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1 A bill to be entitled

2 An act relating to workers' compensation; amending s.
3 440.055, F.S.; requiring an employer with fewer than four
4 employees who has elected alternative coverage to workers'
5 compensation to post notice at each worksite to this
6 effect; amending s. 440.075, F.S.; providing that every
7 corporate officer who elects alternative coverage must
8 proceed at common law in any action to recover damages for
9 injury or death brought against the employer; amending s.
10 440.077, F.S.; providing that an officer of a corporation
11 who elects alternative coverage may not recover workers'
12 compensation benefits; creating s. 440.095, F.S.;
13 providing for election of alternative coverage instead of
14 regular workers' compensation coverage; specifying who is
15 eligible therefor; prescribing benefits included in
16 alternative coverage; prescribing a schedule of benefits
17 for specified injuries; requiring the Office of Insurance
18 Regulation to determine if a policy meets certain minimum
19 requirements; requiring a statement of such determination
20 on alternative coverage policies and applications
21 therefor; authorizing the Financial Services Commission to
22 adopt rules specifying policies providing alternative
23 coverages; amending s. 440.02, F.S.; redefining the terms
24 "employee," "employer," and "employment" for purposes of
25 workers' compensation coverage; deleting the power of
26 corporate officers and certain others to elect exemption
27 from workers' compensation coverage; amending s. 440.04,
28 F.S.; providing that a corporate officer who has elected
29 alternative coverage may revoke that election; amending s.

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30 440.05, F.S.; prescribing procedures for giving notice of
 31 election of alternative coverage and of revocation of that
 32 election; amending s. 440.10, F.S.; providing for
 33 subcontractors to give evidence of alternative coverage to
 34 contractors, when applicable; amending s. 440.105, F.S.;
 35 providing penalties for an employer that coerces an
 36 employee into electing alternative coverage; providing
 37 penalties for an employer that presents false, fraudulent,
 38 or misleading statements as evidence of compliance with s.
 39 440.38, F.S., or of eligibility for a certificate of
 40 alternative coverage; amending ss. 489.115 and 489.515,
 41 F.S., to conform; providing effective dates.

42

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

44

45 Section 1. Section 440.055, Florida Statutes, is amended
 46 to read:

47 440.055 Notice requirements.--An employer who employs
 48 fewer than four employees, who is permitted by law to elect
 49 alternative coverage ~~not to secure payment of compensation~~ under
 50 this chapter, and who elects ~~not~~ to do so shall post clear
 51 written notice in a conspicuous location at each worksite
 52 directed to all employees and other persons performing services
 53 at the worksite of their lack of entitlement to full workers'
 54 compensation benefits under this chapter and their entitlement
 55 to reduced, alternative coverage benefits.

56 Section 2. Section 440.075, Florida Statutes, is amended
 57 to read:

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58 440.075 When corporate officer rejects chapter;
 59 effect.--Every corporate officer who elects alternative coverage
 60 as permitted by ~~to reject~~ this chapter shall, in any action to
 61 recover damages for injury or death brought against the
 62 corporate employer, proceed as at common law, and the employer
 63 in such suit may avail itself of all defenses that exist at
 64 common law.

65 Section 3. Section 440.077, Florida Statutes, is amended
 66 to read:

67 440.077 When a corporate officer rejects chapter,
 68 effect.--An officer of a corporation who is permitted to elect
 69 alternative coverage ~~an exemption~~ under this chapter and who
 70 elects to do so ~~be exempt from the provisions of this chapter~~
 71 may not recover benefits under this chapter other than the
 72 benefits provided by the alternative coverage.

73 Section 4. Section 440.095, Florida Statutes, is created
 74 to read:

75 440.095 Alternative coverage.--

76 (1) In lieu of workers' compensation coverage as provided
 77 in ss. 440.09-440.093 and the benefits for such coverage
 78 specified in this chapter, eligible persons may elect
 79 alternative coverage under this section. Such alternative
 80 coverage must provide coverage for accidents, both work-related
 81 and not work-related, but not coverage for illnesses and other
 82 health problems that do not result from an accident. Alternative
 83 coverage must provide, at a minimum, the benefits specified in
 84 this section.

85 (2) Persons who are eligible to elect alternative coverage
 86 are:

87 (a) An employer with fewer than four employees.

88 (b) A sole proprietor or a partner who is not engaged in
 89 the construction industry.

90 (c) An officer of a corporation, as provided in s.
 91 440.02(15)(b).

92 (3) Disability benefits are 60 percent of preaccident
 93 wages for up to 12 months, not to exceed \$1,500 per month,
 94 payable during the continuance of the disability, beginning
 95 after a 7-day elimination period after the date of the covered
 96 accident.

97 (4) Accidental death and dismemberment benefits are a
 98 death benefit of \$100,000 and dismemberment benefits are subject
 99 to the following schedule:

100 (a) For loss of an arm \$20,000.

101 (b) For loss of a hand \$10,000.

102 (c) For loss of a leg \$20,000.

103 (d) For loss of a foot \$10,000.

104 (e) For loss of one eye \$15,000.

105 (f) For loss of a thumb \$5,000.

106 (g) For loss of a second finger \$2,500.

107 (h) For loss of a third finger \$2,000.

