

Amendment No. ____ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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The Committee on State Administration offered the following:

Amendment (with title amendment)

On page 4, line 22 through page 20, line 30,
remove from the bill: all of said lines,

and insert in lieu thereof:

633.805 Division to make study of firefighter occupational diseases.--The division shall make a continuous study of firefighter occupational diseases and the ways and means for their control and prevention and shall adopt rules necessary for such control and prevention. For this purpose, the division is authorized to cooperate with firefighter employers, firefighter employees, and insurers and with the Department of Health.

633.806 Investigations by the division; refusal to admit; penalty.--

(1) The division shall make studies and investigations with respect to safety provisions and the causes of firefighter injuries in firefighter places of employment and shall make such recommendations to the Legislature and

Amendment No. ____ (for drafter's use only)

1 firefighter employers and insurers as the division considers
2 proper as to the best means of preventing firefighter
3 injuries. In making such studies and investigations, the
4 division may cooperate with any agency of the United States
5 charged with the duty of enforcing any law securing safety
6 against injury in any place of firefighter employment covered
7 by ss. 633.801-633.821 or any agency or department of the
8 state engaged in enforcing any law to ensure safety for
9 firefighter employees.

10 (2) The division by rule may adopt procedures for
11 conducting investigations of firefighter employers under ss.
12 633.801-633.821.

13 633.807 Safety; firefighter employer
14 responsibilities.--Every firefighter employer shall furnish
15 and use safety devices and safeguards, adopt and use methods
16 and processes reasonably adequate to render such an employment
17 and place of employment safe, and do every other thing
18 reasonably necessary to protect the lives, health, and safety
19 of such firefighter employees. As used in this section, the
20 terms "safe" and "safety" as applied to any employment or
21 place of firefighter employment mean such freedom from danger
22 as is reasonably necessary for the protection of the lives,
23 health, and safety of firefighter employees, including
24 conditions and methods of sanitation and hygiene. Safety
25 devices and safeguards required to be furnished by the
26 firefighter employer by this section or by the division under
27 authority of this section shall not include personal apparel
28 and protective devices that replace personal apparel normally
29 worn by firefighter employees during regular working hours.

30 633.808 Division authority.--The division shall:

31 (1) Investigate and prescribe by rule what safety

Amendment No. ____ (for drafter's use only)

1 devices, safeguards, or other means of protection must be
2 adopted for the prevention of accidents in every firefighter
3 place of employment or at any fire scene; determine what
4 suitable devices, safeguards, or other means of protection for
5 the prevention of occupational diseases must be adopted or
6 followed in any or all such firefighter places of employment
7 or at any fire scene; and adopt reasonable rules for the
8 prevention of accidents, the safety, protection, and security
9 of firefighters engaged in interior firefighting, and the
10 prevention of occupational diseases.

11 (2) Ascertain, fix, and order such reasonable
12 standards and rules for the construction, repair, and
13 maintenance of firefighter places of employment as shall
14 render them safe. Such rules and standards shall be adopted
15 in accordance with chapter 120.

16 (3) Assist firefighter employers in the development
17 and implementation of firefighter employee safety training
18 programs by contracting with professional safety
19 organizations.

20 (4) Adopt rules prescribing recordkeeping
21 responsibilities for firefighter employers, which may include
22 maintaining a log and summary of occupational injuries,
23 diseases, and illnesses, for producing on request a notice of
24 injury and firefighter employee accident investigation
25 records, and prescribing a retention schedule for such
26 records.

