

By the Committee on Banking and Insurance; and Senator Smith

311-369-02

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A bill to be entitled  
An act relating to workers' compensation;  
amending s. 440.091, F.S.; specifying  
circumstances under which firefighters are  
considered to be acting within the scope of  
their employment so as to qualify for workers'  
compensation benefits; providing a declaration  
of important state interest; providing an  
effective date.

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

Section 1. Section 440.091, Florida Statutes, is  
amended to read:

440.091 Law enforcement officer or firefighter; when  
acting within the course of employment.--

(1) If an employee:

(a)~~(1)~~ Is elected, appointed, or employed full time by  
a municipality, the state, or any political subdivision and is  
vested with authority to bear arms and make arrests and the  
employee's primary responsibility is the prevention or  
detection of crime or the enforcement of the penal, criminal,  
traffic, or highway laws of the state;

(b)~~(2)~~ Was discharging that primary responsibility  
within the state in a place and under circumstances reasonably  
consistent with that primary responsibility; and

(c)~~(3)~~ Was not engaged in services for which he or she  
was paid by a private employer, and the employee and his or  
her public employer had no agreement providing for workers'  
compensation coverage for that private employment;

1 the employee is considered ~~shall be deemed~~ to have been acting  
2 within the course of employment. The term "employee" as used  
3 in this subsection ~~section~~ includes all certified supervisory  
4 and command personnel whose duties include, in whole or in  
5 part, responsibilities for the supervision, training,  
6 guidance, and management of full-time law enforcement  
7 officers, part-time law enforcement officers, or auxiliary law  
8 enforcement officers but does not include support personnel  
9 employed by the employing agency.

10 (2) If a firefighter as defined by s. 112.191(1)(b) is  
11 engaged in extinguishing a fire, or protecting and saving life  
12 or property due to a fire in this state in an emergency, and  
13 such activities would be considered to be within the course of  
14 his or her employment as a firefighter and covered by the  
15 employer's workers' compensation coverage except for the fact  
16 that the firefighter was off duty or that the location of the  
17 fire was outside the employer's jurisdiction or area of  
18 responsibility, such activities are considered to be within  
19 the course of employment. This subsection does not apply if  
20 the firefighter is performing activities for which he or she  
21 is paid by another employer or contractor.

22 Section 2. It is declared by the Legislature that  
23 firefighters perform state and municipal functions, that it is  
24 their duty to protect life and property at their own risk and  
25 peril, and that their activities are vital to the public  
26 safety. Therefore, the Legislature declares that it fulfills  
27 an important state interest to provide workers' compensation  
28 coverage to firefighters while engaged in extinguishing a  
29 fire, or protecting and saving life or property due to a fire  
30 in this state while off duty or engaging in such activities at  
31 a fire located outside the employer's jurisdiction or area of

1 responsibility. Pursuant to Section 18, Article VII of the  
2 State Constitution, the Legislature determines and declares  
3 that the provisions of this act fulfill an important state  
4 interest.

5 Section 3. This act shall take effect July 1, 2002.

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7 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
8 COMMITTEE SUBSTITUTE FOR  
9 Senate Bill 108

10 The committee substitute revises the definition of the term  
11 "firefighter," to include a noncertified firefighter, thereby  
12 increasing the total number of firefighters which would be  
13 covered by workers' compensation in the event a firefighter  
14 was engaged in firefighting within Florida, but outside of the  
15 employer's jurisdiction or off-duty, and not engaged in  
16 services by a private employer.

17 The committee substitute also provides that the bill fulfills  
18 an important state interest.  
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