108 (i) For loss of a fourth finger \$1,000.

109 (j) For loss of a fifth finger \$750.

110 (k) For loss of a great toe \$2,000.

111 (l) For loss of a toe other than great toe \$750.

112 (5) In addition to the benefits under subsection (3), a
 113 catastrophic loss benefit of \$100,000 shall be payable after a
 114 365-day elimination period after the date of the covered
 115 accident for an injury that results in total and permanent:

- 116 (a) Loss of both hands or both feet;
- 117 (b) Loss or loss of use of both arms or both legs;
- 118 (c) Loss or loss of use of one arm and one leg;
- 119 (d) Loss of one hand and one foot;
- 120 (e) Loss of sight in both eyes;
- 121 (f) Loss of hearing in both ears; or
- 122 (g) Loss of the ability to speak.
- 123 (6) Hospital care benefits are as follows:
- 124 (a) Hospital admission \$750 per admission per
- 125 accident.
- 126 (b) Hospital confinement \$200 per day up to 365
- 127 days.
- 128 (c) Hospital intensive care \$400 per day up to 15
- 129 days.
- 130 (7) Medical indemnity benefits are as follows:
- 131 (a) Ambulance \$100 per trip.
- 132 (b) Air ambulance \$500 per trip.
- 133 (c) Emergency room treatment \$150 per accident.
- 134 (d) Initial doctor's office visit \$50 per accident.
- 135 (e) Open abdominal or thoracic surgery \$1,000.
- 136 (f) Blood/plasma/platelets \$300.
- 137 (g) Dislocation (separated joint). For an open (surgical)
- 138 reduction of a dislocation of the following bones, which amounts
- 139 are reduced by 50 percent for closed (nonsurgical) reduction:
- 140 1. Hip \$4,000.
- 141 2. Knee \$2,000.
- 142 3. Ankle bone or bones of the foot \$1,600.
- 143 4. Collarbone (sternoclavicular) \$1,000.
- 144 5. Lower jaw, shoulder, elbow, wrist \$600.

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- 145 6. Bone or bones of the hand \$600.
- 146 7. Collarbone (acromioclavicular and separation), one toe
- 147 or finger \$200.
- 148 (h) Fracture (broken bone). For an open (surgical)
- 149 reduction of a fracture of the following bones, which amounts
- 150 are reduced by 50 percent for closed (nonsurgical) reduction:
- 151 1. Skull/depressed \$5,000.
- 152 2. Skull/simple nondepressed \$2,000.
- 153 3. Hip, thigh \$3,000.
- 154 4. Body of vertebrae, pelvis, leg \$1,600.
- 155 5. Bones of face or nose \$700.
- 156 6. Upper jaw, maxilla \$700.
- 157 7. Upper area between elbow and shoulder \$700.
- 158 8. Lower jaw, mandible, kneecap, ankle, foot \$600.
- 159 9. Shoulder blade, collarbone, vertebral processes
160 \$600.
- 161 10. Forearm, wrist, hand \$600.
- 162 11. Rib \$500.
- 163 12. Coccyx \$400.
- 164 13. Finger, toe \$100.
- 165 (i) Burn (based on size and degree) \$750 to \$10,000.
- 166 (j) Concussion \$100.
- 167 (k) Emergency dental work \$50 to \$150.
- 168 (l) Eye injury \$200.
- 169 (m) Torn knee cartilage \$500.
- 170 (n) Lacerations (based on size) \$25 to \$400.
- 171 (o) Ruptured disc \$400.
- 172 (p) Tendon/ligament/rotator cuff \$600.
- 173 (q) Followup care:

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174 1. Accident followup treatment \$50 (limit of one
 175 visit, payable after emergency treatment, hospital discharge, or
 176 initial doctor's office visit).

177 2. Appliances (wheelchair, crutches) \$100.

178 3. Physical therapy \$25 per treatment up to six
 179 treatments.

180 4. Prosthetic devices \$1,000.

181 (8) The Office of Insurance Regulation shall determine
 182 whether a policy meets the minimum requirements specified in
 183 this section. Policies determined to meet such requirements and
 184 the applications for such policies shall include the following
 185 statement: "This policy is an accident-only policy approved by
 186 the Florida Office of Insurance Regulation as alternative
 187 coverage to workers' compensation coverage, but only for persons
 188 legally allowed to elect alternative coverage. Persons allowed
 189 to elect alternative coverage are: employers with three or fewer
 190 employees; sole proprietors not engaged in the construction
 191 industry; and officers and directors of corporations, limited to
 192 three officers and directors of a corporation, engaged in the
 193 construction industry."

194 (9) The Financial Services Commission may, by rule,
 195 specify additional requirements for alternative benefit policies
 196 consistent with this section.

197 Section 5. Subsections (15), (16), and (17) of section
 198 440.02, Florida Statutes, are amended to read:

199 440.02 Definitions.--When used in this chapter, unless the
 200 context clearly requires otherwise, the following terms shall
 201 have the following meanings:

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202 (15)(a) "Employee" means any person who receives
 203 remuneration from an employer for the performance of any work or
 204 service while engaged in any employment under any appointment or
 205 contract for hire or apprenticeship, express or implied, oral or
 206 written, whether lawfully or unlawfully employed, and includes,
 207 but is not limited to, aliens and minors.