27 633.809 Firefighter employers whose firefighter
28 employees have a high frequency of work-related injuries.--The
29 division shall develop a means by which the division may
30 identify individual firefighter employers whose firefighter
31 employees have a high frequency or severity of work-related

Amendment No. ____ (for drafter's use only)

1 injuries. The division shall carry out safety inspections of
2 the facilities and operations of those firefighter employers
3 in order to assist them in reducing the frequency and severity
4 of work-related injuries. The division shall develop safety
5 and health programs for those firefighter employers. Insurers
6 shall distribute such safety and health programs to the
7 firefighter employers so identified by the division. Those
8 firefighter employers identified by the division as having a
9 high frequency or severity of work-related injuries shall
10 implement a safety and health program developed by the
11 division. The division shall carry out safety inspections of
12 those firefighter employers so identified to ensure compliance
13 with the safety and health program and to assist such
14 firefighter employers in reducing the number of work-related
15 injuries. The division may not assess penalties as the result
16 of such inspections, except as provided by s. 633.813. Copies
17 of any report made as the result of such an inspection shall
18 be provided to the firefighter employer and its insurer.
19 Firefighter employers may submit their own safety and health
20 programs to the division for approval in lieu of using the
21 safety and health program developed by the division. The
22 division shall promptly review the program submitted and
23 approve or disapprove the program within 60 days or such
24 program shall be deemed approved. Upon approval by the
25 division, the program shall be implemented by the firefighter
26 employer. If the program is not approved or if a program is
27 not submitted, the firefighter employer shall implement the
28 program developed by the division. The division shall adopt
29 rules setting forth the criteria for safety and health
30 programs, as such rules relate to this section.

31 633.810 Workplace safety committees and safety

Amendment No. ____ (for drafter's use only)

1 coordinators.--

2 (1) In order to promote health and safety in places of
3 firefighter employment in this state:

4 (a) Each firefighter employer of 20 or more
5 firefighter employees shall establish and administer a
6 workplace safety committee in accordance with rules adopted
7 under this section.

8 (b) Each firefighter employer of fewer than 20
9 firefighter employees identified by the division as having
10 high frequency or severity of work-related injuries shall
11 establish and administer a workplace safety committee or
12 designate a workplace safety coordinator who shall establish
13 and administer workplace safety activities in accordance with
14 rules adopted under this section.

15 (2) The division shall adopt rules:

16 (a) Prescribing the membership of the workplace safety
17 committees so as to ensure an equal number of firefighter
18 employee representatives, who are volunteers or are elected by
19 their peers, and of firefighter employer representatives, and
20 specifying the frequency of meetings.

21 (b) Requiring firefighter employers to make adequate
22 records of each meeting and to file and to maintain the
23 records subject to inspection by the division.

24 (c) Prescribing the duties and functions of the
25 workplace safety committee and workplace safety coordinator,
26 which include, but are not limited to:

27 1. Establishing procedures for workplace safety
28 inspections by the committee.

29 2. Establishing procedures for investigating all
30 workplace accidents, safety-related incidents, illnesses, and
31 deaths.

Amendment No. ____ (for drafter's use only)

1 3. Evaluating accident prevention and illness
2 prevention programs.

3 4. Prescribing guidelines for the training of safety
4 committee members.

5 (3) The composition, selection, and function of
6 workplace safety committees shall be a mandatory topic of
7 negotiations with any certified collective bargaining agent
8 for firefighter employers that operate under a collective
9 bargaining agreement. Firefighter employers that operate
10 under a collective bargaining agreement that contains
11 provisions regulating the formation and operation of workplace
12 safety committees that meet or exceed the minimum requirements
13 contained in this section, or firefighter employers who
14 otherwise have existing workplace safety committees that meet
15 or exceed the minimum requirements established by this
16 section, are in compliance with this section.

17 (4) Firefighter employees shall be compensated their
18 regular hourly wage while engaged in workplace safety
19 committee or workplace safety coordinator training, meetings,
20 or other duties prescribed under this section.

