

Bill No. CS for CS for SB 2340

Amendment No. Barcode 904236

	CHAMBER ACTION	
<u>Senate</u>		<u>House</u>

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Senator Clary moved the following amendment:

Senate Amendment (with title amendment)

On page 112, line 24, through
page 133, line 4, delete those lines

and insert:

Section 41. Subsections (3) and (7) of section
440.381, Florida Statutes, are amended to read:

440.381 Application for coverage; reporting payroll;
payroll audit procedures; penalties.--

(3) ~~The department of Insurance and the Department of~~
~~Labor and Employment Security~~ shall establish by rule minimum
requirements for audits of payroll and classifications in
order to ensure that the appropriate premium is charged for
workers' compensation coverage. The rules shall ensure that
audits performed by both carriers and employers are adequate
to provide that all sources of payments to employees,
subcontractors, and independent contractors have been reviewed
and that the accuracy of classification of employees has been
verified. The rules shall provide that employers in all

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1 classes other than the construction class be audited not less
 2 frequently than biennially and may provide for more frequent
 3 audits of employers in specified classifications based on
 4 factors such as amount of premium, type of business, loss
 5 ratios, or other relevant factors. In no event shall employers
 6 in the construction class, generating more than the amount of
 7 premium required to be experience rated, be audited less than
 8 annually. The annual audits required for construction classes
 9 shall consist of physical onsite audits. Payroll verification
 10 audit rules must include, but need not be limited to, the use
 11 of state and federal reports of employee income, payroll and
 12 other accounting records, certificates of insurance maintained
 13 by subcontractors, and duties of employees.

14 (7) If an employee suffering a compensable injury was
 15 not reported as earning wages on the last quarterly earnings
 16 report filed with the Division of Unemployment Compensation
 17 before the accident, the employer shall indemnify the carrier
 18 for all workers' compensation benefits paid to or on behalf of
 19 the employee unless the employer establishes that the employee
 20 was hired after the filing of the quarterly report, in which
 21 case the employer and employee shall attest to the fact that
 22 the employee was employed by the employer at the time of the
 23 injury. ~~It shall be the responsibility of the Division of~~
 24 ~~Workers' Compensation to collect all necessary data so as to~~
 25 ~~enable it to notify the carrier of the name of an injured~~
 26 ~~worker who was not reported as earning wages on the last~~
 27 ~~quarterly earnings report. The division is hereby authorized~~
 28 ~~to release such records to the carrier which will enable the~~
 29 ~~carrier to seek reimbursement as provided under this~~
 30 ~~subsection.~~ Failure of the employer to indemnify the insurer
 31 within 21 days after demand by the insurer shall constitute

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1 grounds for the insurer to immediately cancel coverage. Any
2 action for indemnification brought by the carrier shall be
3 cognizable in the circuit court having jurisdiction where the
4 employer or carrier resides or transacts business. The
5 insurer shall be entitled to a reasonable attorney's fee if it
6 recovers any portion of the benefits paid in such action.

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8 (Redesignate subsequent sections.)

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

12 And the title is amended as follows:

13 On page 4, lines 10-17, delete those lines

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15 and insert:

16 provisions to changes made by the act; amending
17 s. 440.381, F.S., relating to audits of payroll
18 and classifications; conforming

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