

Bill No. CS for SB 1188

Amendment No. Barcode 555746

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Silver moved the following amendment to amendment (311216):

Senate Amendment (with title amendment)

On page 18, between lines 25 and 26,

insert:

Section 8. Subsection (1) of section 440.11, Florida Statutes, is amended to read:

440.11 Exclusiveness of liability.--

(1) The liability of an employer prescribed in s. 440.10 shall be exclusive and in place of all other liability of such employer to any third-party tortfeasor and to the employee, the legal representative thereof, husband or wife, parents, dependents, next of kin, and anyone otherwise entitled to recover damages from such employer at law or in admiralty on account of such injury or death, except that if an employer fails to secure payment of compensation as required by this chapter, an injured employee, or the legal representative thereof in case death results from the injury, may elect to claim compensation under this chapter or to

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1 maintain an action at law or in admiralty for damages on
2 account of such injury or death. In such action the defendant
3 may not plead as a defense that the injury was caused by
4 negligence of a fellow employee, that the employee assumed the
5 risk of the employment, or that the injury was due to the
6 comparative negligence of the employee. The same immunities
7 from liability enjoyed by an employer shall extend as well to
8 each employee of the employer when such employee is acting in
9 furtherance of the employer's business and the injured
10 employee is entitled to receive benefits under this chapter.
11 Such fellow-employee immunities shall not be applicable to an
12 employee who acts, with respect to a fellow employee, with
13 willful and wanton disregard or unprovoked physical aggression
14 or with gross negligence when such acts result in injury or
15 death or such acts proximately cause such injury or death;
16 ~~nor shall such immunities be applicable to employees of the~~
17 ~~same employer when each is operating in the furtherance of the~~
18 ~~employer's business but they are assigned primarily to~~
19 ~~unrelated works within private or public employment.~~ The same
20 immunity provisions enjoyed by an employer shall also apply to
21 any sole proprietor, partner, corporate officer or director,
22 supervisor, or other person who in the course and scope of his
23 or her duties acts in a managerial or policymaking capacity
24 and the conduct which caused the alleged injury arose within
25 the course and scope of said managerial or policymaking duties
26 and was not a violation of a law, whether or not a violation
27 was charged, for which the maximum penalty which may be
28 imposed does not exceed 60 days' imprisonment as set forth in
29 s. 775.082. The immunity from liability provided in this
30 subsection extends to county governments with respect to
31 employees of county constitutional officers whose offices are

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1 funded by the board of county commissioners.

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3 (Redesignate subsequent sections.)

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6 ===== T I T L E A M E N D M E N T =====

7 And the title is amended as follows:

8 On page 62, line 24, after the semicolon

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10 insert:

11 amending s. 440.11, F.S.; relating to

12 application of immunity to employees engaged in

13 unrelated works;

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