208 (b) "Employee" includes any person who is an officer of a
 209 corporation and who performs services for remuneration for such
 210 corporation within this state, whether or not such services are
 211 continuous.

212 1. Any officer of a corporation may elect alternative
 213 coverage under ~~to be exempt from~~ this chapter by filing written
 214 notice of the election with the department as provided in s.
 215 440.05.

216 2. As to officers of a corporation who are engaged in the
 217 construction industry, no more than three officers of a
 218 corporation or of any group of affiliated corporations may elect
 219 alternative coverage under ~~to be exempt from~~ this chapter by
 220 filing written notice of the election with the department as
 221 provided in s. 440.05. Officers must be shareholders, each
 222 owning at least 10 percent of the stock of such corporation and
 223 listed as an officer of such corporation with the Division of
 224 Corporations of the Department of State, in order to elect
 225 alternative coverage ~~exemptions~~ under this chapter. For purposes
 226 of this subparagraph, the term "affiliated" means and includes
 227 one or more corporations or entities, any one of which is a
 228 corporation engaged in the construction industry, under the same
 229 or substantially the same control of a group of business
 230 entities which are connected or associated so that one entity

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231 controls or has the power to control each of the other business
 232 entities. The term "affiliated" includes, but is not limited to,
 233 the officers, directors, executives, shareholders active in
 234 management, employees, and agents of the affiliated corporation.
 235 The ownership by one business entity of a controlling interest
 236 in another business entity or a pooling of equipment or income
 237 among business entities shall be prima facie evidence that one
 238 business is affiliated with the other.

239 3. An officer of a corporation who elects alternative
 240 coverage under ~~to be exempt from~~ this chapter by filing a
 241 written notice of the election with the department as provided
 242 in s. 440.05 is not an employee.

243
 244 Services are presumed to have been rendered to the corporation
 245 if the officer is compensated by other than dividends upon
 246 shares of stock of the corporation which the officer owns.

247 (c) "Employee" includes:

248 1. A sole proprietor or a partner who is not engaged in
 249 the construction industry, devotes full time to the
 250 proprietorship or partnership, and has not elected alternative
 251 coverage under this chapter ~~elects to be included in the~~
 252 ~~definition of employee~~ by filing notice thereof as provided in
 253 s. 440.05.

254 2. All persons who are being paid by a construction
 255 contractor as a subcontractor, unless the subcontractor has
 256 validly elected alternative coverage ~~an exemption~~ as permitted
 257 by this chapter, or has otherwise secured the payment of
 258 compensation coverage as a subcontractor, consistent with s.
 259 440.10, for work performed by or as a subcontractor.

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- 260 3. An independent contractor working or performing
 261 services in the construction industry.
- 262 4. A sole proprietor who engages in the construction
 263 industry and a partner or partnership that is engaged in the
 264 construction industry.
- 265 (d) "Employee" does not include:
- 266 1. An independent contractor who is not engaged in the
 267 construction industry.
- 268 a. In order to meet the definition of independent
 269 contractor, at least four of the following criteria must be met:
- 270 (I) The independent contractor maintains a separate
 271 business with his or her own work facility, truck, equipment,
 272 materials, or similar accommodations;
- 273 (II) The independent contractor holds or has applied for a
 274 federal employer identification number, unless the independent
 275 contractor is a sole proprietor who is not required to obtain a
 276 federal employer identification number under state or federal
 277 regulations;
- 278 (III) The independent contractor receives compensation for
 279 services rendered or work performed and such compensation is
 280 paid to a business rather than to an individual;
- 281 (IV) The independent contractor holds one or more bank
 282 accounts in the name of the business entity for purposes of
 283 paying business expenses or other expenses related to services
 284 rendered or work performed for compensation;
- 285 (V) The independent contractor performs work or is able to
 286 perform work for any entity in addition to or besides the
 287 employer at his or her own election without the necessity of
 288 completing an employment application or process; or

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289 (VI) The independent contractor receives compensation for
 290 work or services rendered on a competitive-bid basis or
 291 completion of a task or a set of tasks as defined by a
 292 contractual agreement, unless such contractual agreement
 293 expressly states that an employment relationship exists.

294 b. If four of the criteria listed in sub-subparagraph a.
 295 do not exist, an individual may still be presumed to be an
 296 independent contractor and not an employee based on full
 297 consideration of the nature of the individual situation with
 298 regard to satisfying any of the following conditions:

299 (I) The independent contractor performs or agrees to
 300 perform specific services or work for a specific amount of money
 301 and controls the means of performing the services or work.

302 (II) The independent contractor incurs the principal
 303 expenses related to the service or work that he or she performs
 304 or agrees to perform.

305 (III) The independent contractor is responsible for the
 306 satisfactory completion of the work or services that he or she
 307 performs or agrees to perform.

308 (IV) The independent contractor receives compensation for
 309 work or services performed for a commission or on a per-job
 310 basis and not on any other basis.

311 (V) The independent contractor may realize a profit or
 312 suffer a loss in connection with performing work or services.

313 (VI) The independent contractor has continuing or
 314 recurring business liabilities or obligations.

315 (VII) The success or failure of the independent
 316 contractor's business depends on the relationship of business
 317 receipts to expenditures.

