented to any
23 employer, insurance company, or self-insured program in
24 connection with, or in support of, any claim for payment or
25 other benefit pursuant to any provision of this chapter,
26 knowing that such statement contains any false, incomplete, or
27 misleading information concerning any fact or thing material
28 to such claim.

29 4. To knowingly assist, conspire with, or urge any
30 person to engage in activity prohibited by this section.

31

1 5. To knowingly make any false, fraudulent, or
2 misleading oral or written statement, or to knowingly omit or
3 conceal material information, required by s. 440.185 or s.
4 440.381, for the purpose of obtaining workers' compensation
5 coverage or for the purpose of avoiding, delaying, or
6 diminishing the amount of payment of any workers' compensation
7 premiums.

8 6. To knowingly misrepresent or conceal payroll,
9 classification of workers, or information regarding an
10 employer's loss history which would be material to the
11 computation and application of an experience rating
12 modification factor for the purpose of avoiding or diminishing
13 the amount of payment of any workers' compensation premiums.

14 7. To knowingly present or cause to be presented any
15 false, fraudulent, or misleading oral or written statement to
16 any person as evidence of compliance with s. 440.38, as
17 evidence of eligibility for a certificate of exemption under
18 s. 440.05 or as evidence of eligibility for an independent
19 contractor registration receipt under s. 440.052.

20 (c) It shall be unlawful for any physician licensed
21 under chapter 458, osteopathic physician licensed under
22 chapter 459, chiropractic physician licensed under chapter
23 460, podiatric physician licensed under chapter 461,
24 optometric physician licensed under chapter 463, or any other
25 practitioner licensed under the laws of this state to
26 knowingly and willfully assist, conspire with, or urge any
27 person to fraudulently violate any of the provisions of this
28 chapter.

29 (d) It shall be unlawful for any person or
30 governmental entity licensed under chapter 395 to maintain or
31 operate a hospital in such a manner so that such person or

1 governmental entity knowingly and willfully allows the use of
2 the facilities of such hospital by any person, in a scheme or
3 conspiracy to fraudulently violate any of the provisions of
4 this chapter.

5 (e) It shall be unlawful for any attorney or other
6 person, in his or her individual capacity or in his or her
7 capacity as a public or private employee, or any firm,
8 corporation, partnership, or association, to knowingly assist,
9 conspire with, or urge any person to fraudulently violate any
10 of the provisions of this chapter.

11 (f) If the amount of any claim or workers'
12 compensation insurance premium involved in any violation of
13 this subsection:

14 1. Is less than \$20,000, the offender commits a felony
15 of the third degree, punishable as provided in s. 775.082, s.
16 775.083, or s. 775.084.

17 2. Is \$20,000 or more, but less than \$100,000, the
18 offender commits a felony of the second degree, punishable as
19 provided in s. 775.082, s. 775.083, or s. 775.084.

20 3. Is \$100,000 or more, the offender commits a felony
21 of the first degree, punishable as provided in s. 775.082, s.
22 775.083, or s. 775.084.

23 (5) It shall be unlawful for any attorney or other
24 person, in his or her individual capacity or in his or her
25 capacity as a public or private employee or for any firm,
26 corporation, partnership, or association, to unlawfully
27 solicit any business in and about city or county hospitals,
28 courts, or any public institution or public place; in and
29 about private hospitals or sanitariums; in and about any
30 private institution; or upon private property of any character
31 whatsoever for the purpose of making workers' compensation

1 claims. Whoever violates any provision of this subsection
2 commits a felony of the third degree, punishable as provided
3 in s. 775.082, s. 775.083, or s. 775.085.

4 ~~(6)(5)~~ This section shall not be construed to preclude
5 the applicability of any other provision of criminal law that
6 applies or may apply to any transaction.

7 ~~(7)(6)~~ For the purpose of the section, the term
8 "statement" includes, but is not limited to, any notice,
9 representation, statement, proof of injury, bill for services,
10 diagnosis, prescription, hospital or doctor records, X ray,
11 test result, or other evidence of loss, injury, or expense.

