

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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Representative Ross offered the following:

Amendment (with directory and title amendments)

Remove line(s) 3849-3886, and insert:

Section 21. Section 440.185, Florida Statutes, is amended to read:

440.185 Notice of injury or death; medical bills; reports; penalties for violations.--

(1) An employee who suffers an injury arising out of and in the course of employment shall advise his or her employer of the injury within 30 days after the date of or initial manifestation of the injury. Failure to so advise the employer shall bar a petition under this chapter unless:

(a) The employer or the employer's agent had actual knowledge of the injury;

(b) The cause of the injury could not be identified without a medical opinion and the employee advised the employer

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28 within 30 days after obtaining a medical opinion indicating that
29 the injury arose out of and in the course of employment;

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

33 (d) Exceptional circumstances, outside the scope of
34 paragraph (a) or paragraph (b) justify such failure.
35

36 In the event of death arising out of and in the course of
37 employment, the requirements of this subsection shall be
38 satisfied by the employee's agent or estate. Documents prepared
39 by counsel in connection with litigation, including, but not
40 limited to, notices of appearance, petitions, motions, or
41 complaints, shall not constitute notice for purposes of this
42 section.

43 (2)(a) Within 7 days after actual knowledge of injury or
44 death, the employer shall report such injury or death to its
45 carrier, in a format prescribed by the department, and shall
46 provide a copy of such report to the employee or the employee's
47 estate. The report of injury shall contain the following
48 information:

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

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

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

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

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

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57 (b) The department shall provide by rule for a carrier
58 reporting system to identify the types of indemnity claims for
59 which the carrier shall file first report of injury or death
60 information with the department and time periods for reporting.
61 ~~The carrier shall, within 14 days after the employer's receipt~~
62 ~~of the form reporting the injury, file the information required~~
63 ~~by this subsection with the department.~~

64 (c) However, the department may by rule provide for a
65 different reporting system for those types of injuries which it
66 determines should be reported in a different manner and for
67 those cases which involve minor injuries requiring professional
68 medical attention in which the employee does not lose more than
69 7 days of work as a result of the injury and is able to return
70 to the job immediately after treatment and resume regular work.

71 (3) In addition to the requirements of subsection (2), the
72 employer shall notify the department and the carrier within 24
73 hours by telephone, facsimile, or electronically ~~telegraph~~ of
74 any injury resulting in death. However, this special notice
75 shall not be required when death results subsequent to the
76 submission to the department and the carrier of a previous
77 report of the injury pursuant to subsection (2).

78 (4) Within 3 days after the employer or the employee
79 informs the carrier of an injury the carrier shall mail to the
80 injured worker an informational brochure approved by the
81 department which sets forth in clear and understandable language
82 an explanation of the rights, benefits, procedures for obtaining
83 benefits and assistance, criminal penalties, and obligations of
84 injured workers and their employers under the Florida Workers'
85 Compensation Law. Annually, the carrier or its third-party

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86 administrator shall mail to the employer an informational
87 brochure approved by the department which sets forth in clear
88 and understandable language an explanation of the rights,
89 benefits, procedures for obtaining benefits and assistance,
90 criminal penalties, and obligations of injured workers and their
91 employers under the Florida Workers' Compensation Law. All such
92 informational brochures shall contain a notice that clearly
93 states in substance the following: "Any person who, knowingly
94 and with intent to injure, defraud, or deceive any employer or
95 employee, insurance company, or self-insured program, files a
96 statement of claim containing any false or misleading
97 information commits a felony of the third degree."

98 (5)(a) Within 30 calendar days after the date the bill was
99 paid, the carrier shall provide to the department, in a format
100 and in the means prescribed by the department by rule, each paid
101 medical, dental, and hospital bill received from a health care
102 provider or facility, the employer, or the employee with regard
103 to the treatment, care, and attendance of the injured employee,
104 including any bill for examination, diagnosis, or disability
105 evaluation.