21 633.811 Firefighter employer penalties.--If any
22 firefighter employer violates or fails or refuses to comply
23 with ss. 633.801-633.821, or with any rule adopted by the
24 division under such sections in accordance with chapter 120
25 for the prevention of injuries, accidents, or occupational
26 diseases or with any lawful order of the division in
27 connection with ss. 633.801-633.821, or fails or refuses to
28 furnish or adopt any safety device, safeguard, or other means
29 of protection prescribed by division rule under ss.
30 633.801-633.821 for the prevention of accidents or
31 occupational diseases, the division may assess against the

Amendment No. ____ (for drafter's use only)

1 firefighter employer a civil penalty of not less than \$100 nor
2 more than \$5,000 for each day the violation, omission,
3 failure, or refusal continues after the firefighter employer
4 has been given written notice of such violation, omission,
5 failure, or refusal. The total penalty for each violation may
6 not exceed \$50,000. The division shall adopt rules requiring
7 penalties commensurate with the frequency or severity of
8 safety violations. A hearing shall be held in the county in
9 which the violation, omission, failure, or refusal is alleged
10 to have occurred, unless otherwise agreed to by the
11 firefighter employer and authorized by the division. All
12 penalties assessed and collected under this section shall be
13 deposited in the Insurance Commissioner's Regulatory Trust
14 Fund.

15 633.812 Division cooperation with Federal Government;
16 exemption from requirements for private firefighter
17 employers.--

18 (1) The division shall cooperate with the Federal
19 Government so that duplicate inspections will be avoided while
20 at the same time ensuring safe places of firefighter
21 employment for the citizens of this state.

22 (2) Except as provided in this section, a private
23 firefighter employer is not subject to the requirements of the
24 division if:

25 (a) The private firefighter employer is subject to the
26 federal regulations in 29 C.F.R. ss. 1910 and 1926;

27 (b) The private firefighter employer has adopted and
28 implemented a written safety program that conforms to the
29 requirements of 29 C.F.R. ss. 1910 and 1926;

30 (c) A private firefighter employer with 20 or more
31 full-time firefighter employees shall include provisions for a

Amendment No. ____ (for drafter's use only)

1 safety committee in the safety program. The safety committee
2 shall include firefighter employee representation and shall
3 meet at least once each calendar quarter. The private
4 firefighter employer shall make adequate records of each
5 meeting and maintain the records subject to inspections under
6 subsection (3). The safety committee shall, if appropriate,
7 make recommendations regarding improvements to the safety
8 program and corrections of hazards affecting workplace safety;
9 and

10 (d) The private firefighter employer provides the
11 division with a written statement that certifies compliance
12 with this subsection.

13 (3) The division may enter at any reasonable time any
14 place of private firefighter employment for the purpose of
15 verifying the accuracy of the written certification. If the
16 division determines that the private firefighter employer has
17 not complied with the requirements of subsection (2), the
18 private firefighter employer shall be subject to the rules of
19 the division until the private firefighter employer complies
20 with subsection (2) and recertifies that fact to the division.

21 (4) This section shall not restrict the division's
22 performance of any duties pursuant to a written contract
23 between the division and the federal Occupational Safety and
24 Health Administration.

25 633.813 Failure to implement a safety and health
26 program; cancellations.--If a firefighter employer that is
27 found by the division to have a high frequency or severity of
28 work-related injuries fails to implement a safety and health
29 program, the insurer or self-insurer's fund that is providing
30 coverage for the firefighter employer may cancel the contract
31 for insurance with the firefighter employer. In the

Amendment No. ____ (for drafter's use only)

1 alternative, the insurer or fund may terminate any discount or
2 deviation granted to the firefighter employer for the
3 remainder of the term of the policy. If the contract is
4 canceled or the discount or deviation is terminated, the
5 insurer shall make such reports as are required by law.

6 633.814 Expenses of administration.--The amounts that
7 are needed to administer ss. 633.801-633.821 shall be
8 disbursed from the Insurance Commissioner's Regulatory Trust
9 Fund.

10 633.815 Refusal to admit; penalty.--The division and
11 authorized representatives of the division may enter and
12 inspect any place of firefighter employment at any reasonable
13 time for the purpose of investigating compliance with ss.
14 633.801-633.821 and conducting inspections for the proper
15 enforcement of ss. 633.801-633.821. A firefighter employer
16 who refuses to admit any member of the division or authorized
17 representative of the division to any place of employment or
18 to allow investigation and inspection pursuant to this section
19 commits a misdemeanor of the second degree, punishable as
20 provided in s. 775.082 or s. 775.083.