318 c. Notwithstanding anything to the contrary in this
 319 subparagraph, an individual claiming to be an independent
 320 contractor has the burden of proving that he or she is an
 321 independent contractor for purposes of this chapter.

322 2. A real estate licensee, if that person agrees, in
 323 writing, to perform for remuneration solely by way of
 324 commission.

325 3. Bands, orchestras, and musical and theatrical
 326 performers, including disk jockeys, performing in licensed
 327 premises as defined in chapter 562, if a written contract
 328 evidencing an independent contractor relationship is entered
 329 into before the commencement of such entertainment.

330 4. An owner-operator of a motor vehicle who transports
 331 property under a written contract with a motor carrier which
 332 evidences a relationship by which the owner-operator assumes the
 333 responsibility of an employer for the performance of the
 334 contract, if the owner-operator is required to furnish the
 335 necessary motor vehicle equipment and all costs incidental to
 336 the performance of the contract, including, but not limited to,
 337 fuel, taxes, licenses, repairs, and hired help; and the owner-
 338 operator is paid a commission for transportation service and is
 339 not paid by the hour or on some other time-measured basis.

340 5. A person whose employment is both casual and not in the
 341 course of the trade, business, profession, or occupation of the
 342 employer.

343 6. A volunteer, except a volunteer worker for the state or
 344 a county, municipality, or other governmental entity. A person
 345 who does not receive monetary remuneration for services is
 346 presumed to be a volunteer unless there is substantial evidence

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347 that a valuable consideration was intended by both employer and
 348 employee. For purposes of this chapter, the term "volunteer"
 349 includes, but is not limited to:

350 a. Persons who serve in private nonprofit agencies and who
 351 receive no compensation other than expenses in an amount less
 352 than or equivalent to the standard mileage and per diem expenses
 353 provided to salaried employees in the same agency or, if such
 354 agency does not have salaried employees who receive mileage and
 355 per diem, then such volunteers who receive no compensation other
 356 than expenses in an amount less than or equivalent to the
 357 customary mileage and per diem paid to salaried workers in the
 358 community as determined by the department; and

359 b. Volunteers participating in federal programs
 360 established under Pub. L. No. 93-113.

361 7. Unless otherwise prohibited by this chapter, any
 362 officer of a corporation who elects alternative coverage ~~to be~~
 363 ~~exempt from this chapter~~. Such officer is not an employee for
 364 any reason under this chapter until the notice of revocation of
 365 alternative coverage election filed pursuant to s. 440.05 is
 366 effective.

367 8. An officer of a corporation that is engaged in the
 368 construction industry who elects alternative coverage ~~to be~~
 369 ~~exempt from the provisions of this chapter~~, as otherwise
 370 permitted by this chapter. Such officer is not an employee for
 371 any reason until the notice of revocation of alternative
 372 coverage election filed pursuant to s. 440.05 is effective.

373 9. An exercise rider who does not work for a single horse
 374 farm or breeder, and who is compensated for riding on a case-by-
 375 case basis, provided a written contract is entered into prior to

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376 the commencement of such activity which evidences that an
 377 employee/employer relationship does not exist.

378 10. A taxicab, limousine, or other passenger vehicle-for-
 379 hire driver who operates said vehicles pursuant to a written
 380 agreement with a company which provides any dispatch, marketing,
 381 insurance, communications, or other services under which the
 382 driver and any fees or charges paid by the driver to the company
 383 for such services are not conditioned upon, or expressed as a
 384 proportion of, fare revenues.

385 11. A person who performs services as a sports official
 386 for an entity sponsoring an interscholastic sports event or for
 387 a public entity or private, nonprofit organization that sponsors
 388 an amateur sports event. For purposes of this subparagraph, such
 389 a person is an independent contractor. For purposes of this
 390 subparagraph, the term "sports official" means any person who is
 391 a neutral participant in a sports event, including, but not
 392 limited to, umpires, referees, judges, linespersons,
 393 scorekeepers, or timekeepers. This subparagraph does not apply
 394 to any person employed by a district school board who serves as
 395 a sports official as required by the employing school board or
 396 who serves as a sports official as part of his or her
 397 responsibilities during normal school hours.

398 12. Medicaid-enrolled clients under chapter 393 who are
 399 excluded from the definition of employment under s.
 400 443.036(21)(d)5. and served by Adult Day Training Services under
 401 the Home and Community-Based Medicaid Waiver program in a
 402 sheltered workshop setting licensed by the United States
 403 Department of Labor for the purpose of training and earning less
 404 than the federal hourly minimum wage.

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405 (16)(a) "Employer" means the state and all political
 406 subdivisions thereof, all public and quasi-public corporations
 407 therein, every person carrying on any employment, and the legal
 408 representative of a deceased person or the receiver or trustees
 409 of any person. The term includes an employment agency, an
 410 employee leasing company, or a similar agent that provides
 411 employees to other persons. The term does not include a registry
 412 licensed under s. 400.506. "Employer" also includes employment
 413 agencies, employee leasing companies, and similar agents who
 414 provide employees to other persons. If the employer is a
 415 corporation, parties in actual control of the corporation,
 416 including, but not limited to, the president, officers who
 417 exercise broad corporate powers, directors, and all shareholders
 418 who directly or indirectly own a controlling interest in the
 419 corporation, are considered the employer for the purposes of ss.
 420 440.105, 440.106, and 440.107.

