

By the Committee on Banking and Insurance

311-1746B-04

1 A bill to be entitled
2 An act relating to workers' compensation;
3 amending s. 440.02, F.S.; redefining the terms
4 "corporate officer," "employee," and
5 "employer"; providing members of limited
6 liability companies similar authority to elect
7 exemption from workers' compensation coverage
8 as corporate officers; amending ss. 440.05,
9 440.077, F.S.; providing technical and
10 conforming changes relating to exemptions from
11 coverage requirements; amending s. 440.093,
12 F.S.; providing exceptions for limitations on
13 benefits for mental and nervous injuries;
14 amending s. 440.105, F.S.; deleting the
15 prohibition against specified acts; providing
16 for carriers and self-insured employers to
17 verify whether benefit recipients are
18 concurrently listed as employees of an
19 employing unit; amending s. 440.13, F.S.;
20 revising method of calculating the value of
21 attendant care services; revising provisions
22 relating to penalties with respect to payment
23 of medical bills; revising practice parameters
24 applicable to medical care; amending ss.
25 440.14, 440.15, F.S.; correcting
26 cross-references; amending s. 440.20, F.S.;
27 providing duties of the Department of Financial
28 Services in ensuring timely payment of
29 benefits; amending s. 440.381, F.S.; revising
30 penalties relating to applications for
31 coverage; amending s. 440.525, F.S.; providing

1 for examination of certain entities and
2 reports; amending s. 921.0022, F.S.; revising
3 criminal offense severity ranking chart with
4 respect to specified offenses involving
5 workers' compensation; providing an effective
6 date.

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

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10 Section 1. Subsections (9), (15), and (16) of section
11 440.02, Florida Statutes, are amended to read:

12 440.02 Definitions.--When used in this chapter, unless
13 the context clearly requires otherwise, the following terms
14 shall have the following meanings:

15 (9) "Corporate officer" or "officer of a corporation"
16 means any person who fills an office provided for in the
17 corporate charter or articles of incorporation filed with the
18 Division of Corporations of the Department of State or as
19 permitted or required by chapter 607. ~~As to persons engaged in
20 the construction industry, the term "officer of a corporation"
21 includes a member owning at least 10 percent of a limited
22 liability company created and approved under chapter 608.~~

23 (15)(a) "Employee" means any person who receives
24 remuneration from an employer for the performance of any work
25 or service while engaged in any employment under any
26 appointment or contract for hire or apprenticeship, express or
27 implied, oral or written, whether lawfully or unlawfully
28 employed, and includes, but is not limited to, aliens and
29 minors.

30 (b) "Employee" includes any person who is an officer
31 of a corporation and who performs services for remuneration

1 for such corporation within this state, whether or not such
2 services are continuous.

3 1. Any officer of a corporation may elect to be exempt
4 from this chapter by filing written notice of the election
5 with the department as provided in s. 440.05.

6 2. As to officers of a corporation or members of a
7 limited liability company who are engaged in the construction
8 industry, no more than three officers of a corporation or
9 members of a limited liability company or of any group of
10 affiliated corporations or limited liability companies may
11 elect to be exempt from this chapter by filing written notice
12 of the election with the department as provided in s. 440.05.
13 Officers must be shareholders, each owning at least 10 percent
14 of the stock of such corporation and listed as an officer of
15 such corporation with the Division of Corporations of the
16 Department of State, in order to elect exemptions under this
17 chapter. Members must each own at least a 10-percent interest
18 of such limited liability company created under chapter 608
19 and must be listed as a member of such limited liability
20 company with the Division of Corporations of the Department of
21 State in order to elect exemption under this chapter.For
22 purposes of this subparagraph, the term "affiliated" means and
23 includes one or more corporations or limited liability
24 companies or entities, any one of which is a corporation or
25 limited liability company engaged in the construction
26 industry, under the same or substantially the same control of
27 a group of business entities which are connected or associated
28 so that one entity controls or has the power to control each
29 of the other business entities. The term "affiliated"
30 includes, but is not limited to, the members,officers,
31 directors, executives, shareholders active in management,

1 employees, and agents of the affiliated corporation or limited
2 liability company. The ownership by one business entity of a
3 controlling interest in another business entity or a pooling
4 of equipment or income among business entities shall be prima
5 facie evidence that one business is affiliated with the other.