21 633.816 Firefighter employee rights and
22 responsibilities.--

23 (1) Each firefighter employee of a firefighter
24 employer covered under ss. 633.801-633.821 shall comply with
25 rules adopted by the division and with reasonable workplace
26 safety and health standards, rules, policies, procedures, and
27 work practices established by the firefighter employer and the
28 workplace safety committee. A firefighter employee who
29 knowingly fails to comply with this subsection may be
30 disciplined or discharged by the firefighter employer.

31 (2) A firefighter employer may not discharge, threaten

Amendment No. ____ (for drafter's use only)

1 to discharge, cause to be discharged, intimidate, coerce,
2 otherwise discipline, or in any manner discriminate against a
3 firefighter employee for any of the following reasons:

4 (a) The firefighter employee has testified or is about
5 to testify, on her or his own behalf, or on behalf of others,
6 in any proceeding instituted under ss. 633.801-633.821;

7 (b) The firefighter employee has exercised any other
8 right afforded under ss. 633.801-633.821; or

9 (c) The firefighter employee is engaged in activities
10 relating to the workplace safety committee.

11 (3) No pay, position, seniority, or other benefit may
12 be lost for exercising any right under, or for seeking
13 compliance with, any requirement of ss. 633.801-633.821.

14 633.817 Compliance.--Failure of a firefighter employer
15 or an insurer to comply with ss. 633.801-633.821, or with any
16 rules adopted under s. 633.801-633.821, constitutes grounds
17 for the division to seek remedies, including injunctive
18 relief, for compliance by making appropriate filings with the
19 circuit court.

20 633.818 False statements to insurers.--A firefighter
21 employer who knowingly and willfully falsifies or conceals a
22 material fact; makes a false, fictitious, or fraudulent
23 statement or representation; or makes or uses any false
24 document knowing the document to contain any false,
25 fictitious, or fraudulent entry or statement to an insurer of
26 workers' compensation insurance under ss. 633.801-633.821
27 commits a misdemeanor of the second degree, punishable as
28 provided in s. 775.082 or s. 775.083.

29 633.819 Matters within jurisdiction of the division;
30 false, fictitious, or fraudulent acts, statements, and
31 representations prohibited; penalty; statute of

Amendment No. ____ (for drafter's use only)

1 limitations.--A person may not, in any matter within the
2 jurisdiction of the division, knowingly and willfully falsify
3 or conceal a material fact; make any false, fictitious, or
4 fraudulent statement or representation; or make or use any
5 false document, knowing the same to contain any false,
6 fictitious, or fraudulent statement or entry. A person who
7 violates this section commits a misdemeanor of the second
8 degree, punishable as provided in s. 775.082 or s. 775.083.
9 The statute of limitations for prosecution of an act committed
10 in violation of this section is 5 years after the date the act
11 was committed or, if not discovered within 30 days after the
12 act was committed, 5 years after the date the act was
13 discovered.

14 633.820 Volunteer firefighters.--Sections
15 633.803-633.821 apply to volunteer firefighters and volunteer
16 fire departments.

17 633.821 Workplace safety.--

18 (1) The division shall assist in making the workplace
19 of a firefighter place of employment a safer place to work and
20 decreasing the frequency and severity of on-the-job injuries
21 in such workplace.