12 ~~(8)(7)~~ All claim forms as provided for in this chapter
13 shall contain a notice that clearly states in substance the
14 following: "Any person who, knowingly and with intent to
15 injure, defraud, or deceive any employer or employee,
16 insurance company, or self-insured program, files a statement
17 of claim containing any false or misleading information
18 commits insurance fraud, punishable as provided in s. 817.234
19 is guilty of a felony of the third degree." Each claimant
20 shall personally sign the claim form and attest that he or she
21 has reviewed, understands, and acknowledges the foregoing
22 notice.

23 ~~(9)~~ Notwithstanding any other provision of law, a
24 proceeding under subsection (4) may be commenced at any time
25 within 5 years after the cause of action accrues, however, in
26 such proceeding, the period of limitation is tolled whenever
27 the defendant is continuously absent from this state or is
28 without a reasonably ascertainable place of residence or work
29 within this state, but not to extend such period of limitation
30 by more than 1 year. If a criminal prosecution, action, or
31 other proceeding is brought, or intervened in, to punish,

1 prevent, or restrain any violation of this section, the
2 running of the period of limitation prescribed by this
3 section, which is based on whole or in part upon any matter
4 complained of in any such prosecution, action, or proceeding,
5 shall be tolled during the pendency, and for 2 years following
6 the termination, of such prosecution, action, or proceeding.

7 Section 9. Subsections (1) and (3) of section 440.107,
8 Florida Statutes, are amended, subsection (7) is renumbered as
9 subsection (12), and new subsections (7), (8), (9), (10), and
10 (11) are added to said section, to read:

11 440.107 Division powers to enforce employer compliance
12 with coverage requirements.--

13 (1) The Legislature finds that the failure of an
14 employer to comply with the workers' compensation coverage
15 requirements under chapter 440 poses an immediate danger to
16 public health, safety, and welfare. The Legislature
17 authorizes the division to secure employer compliance with the
18 workers' compensation coverage requirements under chapter 440.
19 Whenever the division reasonably believes ~~determines~~ that an
20 employer is not in compliance with such workers' compensation
21 requirements, the division shall immediately issue to the
22 employer an order to show cause why the division should not
23 serve a stop-work order. The employer shall have 24 hours to
24 respond to the order to show cause and to provide evidence
25 satisfactory to the division that the employer has secured
26 compensation for its employees under this chapter as provided
27 in ss. 440.10 and 440.38. Such proof of compensation must be
28 evidenced by a certificate of coverage issued by the carrier,
29 a valid exemption certificate approved by the division, or a
30 copy of the employer's authority to self-insure. If the
31 division determines that an employer's response is

1 ~~unsatisfactory, who is required to secure the payment to his~~
2 ~~or her employees of the compensation provided for by this~~
3 ~~chapter has failed to do so, such failure shall be deemed an~~
4 ~~immediate serious danger to public health, safety, or welfare~~
5 ~~sufficient to justify service by the division shall~~
6 immediately issue of a stop-work order on the employer,
7 requiring the cessation of all business operations at the
8 place of employment or job site. The order shall take effect
9 upon the date of service upon the employer, unless the
10 employer provides evidence satisfactory to the division of
11 having secured any necessary insurance or self-insurance and
12 pays a civil penalty to the division, to be deposited by the
13 division into the Workers' Compensation Administration Trust
14 Fund, in the amount of \$100 per day for each day the employer
15 was not in compliance with this chapter.

16 (3) In addition to any penalty ~~or~~ stop-work order
17 imposed under subsection (1) ~~or~~ injunction obtained under
18 subsection (2), the division:

19 (a) May assess against any employer, found to be in
20 noncompliance with workers' compensation coverage requirements
21 ~~who has failed to secure the payment of compensation as~~
22 ~~required by this chapter~~, a penalty in the amount of:

23 1.(a) Twice the amount the employer would have paid
24 during periods of noncompliance with workers' compensation
25 coverage requirements it illegally failed to secure payment of
26 ~~compensation~~ in the preceding 3-year period based on the
27 employer's payroll during the preceding 3-year period; or

28 2.(b) One thousand dollars, whichever is greater.

