

By Senator Clary

7-1285-00

1 A bill to be entitled
2 An act relating to occupational safety and
3 health; amending ss. 442.003, 442.014, 442.023,
4 442.20, 252.937, 627.9015, F.S.; replacing
5 references to the Division of Safety of the
6 Department of Labor and Employment Security
7 with references to the Division of Workers'
8 Compensation of that department; transferring
9 powers, duties, functions, and assets of the
10 Division of Safety to the Division of Workers'
11 Compensation; repealing s. 14, ch. 99-240, Laws
12 of Florida; abrogating the repeal of ch. 442,
13 F.S.; providing an effective date.

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

16
17 Section 1. Section 442.003, Florida Statutes, is
18 amended to read:

19 442.003 Legislative intent.--It is the intent of the
20 Legislature to enhance occupational safety and health in this
21 state through the implementation and maintenance of policies,
22 procedures, practices, rules, and standards that reduce the
23 incidence of employee accidents, occupational diseases, and
24 fatalities compensable under chapter 440. The Legislature
25 further intends that the Division of Workers' Compensation
26 ~~Safety~~ of the Department of Labor and Employment Security
27 develop a means by which it can identify individual employers
28 with a high frequency or severity of work-related injuries;
29 conduct safety inspections of those employers; and assist
30 those employers in the development and implementation of
31 employee safety and health programs. In addition, it is the

1 intent of the Legislature that the Division of Workers'
2 Compensation Safety of the Department of Labor and Employment
3 Security administer the provisions of this chapter; provide
4 assistance to employers, employees, and insurance carriers;
5 and enforce the policies, rules, and standards set forth in
6 this chapter.

7 Section 2. Section 442.014, Florida Statutes, is
8 amended to read:

9 442.014 Division cooperation with Federal Government;
10 exemption from Division of Workers' Compensation Safety
11 requirements.--

12 (1) The division shall cooperate with the Federal
13 Government so that duplicate inspections will be avoided yet
14 assure safe places of employment for the citizens of this
15 state.

16 (2) Except as provided in this section, a private
17 sector employer is not subject to the requirements of the
18 Division of Workers' Compensation Safety if:

19 (a) The employer is subject to the federal regulations
20 in 29 C.F.R. ss. 1910 and 1926; ~~and~~

21 (b) The employer has adopted and implemented a written
22 safety program that conforms to the requirements of 29 C.F.R.
23 ss. 1910 and 1926; ~~and~~

24 (c) An employer with 20 or more full-time employees
25 shall include provisions for a safety committee in the safety
26 program. The safety committee must include employee
27 representation and must meet at least once each calendar
28 quarter. The employer must make adequate records of each
29 meeting and maintain the records subject to inspections under
30 subsection (3). The safety committee shall, if appropriate,
31 make recommendations regarding improvements to the safety

1 program and corrections of hazards affecting workplace safety;
2 and

3 (d) The employer provides the Division of Workers'
4 Compensation Safety with a written statement that certifies
5 compliance with this subsection.

6 (3) The Division of Workers' Compensation Safety may
7 enter at any reasonable time any place of employment for the
8 purposes of verifying the accuracy of the written
9 certification. If the Division of Workers' Compensation Safety
10 determines that the employer has not complied with the
11 requirements of subsection (2), the employer shall be subject
12 to the rules of the Division of Workers' Compensation Safety
13 until the employer complies with subsection (2) and
14 recertifies that fact to the Division of Workers' Compensation
15 Safety.

16 (4) This section shall not restrict the Division of
17 Workers' Compensation Safety from performing any duties
18 pursuant to a written contract between the Division of
19 Workers' Compensation Safety and the Federal Occupational
20 Safety and Health Administration (OSHA).

21 Section 3. Section 442.023, Florida Statutes, is
22 amended to read:

23 442.023 Matters within jurisdiction of the division ~~of~~
24 ~~Safety~~; false, fictitious, or fraudulent acts, statements, and
25 representations prohibited; penalty; statute of
26 limitations.--A person may not, in any matter within the
27 jurisdiction of the Division of Workers' Compensation Safety
28 of the Department of Labor and Employment Security, knowingly
29 and willfully falsify or conceal a material fact; make any
30 false, fictitious, or fraudulent statement or representation;
31 or make or use any false document, knowing the same to contain

1 any false, fictitious, or fraudulent statement or entry. A
2 person who violates this section commits a misdemeanor of the
3 second degree, punishable as provided in s. 775.082 or s.
4 775.083. The statute of limitations for prosecution of an act
5 committed in violation of this section is 5 years after the
6 date the act was committed.

7 Section 4. Section 442.20, Florida Statutes, is
8 amended to read:

9 442.20 Workplace safety.--

10 (1) The Division of Workers' Compensation Safety
11 within the Department of Labor and Employment Security shall
12 assist in making the workplace a safer place to work and
13 decreasing the frequency and severity of on-the-job injuries.

