

Bill No. HB 1837, 2nd Eng.

Amendment No. ____ Barcode 280370

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11 Senator Atwater moved the following amendment:

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13 **Senate Amendment (with title amendment)**

14 Lines 3861-3898, delete those lines

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16 and insert:

17 Section 21. Section 440.185, Florida Statutes, is

18 amended to read:

19 440.185 Notice of injury or death; medical bills;

20 reports; penalties for violations.--

21 (1) An employee who suffers an injury arising out of

22 and in the course of employment shall advise his or her

23 employer of the injury within 30 days after the date of or

24 initial manifestation of the injury. Failure to so advise the

25 employer shall bar a petition under this chapter unless:

26 (a) The employer or the employer's agent had actual

27 knowledge of the injury;

28 (b) The cause of the injury could not be identified

29 without a medical opinion and the employee advised the

30 employer within 30 days after obtaining a medical opinion

31 indicating that the injury arose out of and in the course of

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1 employment;

2 (c) The employer did not put its employees on notice
3 of the requirements of this section by posting notice pursuant
4 to s. 440.055; or

5 (d) Exceptional circumstances, outside the scope of
6 paragraph (a) or paragraph (b) justify such failure.

7
8 In the event of death arising out of and in the course
9 of employment, the requirements of this subsection shall be
10 satisfied by the employee's agent or estate. Documents
11 prepared by counsel in connection with litigation, including,
12 but not limited to, notices of appearance, petitions, motions,
13 or complaints, shall not constitute notice for purposes of
14 this section.

15 (2)(a) Within 7 days after actual knowledge of injury
16 or death, the employer shall report such injury or death to
17 its carrier, in a format prescribed by the department, and
18 shall provide a copy of such report to the employee or the
19 employee's estate. The report of injury shall contain the
20 following information:

21 ~~1.(a)~~ The name, address, and business of the employer;

22 ~~2.(b)~~ The name, social security number, street,
23 mailing address, telephone number, and occupation of the
24 employee;

25 ~~3.(c)~~ The cause and nature of the injury or death;

26 ~~4.(d)~~ The year, month, day, and hour when, and the
27 particular locality where, the injury or death occurred; and

28 ~~5.(e)~~ Such other information as the department may
29 require by rule.

30 (b) The department shall provide by rule for a carrier
31 reporting system to identify the types of indemnity claims for

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1 which the carrier shall file first report of injury or death
2 information with the department and time periods for
3 reporting. ~~The carrier shall, within 14 days after the~~
4 ~~employer's receipt of the form reporting the injury, file the~~
5 ~~information required by this subsection with the department.~~

6 (c) However, the department may by rule provide for a
7 different reporting system for those types of injuries which
8 it determines should be reported in a different manner and for
9 those cases which involve minor injuries requiring
10 professional medical attention in which the employee does not
11 lose more than 7 days of work as a result of the injury and is
12 able to return to the job immediately after treatment and
13 resume regular work.

14 (3) In addition to the requirements of subsection (2),
15 the employer shall notify the department and the carrier
16 within 24 hours by telephone, facsimile, or electronically
17 ~~telegraph~~ of any injury resulting in death. However, this
18 special notice shall not be required when death results
19 subsequent to the submission to the department and the carrier
20 of a previous report of the injury pursuant to subsection (2).

21 (4) Within 3 days after the employer or the employee
22 informs the carrier of an injury the carrier shall mail to the
23 injured worker an informational brochure approved by the
24 department which sets forth in clear and understandable
25 language an explanation of the rights, benefits, procedures
26 for obtaining benefits and assistance, criminal penalties, and
27 obligations of injured workers and their employers under the
28 Florida Workers' Compensation Law. Annually, the carrier or
29 its third-party administrator shall mail to the employer an
30 informational brochure approved by the department which sets
31 forth in clear and understandable language an explanation of

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1 the rights, benefits, procedures for obtaining benefits and
2 assistance, criminal penalties, and obligations of injured
3 workers and their employers under the Florida Workers'
4 Compensation Law. All such informational brochures shall
5 contain a notice that clearly states in substance the
6 following: "Any person who, knowingly and with intent to
7 injure, defraud, or deceive any employer or employee,
8 insurance company, or self-insured program, files a statement
9 of claim containing any false or misleading information
10 commits a felony of the third degree."

11 (5)(a) Within 30 calendar days after the date the bill
12 was paid, the carrier shall provide to the department, in a
13 format and in the means prescribed by the department by rule,
14 each paid medical, dental, and hospital bill received from a
15 health care provider or facility, the employer, or the
16 employee with regard to the treatment, care, and attendance of
17 the injured employee, including any bill for examination,
18 diagnosis, or disability evaluation.

19 (b) The department may require additional reports from
20 the carrier, employer, employee, or health care provider or
21 facility, in a format prescribed by the department and in a
22 manner and time prescribed by rule, with regard respect to an
23 employee's such injury or claim and of the condition of such
24 employee, including copies of medical reports on initial
25 payment, funeral expenses, claim costs, changes in claim data,
26 denials, and wage statements, shall be filed by the employer
27 or carrier to the department at such times and in such manner
28 as the department may prescribe by rule.