421 (b) A homeowner shall not be considered the employer of
 422 persons hired by the homeowner to carry out construction on the
 423 homeowner's own premises if those premises are not intended for
 424 immediate lease, sale, or resale.

425 (c) Facilities serving individuals under subparagraph
 426 (15)(d)12. shall be considered agents of the Agency for Health
 427 Care Administration as it relates to providing Adult Day
 428 Training Services under the Home and Community-Based Medicaid
 429 Waiver program and not employers or third parties for the
 430 purpose of limiting or denying Medicaid benefits.

431 (17)(a) "Employment," subject to the other provisions of
 432 this chapter, means any service performed by an employee for the
 433 person employing him or her.

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434 (b) "Employment" includes:

435 1. Employment by the state and all political subdivisions
 436 thereof and all public and quasi-public corporations therein,
 437 including officers elected at the polls.

438 2. All private employment ~~employments~~ in which one ~~four~~ or
 439 more employees are employed by the same employer ~~or, with~~
 440 ~~respect to the construction industry, all private employment in~~
 441 ~~which one or more employees are employed by the same employer.~~

442 3. Volunteer firefighters responding to or assisting with
 443 fire or medical emergencies whether or not the firefighters are
 444 on duty.

445 (c) "Employment" does not include service performed by or
 446 as:

447 1. Domestic servants in private homes.

448 2. Agricultural labor performed on a farm in the employ of
 449 a bona fide farmer, or association of farmers, that employs 5 or
 450 fewer regular employees and that employs fewer than 12 other
 451 employees at one time for seasonal agricultural labor that is
 452 completed in less than 30 days, provided such seasonal
 453 employment does not exceed 45 days in the same calendar year.
 454 The term "farm" includes stock, dairy, poultry, fruit, fur-
 455 bearing animals, fish, and truck farms, ranches, nurseries, and
 456 orchards. The term "agricultural labor" includes field foremen,
 457 timekeepers, checkers, and other farm labor supervisory
 458 personnel.

459 3. Professional athletes, such as professional boxers,
 460 wrestlers, baseball, football, basketball, hockey, polo, tennis,
 461 jai alai, and similar players, and motorsports teams competing
 462 in a motor racing event as defined in s. 549.08.

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463 4. Labor under a sentence of a court to perform community
464 services as provided in s. 316.193.

465 5. State prisoners or county inmates, except those
466 performing services for private employers or those enumerated in
467 s. 948.03(8)(a).

468 Section 6. Subsection (3) of section 440.04, Florida
469 Statutes, is amended to read:

470 440.04 Waiver of exemption.--

471 (3) A corporate officer who has elected alternative
472 coverage under ~~exempted herself or himself by proper notice from~~
473 ~~the operation of~~ this chapter may at any time revoke such
474 election exemption and thereby accept the provisions of this
475 chapter by giving notice as provided in s. 440.05.

476 Section 7. Section 440.05, Florida Statutes, is amended to
477 read:

478 440.05 Election of alternative coverage exemption;
479 revocation of election; notice; certification.--

480 (1) Each corporate officer who elects alternative coverage
481 under ~~not to accept the provisions of~~ this chapter or who, after
482 making electing such election exemption, revokes that election
483 ~~exemption~~ shall mail to the department in Tallahassee notice to
484 such effect in accordance with a form to be prescribed by the
485 department.

486 (2) Each sole proprietor or partner who elects alternative
487 coverage under this chapter ~~to be included in the definition of~~
488 ~~"employee"~~ or who, after such election, revokes that election
489 must mail to the department in Tallahassee notice to such
490 effect, in accordance with a form to be prescribed by the
491 department.

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492 (3) Each officer of a corporation who is engaged in the
 493 construction industry and who elects alternative coverage under
 494 ~~an exemption from~~ this chapter or who, after making ~~electing~~
 495 such election ~~exemption~~, revokes that election ~~exemption~~, must
 496 mail a written notice to such effect to the department on a form
 497 prescribed by the department. The notice of election of of
 498 alternative coverage ~~to be exempt from the provisions of this~~
 499 ~~chapter~~ must be notarized and under oath. The notice of election
 500 that to be exempt ~~which~~ is submitted to the department by the
 501 officer of a corporation who is allowed to do so ~~claim an~~
 502 ~~exemption as provided by this chapter~~ must list the name,
 503 federal tax identification number, social security number, all
 504 certified or registered licenses issued pursuant to chapter 489
 505 held by the person seeking the alternative coverage ~~exemption~~, a
 506 copy of relevant documentation as to employment status filed
 507 with the Internal Revenue Service as specified by the
 508 department, a copy of the relevant occupational license in the
 509 primary jurisdiction of the business, and the registration
 510 number of the corporation filed with the Division of
 511 Corporations of the Department of State along with a copy of the
 512 stock certificate evidencing the required ownership under this
 513 chapter. The notice of election ~~to be exempt~~ must identify each
 514 corporation that employs the person making the election ~~electing~~
 515 ~~the exemption~~ and must list the social security number or
 516 federal tax identification number of each such employer and the
 517 additional documentation required by this section. In addition,
 518 the notice of election ~~to be exempt~~ ~~must provide that the~~
 519 ~~officer electing an exemption is not entitled to benefits under~~
 520 ~~this chapter, must provide that the election does not exceed~~