14 (2) The Division of Workers' Compensation Safety shall
15 have the authority to adopt rules for the purpose of assuring
16 safe working conditions for all workers by authorizing the
17 enforcement of effective standards, assisting and encouraging
18 employers to maintain safe working conditions, and by
19 providing for education and training in the field of safety.
20 For public sector employers, the division may by rule adopt
21 subparts C through T and subpart Z of 29 C.F.R. part 1910;
22 subparts C through Z of 29 C.F.R. part 1926; subparts A
23 through D, subpart I, and subpart M of 29 C.F.R. part 1928;
24 subparts A through G of 29 C.F.R. part 1917; subparts A
25 through L and subpart Z of 29 C.F.R. part 1915; subparts A
26 through J of 29 C.F.R. part 1918, as revised July 1, 1993,
27 provided that 29 C.F.R. s. 1910.156 applies to volunteer
28 firefighters and fire departments operated by the state or
29 political subdivisions; the National Fire Protection
30 Association, Inc., Standard 1500, paragraph 5-7 (Personal
31 Alert Safety System) (1992 edition); and ANSI A 10.4-1990.

1 (3) The provisions of chapter 440 which pertain to
2 workplace safety shall be applicable to the Division of
3 Workers' Compensation ~~Safety~~.

4 (4) The administrative rules of the Department of
5 Labor and Employment Security pertaining to the function of
6 the Bureau of Industrial Safety and Health which are in effect
7 immediately before July 1, 1990, continue in effect as rules
8 of the Division of Workers' Compensation ~~Safety~~ until
9 specifically amended by the Department of Labor and Employment
10 Security.

11 (5) All references to the Assistant Secretary of the
12 Occupational Safety and Health Administration and to the
13 Director of the National Institute for Occupational Safety and
14 Health and their authorized representatives in the adopted
15 federal Occupational Safety and Health Administration
16 standards shall, for purposes of this section, mean the
17 Director of the Division of Workers' Compensation ~~Safety~~ of
18 the Department of Labor and Employment Security or his or her
19 authorized representatives.

20 Section 5. Subsection (2) of section 252.937, Florida
21 Statutes, is amended to read:

22 252.937 Department powers and duties.--

23 (2) To ensure that this program is self-supporting,
24 the department shall provide administrative support, including
25 staff, facilities, materials, and services to implement this
26 part for specified stationary sources subject to s. 252.939
27 and shall provide necessary funding to local emergency
28 planning committees and county emergency management agencies
29 for work performed to implement this part. Each state agency
30 with regulatory, inspection, or technical assistance programs
31 for specified stationary sources subject to this part shall

1 enter into a memorandum of understanding with the department
2 which specifically outlines how each agency's staff,
3 facilities, materials, and services will be utilized to
4 support implementation. At a minimum, these agencies and
5 programs include: the Department of Environmental
6 Protection's Division of Air Resources Management and Division
7 of Water Resource Management, and the Department of Labor and
8 Employment Security's Division of Workers' Compensation
9 ~~Safety~~. It is the Legislature's intent to implement this part
10 as efficiently and economically as possible, using existing
11 expertise and resources, if available and appropriate.

12 Section 6. Section 627.9015, Florida Statutes, is
13 amended to read:

14 627.0915 Rate filings; workers' compensation,
15 drug-free workplace, and safe employers.--The Department of
16 Insurance shall approve rating plans for workers' compensation
17 insurance that give specific identifiable consideration in the
18 setting of rates to employers that either implement a
19 drug-free workplace program pursuant to rules adopted by the
20 Division of Workers' Compensation of the Department of Labor
21 and Employment Security or implement a safety program approved
22 by the Division of Workers' Compensation ~~Safety~~ pursuant to
23 rules adopted by the division of ~~Safety of the Department of~~
24 ~~Labor and Employment Security~~ or implement both a drug-free
25 workplace program and a safety program. The Division of
26 Workers' Compensation ~~Safety~~ may by rule require that the
27 client of a help supply services company comply with the
28 essential requirements of a workplace safety program as a
29 condition for receiving a premium credit. The plans must take
30 effect January 1, 1994, must be actuarially sound, and must
31

1 state the savings anticipated to result from such drug-testing
2 and safety programs.

3 Section 7. All powers, duties, functions, rules,
4 records, personnel, property, and unexpended balances of
5 appropriations, allocations, or other funds of the Division of
6 Safety of the Department of Labor and Employment Security are
7 transferred by a type two transfer, as defined in section
8 20.62(2), Florida Statutes, from that division to the Division
9 of Workers' Compensation within the Department of Labor and
10 Employment Security. The Division of Workers' Compensation
11 shall create a Bureau of Safety within its administrative
12 organization to assume the powers, duties, and functions
13 formerly allocated to the Division of Safety.

14 Section 8. Section 14 of chapter 99-240, Laws of
15 Florida, is repealed, and the repeal of chapter 442, Florida
16 Statutes, by that section is abrogated.

17 Section 9. This act shall take effect upon becoming a
18 law.

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21 SENATE SUMMARY

22 Abrogates the repeal of chapter 442, Florida Statutes,
23 relating to occupational health and safety and transfers
24 the duties of the Division of Safety of the Department of
Labor and Employment Security to that department's
Division of Workers' Compensation.