6 3. An officer of a corporation or a member of a
7 limited liability company who elects to be exempt from this
8 chapter by filing a written notice of the election with the
9 department as provided in s. 440.05 is not an employee.

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11 Services are presumed to have been rendered to the corporation
12 if the officer is compensated by other than dividends upon
13 shares of stock of the corporation which the officer owns.

14 (c) "Employee" includes:

15 1. A sole proprietor or a partner who is not engaged
16 in the construction industry, devotes full time to the
17 proprietorship or partnership, and elects to be included in
18 the definition of employee by filing notice thereof as
19 provided in s. 440.05.

20 2. All persons who are being paid by a construction
21 contractor as a subcontractor, unless the subcontractor has
22 validly elected an exemption as permitted by this chapter, or
23 has otherwise secured the payment of compensation coverage as
24 a subcontractor, consistent with s. 440.10, for work performed
25 by or as a subcontractor.

26 3. An independent contractor working or performing
27 services in the construction industry.

28 4. A sole proprietor who engages in the construction
29 industry and a partner or partnership that is engaged in the
30 construction industry.

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1 5. A volunteer worker for the state or a county,
2 municipality, or other governmental entity.

3 (d) "Employee" does not include:

4 1. An independent contractor who is not engaged in the
5 construction industry.

6 a. In order to meet the definition of independent
7 contractor, at least four of the following criteria must be
8 met:

9 (I) The independent contractor maintains a separate
10 business with his or her own work facility, truck, equipment,
11 materials, or similar accommodations;

12 (II) The independent contractor holds or has applied
13 for a federal employer identification number, unless the
14 independent contractor is a sole proprietor who is not
15 required to obtain a federal employer identification number
16 under state or federal regulations;

17 (III) The independent contractor receives compensation
18 for services rendered or work performed and such compensation
19 is paid to a business rather than to an individual;

20 (IV) The independent contractor holds one or more bank
21 accounts in the name of the business entity for purposes of
22 paying business expenses or other expenses related to services
23 rendered or work performed for compensation;

24 (V) The independent contractor performs work or is
25 able to perform work for any entity in addition to or besides
26 the employer at his or her own election without the necessity
27 of completing an employment application or process; or

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

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

8 (I) The independent contractor performs or agrees to
9 perform specific services or work for a specific amount of
10 money and controls the means of performing the services or
11 work.

12 (II) The independent contractor incurs the principal
13 expenses related to the service or work that he or she
14 performs or agrees to perform.

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

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

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

23 (VI) The independent contractor has continuing or
24 recurring business liabilities or obligations.

25 (VII) The success or failure of the independent
26 contractor's business depends on the relationship of business
27 receipts to expenditures.

28 c. Notwithstanding anything to the contrary in this
29 subparagraph, an individual claiming to be an independent
30 contractor has the burden of proving that he or she is an
31 independent contractor for purposes of this chapter.

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

4 3. Bands, orchestras, and musical and theatrical
5 performers, including disk jockeys, performing in licensed
6 premises as defined in chapter 562, if a written contract
7 evidencing an independent contractor relationship is entered
8 into before the commencement of such entertainment.

9 4. An owner-operator of a motor vehicle who transports
10 property under a written contract with a motor carrier which
11 evidences a relationship by which the owner-operator assumes
12 the responsibility of an employer for the performance of the
13 contract, if the owner-operator is required to furnish the
14 necessary motor vehicle equipment and all costs incidental to
15 the performance of the contract, including, but not limited
16 to, fuel, taxes, licenses, repairs, and hired help; and the
17 owner-operator is paid a commission for transportation service
18 and is not paid by the hour or on some other time-measured
19 basis.

20 5. A person whose employment is both casual and not in
21 the course of the trade, business, profession, or occupation
22 of the employer.