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521 ~~exemption limits for officers provided in s. 440.02, and must~~
 522 certify that any employees of the corporation whose officer
 523 elects alternative coverage ~~an exemption~~ are covered by workers'
 524 compensation insurance or, if applicable, alternative coverage.
 525 Upon receipt of the notice of the election ~~to be exempt~~, receipt
 526 of all application fees, and a determination by the department
 527 that the notice meets the requirements of this subsection, the
 528 department shall issue a certification of the election to the
 529 officer, unless the department determines that the information
 530 contained in the notice is invalid. The department shall revoke
 531 a certificate of election ~~to be exempt from coverage~~ upon a
 532 determination by the department that the person does not meet
 533 the requirements for alternative coverage ~~exemption~~ or that the
 534 information contained in the notice of election ~~to be exempt~~ is
 535 invalid. The certificate of election must list the name of the
 536 corporation listed in the notice of election ~~request for~~
 537 ~~exemption~~. A new certificate of election must be obtained each
 538 time the person is employed by a new or different corporation
 539 that is not listed on the certificate of election. A copy of the
 540 certificate of election must be sent to each workers'
 541 compensation carrier identified in the request for exemption.
 542 Upon filing a notice of revocation of election, an officer who
 543 is a subcontractor or an officer of a corporate subcontractor
 544 must notify her or his contractor. Upon revocation of a
 545 certificate of election ~~of exemption~~ by the department, the
 546 department shall notify the workers' compensation carriers
 547 identified in the notice of election ~~request for exemption~~.

548 (4) The notice of election of alternative coverage ~~to be~~
 549 ~~exempt from the provisions of this chapter~~ must contain a notice

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550 that clearly states in substance the following: "Any person who,
 551 knowingly and with intent to injure, defraud, or deceive the
 552 department or any employer or employee, insurance company, or
 553 ~~any~~ other person, files a notice of election of alternative
 554 coverage ~~to be exempt~~ containing any false or misleading
 555 information is guilty of a felony of the third degree." Each
 556 person filing a notice of election ~~to be exempt~~ shall personally
 557 sign the notice and attest that he or she has reviewed,
 558 understands, and acknowledges the foregoing notice.

559 (5) A notice given under subsection (1), subsection (2),
 560 or subsection (3) shall become effective when issued by the
 561 department or 30 days after an application for alternative
 562 coverage ~~an exemption~~ is received by the department, whichever
 563 occurs first. However, if an accident or occupational disease
 564 occurs less than 30 days after the effective date of the
 565 insurance policy under which the payment of compensation is
 566 secured or the date the employer qualified as a self-insurer,
 567 such notice is effective as of 12:01 a.m. of the day following
 568 the date it is mailed to the department in Tallahassee.

569 (6) A construction industry certificate of election of
 570 alternative coverage ~~to be exempt~~ which is issued in accordance
 571 with this section shall be valid for 2 years after the effective
 572 date stated thereon. Both the effective date and the expiration
 573 date must be listed on the face of the certificate by the
 574 department. The construction industry certificate must expire at
 575 midnight, 2 years from its issue date, as noted on the face of
 576 the exemption certificate. ~~Any person who has received from the~~
 577 ~~department a construction industry certificate of election to be~~
 578 ~~exempt which is in effect on December 31, 1998, shall file a new~~

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579 ~~notice of election to be exempt by the last day in his or her~~
 580 ~~birth month following December 1, 1998.~~ A construction industry
 581 certificate of election ~~to be exempt~~ may be revoked before its
 582 expiration by the officer for whom it was issued or by the
 583 department for the reasons stated in this section. At least 60
 584 days prior to the expiration date of a construction industry
 585 certificate of election exemption ~~issued after December 1, 1998,~~
 586 the department shall send notice of the expiration date and an
 587 application for renewal to the certificateholder at the address
 588 on the certificate.

589 (7) Any contractor responsible for compensation under s.
 590 440.10 may register in writing with the workers' compensation
 591 carrier for any subcontractor and shall thereafter be entitled
 592 to receive written notice from the carrier of any cancellation
 593 or nonrenewal of the policy.

594 (8)(a) The department must assess a fee of \$50 with each
 595 request for a construction industry certificate of election of of
 596 alternative coverage ~~to be exempt~~ or renewal of election of of
 597 alternative coverage ~~to be exempt~~ under this section.

598 (b) The funds collected by the department shall be used to
 599 administer this section, to audit the businesses that pay the
 600 fee for compliance with any requirements of this chapter, and to
 601 enforce compliance with the provisions of this chapter.

602 (9) The department may by rule prescribe forms and
 603 procedures for filing an election of alternative coverage
 604 ~~exemption~~, revocation of election ~~to be exempt~~, and notice of
 605 election of coverage for all employers and require specified
 606 forms to be submitted by all employers in filing for the
 607 election of alternative coverage ~~exemption~~. The department may

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608 by rule prescribe forms and procedures for issuing a certificate
 609 of the election of alternative coverage ~~exemption~~.