29 (c) In carrying out its responsibilities under this
30 chapter, The department or agency may by rule require from the
31 carrier, employer, employee, or health care provider or

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1 facility, the provision of information and documentation in
2 response to a request for information with regard to the
3 employee's injury or claim, including copies of ~~provide for~~
4 ~~the obtaining of any~~ medical reports and records relating to
5 medical treatment provided pursuant to this chapter,
6 notwithstanding the provisions of ss. 90.503 and 395.3025(4).

7 (d) Failure to respond to requests for information in
8 the manner and time prescribed by department rule shall
9 subject the carrier, employer, employee, or health care
10 provider or facility to an administrative penalty not to
11 exceed \$100 per failure to respond.

12 (6) In the absence of a stipulation by the parties,
13 reports provided for in subsection (2), subsection (4), or
14 subsection (5) shall not be evidence of any fact stated in
15 such report in any proceeding relating thereto, except for
16 medical reports which, if otherwise qualified, may be admitted
17 at the discretion of the judge of compensation claims.

18 (7) Every insurer ~~carrier~~ shall file with the
19 department within 30 ~~21~~ days after the following: effectuation
20 issuance of coverage, the effective date of a policy
21 reinstatement, or policy endorsement, a policy or contract of
22 insurance such policy information as the department requires,
23 by rule, including ~~notice of~~ whether the policy is a minimum
24 premium policy. The department may require by rule that the
25 insurer identify large deductible policies. Information
26 regarding a notice of cancellation, notice of nonrenewal, or
27 expiration of a policy pursuant to ~~as set out in s. 440.42(3)~~
28 shall be filed with ~~mailed to~~ the department in accordance
29 with rules adopted by the department ~~under chapter 120.~~
30 Third-party vendors that submit ~~The department may contract~~
31 with a private entity for the collection of policy information

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1 required to be filed by insurers ~~carriers~~ under this
2 subsection, and the receipt of notices of cancellation,
3 notices of nonrenewal, or expiration of a policy required to
4 be filed by insurers ~~carriers~~ under s. 440.42(3) shall be
5 approved by the department. The insurer shall notify the
6 department if the insurer's third-party vendor for the
7 submission of policy information has changed or the insurer's
8 third-party vendor status has changed in accordance with the
9 means and timeframe set forth in department rule. The
10 submission by a third-party vendor of information required to
11 be filed by an insurer shall not alter the time requirements
12 set forth in this chapter or department rule. The timely
13 filing of required information shall be determined by the date
14 the department receives the required information either
15 directly from the insurer or from the third-party vendor. The
16 submission of policy information or notices of cancellation or
17 expiration to the contracted private entity satisfies the
18 filing requirements of this subsection and s. 440.42(3).

19 (8)(a) When a claimant, employer, or carrier has the
20 right, or is required, to submit ~~mail~~ a report or notice with
21 required copies within the times prescribed in subsection (2),
22 subsection (4), or subsection (5), submission of paper
23 documents must be completed and shall be in compliance with
24 the rules adopted by the department and shall be deemed timely
25 filed ~~such mailing will be completed and in compliance with~~
26 ~~this section~~ if it is postmarked and mailed prepaid to the
27 appropriate recipient prior to the expiration of the time
28 periods prescribed in this section.

29 (b) Submission of information in department-approved
30 electronic format shall be completed and deemed timely filed
31 if the electronic transaction is acknowledged by the

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1 department as having passed edits in accordance with rules
2 adopted by the department and is sent within the timeframes
3 set forth in this chapter and department rule.

4 (c) Submission by a third-party vendor of information
5 required to be filed by an insurer shall not alter the time
6 requirements set forth in law or department rule.

7 (9)(a) For each electronic transaction, ~~Any employer~~
8 or carrier who fails or refuses to timely send any form,
9 report, ~~bill,~~ or notice, other than the first report of
10 injury, required by this section to be filed with the
11 department, the department shall impose an administrative ~~be~~
12 subject to a civil penalty not to exceed \$500 for each such
13 failure to timely file with the department in accordance with
14 this chapter and department rule ~~or refusal.~~

15 (b) For every first report of injury required under
16 subsection (2), the department shall impose an administrative
17 penalty for failure to file the first report of injury in
18 accordance with this section and department rule.

19 (c) However, any employer who fails to notify the
20 carrier of the injury on the prescribed form or by letter
21 within the 7 days required in subsection (2) shall be liable
22 for the civil penalty, which shall be paid by the employer and
23 not the carrier. Failure by the employer to meet its
24 obligations under subsection (2) shall not relieve the carrier
25 from liability for the civil penalty if it fails to comply
26 with subsections (4), ~~and~~ (5), ~~and~~ (8) and department rule.

27 (10) The department may by rule prescribe forms and
28 procedures governing the submission of the change in claims
29 administration report and the risk class code and standard
30 industry code report for all lost time and denied lost-time
31 cases. The department may by rule define terms that are

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1 necessary for the effective administration of this section.

2 (11) Any information in a report of injury or illness
3 filed pursuant to this section that would identify an ill or
4 injured employee is confidential and exempt from the
5 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
6 Constitution. This subsection is subject to the Open
7 Government Sunset Review Act of 1995 in accordance with s.
8 119.15, and shall stand repealed on October 2, 2003, unless
9 reviewed and saved from repeal through reenactment by the
10 Legislature.

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

14 And the title is amended as follows:

15 Lines 59 and 60, delete those lines

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17 and insert:

18 revising provisions relating to notice of
19 injury or death; clarifying reporting
20 requirements providing penalties for
21 noncompliance with specified filing
22 requirements;

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