22 (2) The division shall have the authority to adopt
23 rules for the purpose of ensuring safe working conditions for
24 all firefighter employees by authorizing the enforcement of
25 effective standards, by assisting and encouraging firefighter
26 employers to maintain safe working conditions, and by
27 providing for education and training in the field of safety.
28 Specifically, the division may by rule adopt all or any part
29 of subparts C through T and subpart Z of 29 C.F.R. s. 1910, as
30 revised April 8, 1998; the National Fire Protection
31 Association, Inc., Standard 1500, paragraph 5-7 (Personal

Amendment No. ____ (for drafter's use only)

1 Alert Safety System) (1992 edition); and ANSI A 10.4-1990.

2 (3) With respect to 29 C.F.R. s. 1910.134(g)(4), the
3 two individuals located outside the immediately dangerous to
4 life and health atmosphere may be assigned to an additional
5 role, such as incident commander, pumper operator, engineer,
6 or driver, so long as such individual is able to immediately
7 perform assistance or rescue activities without jeopardizing
8 the safety or health of any firefighter working at an
9 incident. Also with respect to 29 C.F.R. s. 1910.134(g)(4):

10 (a) Each county, municipality, and special district
11 shall implement such provision by April 1, 2002, except as
12 provided in paragraphs (b) and (c).

13 (b) If any county, municipality, or special district
14 is unable to implement such provision by April 1, 2002,
15 without adding additional personnel to its firefighting staff
16 or expending significant additional funds, such county,
17 municipality, or special district shall have an additional 6
18 months within which to implement such provision. Such county,
19 municipality, or special district shall notify the division
20 that the 6-month extension to implement such provision is in
21 effect in such county, municipality, or special district
22 within 30 days after its decision to extend the time for the
23 additional 6 months. The decision to extend the time for
24 implementation shall be made prior to April 1, 2002.

25 (c) If, after the extension granted in paragraph (b),
26 the county, municipality, or special district, after having
27 worked with and cooperated fully with the division and the
28 Firefighters Employment, Standards, and Training Council, is
29 still unable to implement such provisions without adding
30 additional personnel to its firefighting staff or expending
31 significant additional funds, such municipality, county, or

Amendment No. ____ (for drafter's use only)

1 special district shall be exempt from the requirements of 29
2 C.F.R. s. 1910.134(g)(4). Nevertheless, each year thereafter
3 the division shall review each such county, municipality, or
4 special district to determine if such county, municipality, or
5 special district has the ability to implement such provision
6 without adding additional personnel to its firefighting staff
7 or expending significant additional funds. If the division
8 determines that any county, municipality, or special district
9 has the ability to implement such provision without adding
10 additional personnel to its firefighting staff or expending
11 significant additional funds, the division shall require such
12 county, municipality, or special district to implement such
13 provision. Such requirement by the division under this
14 paragraph constitutes final agency action subject to chapter
15 120.

16 (4) The provisions of chapter 440 which pertain to
17 workplace safety apply to the division.

18 (5) The division may adopt any rule necessary to
19 implement, interpret, and make specific the provisions of this
20 section, provided the division may not adopt by rule any other
21 standard or standards of the Occupational Safety and Health
22 Administration or the National Fire Protection Association
23 relating solely to ss. 633.801-633.821 and firefighter
24 employment safety without specific legislative authority.

25 Section 2. Section 633.31, Florida Statutes, is
26 amended to read:

27 633.31 Firefighters Employment, Standards, and
28 Training Council.--

29 (1) There is created within the Department of
30 Insurance a Firefighters Employment, Standards, and Training
31 Council of 13 ~~nine~~ members ~~appointed by the State Fire~~

Amendment No. ____ (for drafter's use only)

1 ~~Marshal~~. Two members shall be fire chiefs who shall be
2 appointed by the Florida Fire Chiefs Association, two members
3 shall be firefighters who are not officers who shall be
4 appointed by the Florida Professional Firefighters
5 Association, two members shall be firefighter officers who are
6 not fire chiefs who shall be appointed by the State Fire
7 Marshal, one member who shall be appointed by the Florida
8 League of Cities, one member who shall be appointed by the
9 Florida Association of Counties, one member who shall be
10 appointed by the Florida Association of Special Districts, one
11 member who shall be appointed by the Florida Fire Marshal's
12 Association, one member who shall be appointed by the State
13 Fire Marshal and one member who shall be a director or
14 instructor of a state-certified firefighting training facility
15 who shall be appointed by the State Fire Marshal. To be
16 eligible for appointment as a fire chief member, firefighter
17 officer member, firefighter member, or a director or
18 instructor of a state-certified firefighting facility, a
19 person shall have had at least 4 years' experience in the
20 firefighting profession. The remaining member, who shall be
21 appointed by the State Fire Marshal, ~~two members~~ shall not be
22 a member or representative members of the firefighting
23 profession or of any local government. Members shall serve
24 only as long as they continue to meet the criteria under which
25 they were appointed, or unless a member has failed to appear
26 at three consecutive and properly noticed meetings unless
27 excused by the chair.