29 (b) Shall assess the penalty provided in paragraph (a)
30 against any employer who as been served a stop-work order
31 pursuant to this section within the previous 2 years.

1
2 Any penalty assessed under this subsection is due within 30
3 days after the date on which the employer is notified, except
4 that, if the division has posted a stop-work order or obtained
5 injunctive relief against the employer, payment is due, in
6 addition to those conditions set forth in this section, as a
7 condition to relief from a stop-work order or an injunction.
8 Interest shall accrue on amounts not paid when due at the rate
9 of 1 percent per month.

10 (7) The division may conduct investigations for the
11 purpose of ensuring employer compliance with workers'
12 compensation coverage requirements.

13 (8) Each employer shall keep true and accurate work
14 records containing information necessary for the division to
15 determine compliance with workers' compensation coverage
16 requirements under chapter 440. Such work records shall be
17 open to inspection and shall be available for copying by the
18 division at any reasonable time and as often as may be
19 necessary. The division may require from any employer any
20 sworn or unsworn reports, pertaining to persons employed by
21 that employer, deemed necessary for the effective
22 administration of workers' compensation coverage requirements.

23 (9)(a) If the division has reason to believe that an
24 employer is not in compliance with workers' compensation
25 coverage requirements, the division, or any duly authorized
26 representative of the division, shall, for the limited purpose
27 of determining compliance with workers' compensation coverage
28 requirements, have the power to administer oaths and
29 affirmations and issue subpoenas to compel the attendance of
30 witnesses and the production of books, papers, correspondence,
31 memoranda, and other records deemed necessary as evidence

1 relevant to the determination of compliance with workers'
2 compensation coverage requirements.

3 (b) The division may request that any individual
4 refusing to comply with any subpoena be ordered by the circuit
5 court to provide the testimony or produce the material which
6 is the subject of the subpoena. The court shall not order
7 such compliance unless the division has demonstrated to the
8 satisfaction of the court that the testimony of the witness or
9 the production under request is relevant to the workers'
10 compensation coverage requirements or is pertinent and
11 necessary to further such investigation.

12 (c) Except in a prosecution for perjury, an individual
13 who complies with a court order to provide testimony or
14 produce relevant materials after asserting a privilege against
15 self-incrimination to which the individual is entitled by law
16 may not have the testimony or matter used against them in a
17 criminal or civil proceeding.

18 (10) If, by its own investigation, the division has
19 obtained evidence that an employer is not in compliance with
20 workers' compensation coverage requirements, the division or
21 an authorized representatives may enter and inspect that
22 employer's place of employment at any reasonable time for the
23 purpose of investigating compliance with workers' compensation
24 coverage requirements.

25 (11) Any employer or owner who without just cause
26 refuses to admit any authorized representative of the division
27 into any place of employment or to allow investigation and
28 inspection pursuant to this section commits a misdemeanor of
29 the second degree, punishable as provided in s. 775.082 or s.
30 775.083. Any person who without just cause fails or refuses
31 to attend and testify or to answer any lawful inquiry or to

1 produce books, papers, correspondence, memoranda, or other
2 records, if it is in her or his power to do so, in obedience
3 to a subpoena of the division, or a duly authorized
4 representative of such person fails to do so, commits a
5 misdemeanor of the second degree, punishable as provided in s.
6 775.082 or s. 775.083 and each day such violation continues is
7 a separate offense.