23 6. A volunteer, ~~except a volunteer worker for the~~
24 ~~state or a county, municipality, or other governmental entity.~~

25 A person who does not receive monetary remuneration for
26 services is presumed to be a volunteer unless there is
27 substantial evidence that a valuable consideration was
28 intended by both employer and employee. For purposes of this
29 chapter, the term "volunteer" includes, but is not limited to:

30 a. Persons who serve in private nonprofit agencies and
31 who receive no compensation other than expenses in an amount

1 less than or equivalent to the standard mileage and per diem
2 expenses provided to salaried employees in the same agency or,
3 if such agency does not have salaried employees who receive
4 mileage and per diem, then such volunteers who receive no
5 compensation other than expenses in an amount less than or
6 equivalent to the customary mileage and per diem paid to
7 salaried workers in the community as determined by the
8 department; and

9 b. Volunteers participating in federal programs
10 established under Pub. L. No. 93-113.

11 7. Unless otherwise prohibited by this chapter, any
12 officer of a corporation or member of a limited liability
13 company who elects to be exempt from this chapter. Such
14 officer or member is not an employee for any reason under this
15 chapter until the notice of revocation of election filed
16 pursuant to s. 440.05 is effective.

17 8. An officer of a corporation or member of a limited
18 liability company that is engaged in the construction industry
19 who elects to be exempt from the provisions of this chapter,
20 as otherwise permitted by this chapter. Such officer or member
21 is not an employee for any reason until the notice of
22 revocation of election filed pursuant to s. 440.05 is
23 effective.

24 9. An exercise rider who does not work for a single
25 horse farm or breeder, and who is compensated for riding on a
26 case-by-case basis, provided a written contract is entered
27 into prior to the commencement of such activity which
28 evidences that an employee/employer relationship does not
29 exist.

30 10. A taxicab, limousine, or other passenger
31 vehicle-for-hire driver who operates said vehicles pursuant to

1 a written agreement with a company which provides any
2 dispatch, marketing, insurance, communications, or other
3 services under which the driver and any fees or charges paid
4 by the driver to the company for such services are not
5 conditioned upon, or expressed as a proportion of, fare
6 revenues.

7 11. A person who performs services as a sports
8 official for an entity sponsoring an interscholastic sports
9 event or for a public entity or private, nonprofit
10 organization that sponsors an amateur sports event. For
11 purposes of this subparagraph, such a person is an independent
12 contractor. For purposes of this subparagraph, the term
13 "sports official" means any person who is a neutral
14 participant in a sports event, including, but not limited to,
15 umpires, referees, judges, linespersons, scorekeepers, or
16 timekeepers. This subparagraph does not apply to any person
17 employed by a district school board who serves as a sports
18 official as required by the employing school board or who
19 serves as a sports official as part of his or her
20 responsibilities during normal school hours.

21 12. Medicaid-enrolled clients under chapter 393 who
22 are excluded from the definition of employment under s.
23 443.036(21)(d)5. and served by Adult Day Training Services
24 under the Home and Community-Based Medicaid Waiver program in
25 a sheltered workshop setting licensed by the United States
26 Department of Labor for the purpose of training and earning
27 less than the federal hourly minimum wage.

28 (16)(a) "Employer" means the state and all political
29 subdivisions thereof, all public and quasi-public corporations
30 therein, every person carrying on any employment, and the
31 legal representative of a deceased person or the receiver or

1 trustees of any person. ~~"Employer" also includes employment~~
2 ~~agencies, employee leasing companies, and similar agents who~~
3 ~~provide employees to other persons.~~ If the employer is a
4 corporation, parties in actual control of the corporation,
5 including, but not limited to, the president, officers who
6 exercise broad corporate powers, directors, and all
7 shareholders who directly or indirectly own a controlling
8 interest in the corporation, are considered the employer for
9 the purposes of ss. 440.105, 440.106, and 440.107.