610 (10) Each officer of a corporation who is actively engaged
 611 in the construction industry and who elects alternative coverage
 612 ~~an exemption from this chapter~~ shall maintain business records
 613 as specified by the department by rule, which rules must include
 614 the provision that any corporation with ~~exempt~~ officers having
 615 alternative coverage engaged in the construction industry must
 616 maintain written statements of those exempted persons
 617 affirmatively acknowledging each such individual's ~~exempt~~
 618 status.

619 (11) Any corporate officer permitted by this chapter to
 620 elect alternative coverage ~~claim an exemption~~ must be listed on
 621 the records of this state's Secretary of State, Division of
 622 Corporations, as a corporate officer. The department shall issue
 623 a stop-work order under s. 440.107(1) to any corporation who
 624 employs a person who claims to be eligible for alternative
 625 coverage under this chapter ~~exempt~~ as a corporate officer but
 626 who fails or refuses to produce the documents required under
 627 this subsection to the department within 3 business days after
 628 the request is made.

629 (12) Certificates of election of alternative coverage ~~to~~
 630 ~~be exempt~~ issued under subsection (3) shall apply only to the
 631 corporate officer named on the notice of election ~~to be exempt~~
 632 and apply only within the scope of the business or trade listed
 633 on the notice of election ~~to be exempt~~.

634 (13) Notices of election of alternative coverage ~~to be~~
 635 ~~exempt~~ and certificates of election of alternative coverage ~~to~~
 636 ~~be exempt~~ shall be subject to revocation if, at any time after

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637 the filing of the notice or the issuance of the certificate, the
 638 person named on the notice or certificate no longer meets the
 639 requirements of this section for issuance of a certificate. The
 640 department shall revoke a certificate at any time for failure of
 641 the person named on the certificate to meet the requirements of
 642 this section.

643 (14) An officer of a corporation who elects alternative
 644 coverage ~~exemption from this chapter~~ by filing a certificate of
 645 election under this section may not recover benefits or
 646 compensation under this chapter other than the benefits provided
 647 by the alternative coverage. For purposes of determining the
 648 appropriate premium for workers' compensation coverage, carriers
 649 may not consider any officer of a corporation who validly meets
 650 the requirements of this section to be an employee.

651 (15) Any corporate officer who is an affiliated person of
 652 a person who is delinquent in paying a stop-work order and
 653 penalty assessment order issued pursuant to s. 440.107, or owed
 654 pursuant to a court order, is ineligible for an election of
 655 alternative coverage ~~exemption~~. The stop-work order and penalty
 656 assessment shall be in effect against any such affiliated
 657 person. As used in this subsection, the term "affiliated person"
 658 means:

- 659 (a) The spouse of such other person;
- 660 (b) Any person who directly or indirectly owns or
 661 controls, or holds with the power to vote, 10 percent or more of
 662 the outstanding voting securities of such other person;
- 663 (c) Any person who directly or indirectly owns 10 percent
 664 or more of the outstanding voting securities that are directly

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665 or indirectly owned, controlled, or held with the power to vote
 666 by such other person;

667 (d) Any person or group of persons who directly or
 668 indirectly control, are controlled by, or are under common
 669 control with such other person;

670 (e) Any person who directly or indirectly acquires all or
 671 substantially all of the other assets of such other person;

672 (f) Any officer, director, trustee, partner, owner,
 673 manager, joint venturer, or employee of such other person or a
 674 person performing duties similar to persons in such positions;
 675 or

676 (g) Any person who has an officer, director, trustee,
 677 partner, or joint venturer in common with such person.

678 Section 8. Paragraphs (c) and (d) of subsection (1) of
 679 section 440.10, Florida Statutes, are amended to read:

680 440.10 Liability for compensation.--

681 (1)

682 (c) A contractor shall require a subcontractor to provide
 683 evidence of workers' compensation insurance. A subcontractor who
 684 is a corporation and has an officer who elects alternative
 685 coverage ~~to be exempt as permitted~~ under this chapter shall
 686 provide a copy of his or her certificate of alternative coverage
 687 ~~exemption~~ to the contractor.

688 (d)1. If a contractor becomes liable for the payment of
 689 compensation to the employees of a subcontractor who has failed
 690 to secure such payment in violation of s. 440.38, the contractor
 691 or other third-party payor shall be entitled to recover from the
 692 subcontractor all benefits paid or payable plus interest unless

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693 the contractor and subcontractor have agreed in writing that the
 694 contractor will provide coverage.

695 2. If a contractor or third-party payor becomes liable for
 696 the payment of compensation to the corporate officer of a
 697 subcontractor who is engaged in the construction industry and
 698 has elected alternative coverage under ~~to be exempt from the~~
 699 ~~provisions of~~ this chapter, but whose election is invalid, the
 700 contractor or third-party payor may recover from the claimant or
 701 corporation all benefits paid or payable plus interest, unless
 702 the contractor and the subcontractor have agreed in writing that
 703 the contractor will provide coverage.

704 Section 9. Paragraph (a) of subsection (2) and paragraph
 705 (b) of subsection (4) of section 440.105, Florida Statutes, are
 706 amended to read:

707 440.105 Prohibited activities; reports; penalties;
 708 limitations.--

709 (2) Whoever violates any provision of this subsection
 710 commits a misdemeanor of the first degree, punishable as
 711 provided in s. 775.082 or s. 775.083.