106 (b) The department may require additional reports from the
107 carrier, employer, employee, or health care provider or
108 facility, in a format prescribed by the department and in a
109 manner and time prescribed by rule, with regard ~~respect~~ to an
110 employee's ~~such~~ injury or claim and ~~of the condition of such~~
111 employee, including ~~copies of medical~~ reports on initial
112 payment, funeral expenses, claim costs, changes in claim data,
113 denials, and wage statements, ~~shall be filed by the employer or~~

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114 ~~carrier to the department at such times and in such manner as~~
115 ~~the department may prescribe by rule.~~

116 ~~(c) In carrying out its responsibilities under this~~
117 ~~chapter,~~ The department ~~or agency~~ may by rule require from the
118 carrier, employer, employee, or health care provider or
119 facility, the provision of information and documentation in
120 response to a request for information with regard to the
121 employee's injury or claim, including copies of ~~provide for the~~
122 ~~obtaining of any medical reports and~~ records relating to medical
123 treatment provided pursuant to this chapter, notwithstanding the
124 provisions of ss. 90.503 and 395.3025(4).

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

130 (6) In the absence of a stipulation by the parties,
131 reports provided for in subsection (2), subsection (4), or
132 subsection (5) shall not be evidence of any fact stated in such
133 report in any proceeding relating thereto, except for medical
134 reports which, if otherwise qualified, may be admitted at the
135 discretion of the judge of compensation claims.

136 (7) Every insurer ~~carrier~~ shall file with the department
137 within 30 ~~21~~ days after the following: effectuation issuance of
138 coverage, the effective date of a policy reinstatement, or
139 policy endorsement, ~~a policy or contract of insurance~~ such
140 ~~policy~~ information as the department requires, by rule,
141 including ~~notice of~~ whether the policy is a minimum premium
142 policy. The department may require by rule that the insurer

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143 identify large deductible policies. Information regarding a
144 notice of cancellation, notice of nonrenewal, or expiration of a
145 policy pursuant to as set out in s. 440.42(3) shall be filed
146 with ~~mailed to~~ the department in accordance with rules adopted
147 by the department ~~under chapter 120. Third-party vendors that~~
148 submit ~~The department may contract with a private entity for the~~
149 ~~collection of policy~~ information required to be filed by
150 insurers carriers under this subsection, and the receipt of
151 notices of cancellation, notices of nonrenewal, or expiration of
152 a policy required to be filed by insurers carriers under s.
153 440.42(3) shall be approved by the department. The insurer shall
154 notify the department if the insurer's third-party vendor for
155 the submission of policy information has changed or the
156 insurer's third-party vendor status has changed in accordance
157 with the means and timeframe set forth in department rule. The
158 submission by a third-party vendor of information required to be
159 filed by an insurer shall not alter the time requirements set
160 forth in this chapter or department rule. The timely filing of
161 required information shall be determined by the date the
162 department receives the required information either directly
163 from the insurer or from the third-party vendor. The submission
164 ~~of policy information or notices of cancellation or expiration~~
165 ~~to the contracted private entity satisfies the filing~~
166 ~~requirements of this subsection and s. 440.42(3).~~

167 (8)(a) When a claimant, employer, or carrier has the
168 right, or is required, to submit ~~mail~~ a report or notice with
169 required copies within the times prescribed in subsection (2),
170 subsection (4), or subsection (5), submission of paper documents
171 must be completed and shall be in compliance with the rules

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172 adopted by the department and shall be deemed timely filed ~~such~~
173 ~~mailing will be completed and in compliance with this section if~~
174 ~~it is~~ postmarked and mailed prepaid to the appropriate recipient
175 prior to the expiration of the time periods prescribed in this
176 section.

177 (b) Submission of information in department-approved
178 electronic format shall be completed and deemed timely filed if
179 the electronic transaction is acknowledged by the department as
180 having passed edits in accordance with rules adopted by the
181 department and is sent within the timeframes set forth in this
182 chapter and department rule.

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

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

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

198 (c) However, any employer who fails to notify the carrier
199 of the injury on the prescribed form or by letter within the 7
200 days required in subsection (2) shall be liable for the civil

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201 penalty, which shall be paid by the employer and not the
202 carrier. Failure by the employer to meet its obligations under
203 subsection (2) shall not relieve the carrier from liability for
204 the civil penalty if it fails to comply with subsections (4),
205 ~~and~~ (5) and (8) and department rule.

206 (10) The department may by rule prescribe forms and
207 procedures governing the submission of the change in claims
208 administration report and the risk class code and standard
209 industry code report for all lost time and denied lost-time
210 cases. The department may by rule define terms that are
211 necessary for the effective administration of this section.

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

220
221 ===== T I T L E A M E N D M E N T =====

222 Remove line(s) 67-69, and insert:
223 paid as compensation for death; amending s. 440.185, F.S.;
224 revising provisions relating to notice of injury or death;
225 clarifying reporting requirements; providing penalties for
226 noncompliance with specified filing requirements;