8 Section 10. Subsections (2) and (7) of section
9 440.185, Florida Statutes, are amended to read:

10 440.185 Notice of injury or death; reports; penalties
11 for violations.--

12 (2) Within 7 days after actual knowledge of injury or
13 death, the employer shall report such injury or death to its
14 carrier, in a format prescribed by the division, and shall
15 provide a copy of such report to the employee or the
16 employee's estate. The report of injury shall be deemed a
17 medical record for purposes of s. 440.125 and shall contain
18 the following information:

- 19 (a) The name, address, and business of the employer;
20 (b) The name, social security number, street, mailing
21 address, telephone number, and occupation of the employee;
22 (c) The cause and nature of the injury or death;
23 (d) The year, month, day, and hour when, and the
24 particular locality where, the injury or death occurred; and
25 (e) Such other information as the division may
26 require.

27
28 The carrier shall, within 14 days after the employer's receipt
29 of the form reporting the injury, file the information
30 required by this subsection with the division in Tallahassee.
31 However, the division may by rule provide for a different

1 reporting system for those types of injuries which it
2 determines should be reported in a different manner and for
3 those cases which involve minor injuries requiring
4 professional medical attention in which the employee does not
5 lose more than 7 days of work as a result of the injury and is
6 able to return to the job immediately after treatment and
7 resume regular work.

8 (7) Every carrier shall file with the division within
9 21 days after the issuance of a policy or contract of
10 insurance such policy information as the division may require,
11 including notice of whether the policy is a minimum premium
12 policy. Notice of cancellation or expiration of a policy as
13 set out in s. 440.42(2) shall be mailed to the division in
14 accordance with rules promulgated by the division under
15 chapter 120.

16 Section 11. Subsections (2) and (3) of section 440.42,
17 Florida Statutes, are renumbered as subsections (3) and (4),
18 respectively, and new subsection (2) is added to said section,
19 to read:

20 440.42 Insurance policies; liability.--

21 (2) A workers' compensation insurance policy may
22 require the employer to release certain employment and wage
23 information maintained by the state pursuant to federal and
24 state unemployment compensation laws except to the extent
25 prohibited or limited under federal law. By entering into a
26 workers' compensation insurance policy with such a provision,
27 the employer consents to the release of the information. The
28 insurance carrier requiring such consent shall safeguard the
29 information and maintain its confidentiality. The carrier
30 shall limit use of the information to verifying compliance
31 with the terms of the workers' compensation insurance policy.

1 The department may charge a fee to cover the cost of
2 disclosing the information.

3 Section 12. Subsection (9) is added to section
4 626.989, Florida Statutes, to read:

5 626.989 Division of Insurance Fraud; definition;
6 investigative, subpoena powers; protection from civil
7 liability; reports to division; division investigator's power
8 to execute warrants and make arrests.--

9 (9) In recognition of the complementary roles of
10 investigating instances of workers' compensation fraud and
11 enforcing compliance with the workers' compensation coverage
12 requirements under chapter 440, the Division of Insurance
13 Fraud of the Department of Insurance and the Division of
14 Workers' Compensation of the Department of Labor and
15 Employment Security are directed to prepare and submit a joint
16 performance report to the President of the Senate and the
17 Speaker of the House of Representatives by November 1 of each
18 year for each of the next 2 years, and then every 3 years
19 thereafter, describing the results obtained in achieving
20 compliance with the workers' compensation coverage
21 requirements and reducing the incidence of workers'
22 compensation fraud.

23 Section 13. Subsection (5) is added to section
24 627.413, Florida Statutes, to read:

25 627.413 Contents of policies, in general;
26 identification.--

27 (5) Any policy that is a minimum premium policy issued
28 by an insurer pursuant to the minimum premium provisions of
29 rules adopted by rating organizations licensed by the
30 Department of Insurance, shall have typed, printed, stamped,
31 or legibly handwritten on the certificate the words "minimum

1 premium policy" or equivalent language. The department may
2 impose an administrative fine pursuant to s. 624.4211 if the
3 department finds any violation of this subsection.

4 Section 14. Except as otherwise provided herein, this
5 act shall take effect October 1 of the year in which enacted.

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7 *****

8 HOUSE SUMMARY

9
10 Revises provisions of chapters 440 and 627, Florida
11 Statutes, to ensure compliance with workers' compensation
insurance requirements and combat workers' compensation
insurance fraud. See bill for details.

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