28 (2) ~~Initially, the State Fire Marshal shall appoint~~
29 ~~three members for terms of 4 years, two members for terms of 3~~
30 ~~years, two members for terms of 2 years, and two members for~~
31 ~~terms of 1 year. Thereafter, Members shall be appointed for~~

Amendment No. ____ (for drafter's use only)

1 4-year terms and in no event shall a member serve more than
2 two consecutive terms. Any vacancy shall be filled in the
3 manner of the original appointment for the remaining time of
4 the term.

5 (3) The State Fire Marshal, in making her or his
6 appointments, shall take into consideration representation by
7 geography, population, and other relevant factors, in order
8 that the membership on the council will be apportioned to give
9 representation to the state at large rather than to a
10 particular area.

11 (4) Membership on the council shall not disqualify a
12 member from holding any other public office or being employed
13 by a public entity, except that no member of the Legislature
14 shall serve on the council.

15 Section 3. Subsections (4) and (5) of section 633.33,
16 Florida Statutes, are amended to read:

17 633.33 Special powers; firefighter training.--The
18 council shall have special powers in connection with the
19 employment and training of firefighters to:

20 (4) Consult and cooperate with any employing agency,
21 university, college, community college, the Florida State Fire
22 College, or other educational institution concerning the
23 employment and safety of firefighters, including, but not
24 limited to, the safety of firefighters while at the scene of a
25 fire or the scene of an incident related to the provision of
26 emergency services to which a firefighter responds and
27 development of firefighter training schools and programs of
28 courses of instruction, including, but not limited to,
29 education and training in the areas of firefighter employment,
30 fire science, fire technology, fire administration, and all
31 allied and supporting fields.

Amendment No. ____ (for drafter's use only)

1 (5) Make or support studies on any aspect of
2 firefighting employment, education, and training or
3 recruitment.

4 Section 4. Paragraph (c) of subsection (3) of section
5 383.3362, Florida Statutes, is amended to read:

6 383.3362 Sudden Infant Death Syndrome.--

7 (3) TRAINING.--

8 (c) The Department of Health, in consultation with the
9 Emergency Medical Services Advisory Council, the Firefighters
10 Employment, Standards, and Training Council, and the Criminal
11 Justice Standards and Training Commission, shall develop and
12 adopt, by rule, curriculum that, at a minimum, includes
13 training in the nature of SIDS, standard procedures to be
14 followed by law enforcement agencies in investigating cases
15 involving sudden deaths of infants, and training in responding
16 appropriately to the parents or caretakers who have requested
17 assistance.

18 Section 5. Subsection (4) of section 633.30, Florida
19 Statutes, is amended to read:

20 633.30 Standards for firefighting; definitions.--As
21 used in this chapter:

22 (4) "Council" means the Firefighters Employment,
23 Standards, and Training Council.

24 Section 6. Subsection (4) of section 633.32, Florida
25 Statutes, is amended to read:

26 633.32 Organization; meetings; quorum; compensation;
27 seal.--

28 (4) The council may adopt a seal for its use
29 containing the words "Firefighters Employment, Standards, and
30 Training Council."

31 Section 7. This act shall take effect upon becoming a

Amendment No. ____ (for drafter's use only)

1 law.

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

5 And the title is amended as follows:

6 On page 2, lines 24 and 25,

7 remove from the title of the bill: all of said lines,

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9 and insert in lieu thereof:

10 conform; providing an effective date.

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