712 (a) It shall be unlawful for any employer to knowingly:

713 1. Coerce or attempt to coerce, as a precondition to
 714 employment or otherwise, an employee to obtain a certificate of
 715 election of alternative coverage ~~exemption~~ pursuant to s.
 716 440.05.

717 2. Discharge or refuse to hire an employee or job
 718 applicant because the employee or applicant has filed a claim
 719 for benefits under this chapter.

720 3. Discharge, discipline, or take any other adverse
 721 personnel action against any employee for disclosing information

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722 to the department or any law enforcement agency relating to any
 723 violation or suspected violation of any of the provisions of
 724 this chapter or rules promulgated hereunder.

725 4. Violate a stop-work order issued by the department
 726 pursuant to s. 440.107.

727 (4) Whoever violates any provision of this subsection
 728 commits insurance fraud, punishable as provided in paragraph
 729 (f).

730 (b) It shall be unlawful for any person:

731 1. To knowingly make, or cause to be made, any false,
 732 fraudulent, or misleading oral or written statement for the
 733 purpose of obtaining or denying any benefit or payment under
 734 this chapter.

735 2. To present or cause to be presented any written or oral
 736 statement as part of, or in support of, a claim for payment or
 737 other benefit pursuant to any provision of this chapter, knowing
 738 that such statement contains any false, incomplete, or
 739 misleading information concerning any fact or thing material to
 740 such claim.

741 3. To prepare or cause to be prepared any written or oral
 742 statement that is intended to be presented to any employer,
 743 insurance company, or self-insured program in connection with,
 744 or in support of, any claim for payment or other benefit
 745 pursuant to any provision of this chapter, knowing that such
 746 statement contains any false, incomplete, or misleading
 747 information concerning any fact or thing material to such claim.

748 4. To knowingly assist, conspire with, or urge any person
 749 to engage in activity prohibited by this section.

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750 5. To knowingly make any false, fraudulent, or misleading
 751 oral or written statement, or to knowingly omit or conceal
 752 material information, required by s. 440.185 or s. 440.381, for
 753 the purpose of obtaining workers' compensation coverage or for
 754 the purpose of avoiding, delaying, or diminishing the amount of
 755 payment of any workers' compensation premiums.

756 6. To knowingly misrepresent or conceal payroll,
 757 classification of workers, or information regarding an
 758 employer's loss history which would be material to the
 759 computation and application of an experience rating modification
 760 factor for the purpose of avoiding or diminishing the amount of
 761 payment of any workers' compensation premiums.

762 7. To knowingly present or cause to be presented any
 763 false, fraudulent, or misleading oral or written statement to
 764 any person as evidence of compliance with s. 440.38 or, as
 765 evidence of eligibility for a certificate of alternative
 766 coverage exemption under s. 440.05.

767 8. To knowingly violate a stop-work order issued by the
 768 department pursuant to s. 440.107.

769 9. To knowingly present or cause to be presented any
 770 false, fraudulent, or misleading oral or written statement to
 771 any person as evidence of identity for the purpose of obtaining
 772 employment or filing or supporting a claim for workers'
 773 compensation benefits.

774 (f) If the monetary value of any violation of this
 775 subsection:

776 1. Is less than \$20,000, the offender commits a felony of
 777 the third degree, punishable as provided in s. 775.082, s.
 778 775.083, or s. 775.084.

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779 2. Is \$20,000 or more, but less than \$100,000, the
 780 offender commits a felony of the second degree, punishable as
 781 provided in s. 775.082, s. 775.083, or s. 775.084.

782 3. Is \$100,000 or more, the offender commits a felony of
 783 the first degree, punishable as provided in s. 775.082, s.
 784 775.083, or s. 775.084.

785 Section 10. Paragraph (d) of subsection (5) of section
 786 489.115, Florida Statutes, is amended to read:

787 489.115 Certification and registration; endorsement;
 788 reciprocity; renewals; continuing education.--

789 (5)

790 (d) An applicant for initial issuance of a certificate or
 791 registration shall submit as a prerequisite to qualifying for
 792 alternative ~~an exemption from workers' compensation~~ coverage
 793 ~~requirements~~ under s. 440.05 an affidavit attesting to the fact
 794 that the applicant will obtain such alternative coverage ~~an~~
 795 ~~exemption~~ within 30 days after the date the initial certificate
 796 or registration is issued by the board.

797 Section 11. Paragraph (b) of subsection (3) of section
 798 489.515, Florida Statutes, is amended to read:

799 489.515 Issuance of certificates; registrations.--

800 (3)

801 (b) An applicant for initial issuance of a certificate or
 802 registration shall submit as a prerequisite to qualifying for
 803 alternative ~~an exemption from workers' compensation~~ coverage
 804 ~~requirements~~ under s. 440.05 an affidavit attesting to the fact
 805 that the applicant will obtain such alternative coverage ~~an~~
 806 ~~exemption~~ within 30 days after the date the initial certificate
 807 or registration is issued by the board.

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808 Section 12. Except for this section and section
809 440.095(9), Florida Statutes, as created by section 4 of this
810 act, which shall take effect upon becoming a law, this act shall
811 take effect January 1, 2005.