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

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

20 Section 2. Subsections (3), (6), (10), (11), (12),
21 (14), and (15) of section 440.05, Florida Statutes, are
22 amended to read:

23 440.05 Election of exemption; revocation of election;
24 notice; certification.--

25 (3) Each officer of a corporation or member of a
26 limited liability company who is engaged in the construction
27 industry and who elects an exemption from this chapter or who,
28 after electing such exemption, revokes that exemption, must
29 mail a written notice to such effect to the department on a
30 form prescribed by the department. The notice of election to
31 be exempt from the provisions of this chapter must be

1 notarized and under oath. The notice of election to be exempt
2 which is submitted to the department by the officer of a
3 corporation or member of a limited liability company who is
4 allowed to claim an exemption as provided by this chapter must
5 list the name, federal tax identification number, social
6 security number, all certified or registered licenses issued
7 pursuant to chapter 489 held by the person seeking the
8 exemption, a copy of relevant documentation as to employment
9 status filed with the Internal Revenue Service as specified by
10 the department, a copy of the relevant occupational license in
11 the primary jurisdiction of the business, and the registration
12 number of the corporation or limited liability company filed
13 with the Division of Corporations of the Department of State
14 along with a copy of the stock certificate, operating
15 agreement, or member's agreement evidencing the required
16 ownership or contribution under this chapter. The notice of
17 election to be exempt must identify each corporation or
18 limited liability company that employs the person electing the
19 exemption and must list the social security number or federal
20 tax identification number of each such employer and the
21 additional documentation required by this section. In
22 addition, the notice of election to be exempt must provide
23 that the officer or member electing an exemption is not
24 entitled to benefits under this chapter, must provide that the
25 election does not exceed exemption limits for officers or
26 members provided in s. 440.02, and must certify that any
27 employees of the corporation or limited liability company
28 whose officer or member elects an exemption are covered by
29 workers' compensation insurance. Upon receipt of the notice of
30 the election to be exempt, receipt of all application fees,
31 and a determination by the department that the notice meets

1 the requirements of this subsection, the department shall
2 issue a certification of the election to the officer or
3 member, unless the department determines that the information
4 contained in the notice is invalid. The department shall
5 revoke a certificate of election to be exempt from coverage
6 upon a determination by the department that the person does
7 not meet the requirements for exemption or that the
8 information contained in the notice of election to be exempt
9 is invalid. The certificate of election must list the name of
10 the corporation or limited liability company listed in the
11 request for exemption. A new certificate of election must be
12 obtained each time the person is employed by a new or
13 different corporation or limited liability company that is not
14 listed on the certificate of election. A copy of the
15 certificate of election must be sent to each workers'
16 compensation carrier identified in the request for exemption.
17 Upon filing a notice of revocation of election, an officer or
18 member who is a subcontractor or an officer or member of a
19 corporate or limited liability company subcontractor must
20 notify her or his contractor. Upon revocation of a certificate
21 of election of exemption by the department, the department
22 shall notify the workers' compensation carriers identified in
23 the request for exemption.

24 (6) A construction industry certificate of election to
25 be exempt which is issued in accordance with this section
26 shall be valid for 2 years after the effective date stated
27 thereon. Both the effective date and the expiration date must
28 be listed on the face of the certificate by the department.
29 The construction industry certificate must expire at midnight,
30 2 years from its issue date, as noted on the face of the
31 exemption certificate. ~~Any person who has received from the~~

1 ~~department a construction industry certificate of election to~~
2 ~~be exempt which is in effect on December 31, 1998, shall file~~
3 ~~a new notice of election to be exempt by the last day in his~~
4 ~~or her birth month following December 1, 1998.~~ A construction
5 industry certificate of election to be exempt may be revoked
6 before its expiration by the officer or member for whom it was
7 issued or by the department for the reasons stated in this
8 section. At least 60 days prior to the expiration date of a
9 construction industry certificate of exemption issued after
10 December 1, 1998, the department shall send notice of the
11 expiration date and an application for renewal to the
12 certificateholder at the address on the certificate.

13 (10) Each officer of a corporation or member of a
14 limited liability company who is actively engaged in the
15 construction industry and who elects an exemption from this
16 chapter shall maintain business records as specified by the
17 department by rule, which rules must include the provision
18 that any corporation with exempt officers or any limited
19 liability company with exempt members engaged in the
20 construction industry must maintain written statements of
21 those exempted persons affirmatively acknowledging each such
22 individual's exempt status.

23 (11) Any corporate officer or member of a limited
24 liability company permitted by this chapter to claim an
25 exemption must be listed on the records of this state's
26 Secretary of State, Division of Corporations, as a corporate
27 officer or member of a limited liability company. The
28 department shall issue a stop-work order under s. 440.107(1)
29 to any corporation or limited liability company that who
30 employs a person who claims to be exempt as a corporate
31 officer or member but that who fails or refuses to produce the

1 documents required under this subsection to the department
2 within 3 business days after the request is made.

3 (12) Certificates of election to be exempt issued
4 under subsection (3) shall apply only to the corporate officer
5 or member of a limited liability company named on the notice
6 of election to be exempt and apply only within the scope of
7 the business or trade listed on the notice of election to be
8 exempt.

9 (14) An officer of a corporation or member of a
10 limited liability company who elects exemption from this
11 chapter by filing a certificate of election under this section
12 may not recover benefits or compensation under this chapter.
13 For purposes of determining the appropriate premium for
14 workers' compensation coverage, carriers may not consider any
15 officer of a corporation or member of a limited liability
16 company who validly meets the requirements of this section to
17 be an employee.

18 (15) Any corporate officer or member of a limited
19 liability company who is an affiliated person of a person who
20 is delinquent in paying a stop-work order and penalty
21 assessment order issued pursuant to s. 440.107, or owed
22 pursuant to a court order, is ineligible for an election of
23 exemption. The stop-work order and penalty assessment shall be
24 in effect against any such affiliated person. As used in this
25 subsection, the term "affiliated person" means:

26 (a) The spouse of such other person;

27 (b) Any person who directly or indirectly owns or
28 controls, or holds with the power to vote, 10 percent or more
29 of the outstanding voting securities of such other person;

30 (c) Any person who directly or indirectly owns 10
31 percent or more of the outstanding voting securities that are

1 directly or indirectly owned, controlled, or held with the
2 power to vote by such other person;

3 (d) Any person or group of persons who directly or
4 indirectly control, are controlled by, or are under common
5 control with such other person;

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

8 (f) Any officer, director, trustee, partner, owner,
9 manager, joint venturer, or employee of such other person or a
10 person performing duties similar to persons in such positions;
11 or

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

14 Section 3. Section 440.077, Florida Statutes, is
15 amended to read:

16 440.077 When a corporate officer or member of a
17 limited liability company rejects chapter, effect.--An officer
18 of a corporation or member of a limited liability company who
19 is permitted to elect an exemption under this chapter and who
20 elects to be exempt from the provisions of this chapter may
21 not recover benefits under this chapter.

22 Section 4. Subsection (1) of section 440.093, Florida
23 Statutes, is amended to read:

24 440.093 Mental and nervous injuries.--

25 (1) A mental or nervous injury due to stress, fright,
26 or excitement only is not an injury by accident arising out of
27 the employment. Nothing in this section shall be construed to
28 allow for the payment of benefits under this chapter for
29 mental or nervous injuries without an accompanying physical
30 injury requiring medical treatment, except in instances of
31 sexual battery or robbery which arise out of and in the course

1 of employment. A physical injury resulting from mental or
2 nervous injuries unaccompanied by physical trauma requiring
3 medical treatment shall not be compensable under this chapter.

4 Section 5. Subsections (2), (3), and (4) of section
5 440.105, Florida Statutes, are amended, and subsection (8) is
6 added to that section, to read:

7 440.105 Prohibited activities; reports; penalties;
8 limitations.--

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

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

14 1. Coerce or attempt to coerce, as a precondition to
15 employment or otherwise, an employee to obtain a certificate
16 of election of exemption pursuant to s. 440.05.

17 2. Discharge or refuse to hire an employee or job
18 applicant because the employee or applicant has filed a claim
19 for benefits under this chapter.

20 3. Discharge, discipline, or take any other adverse
21 personnel action against any employee for disclosing
22 information to the department or any law enforcement agency
23 relating to any violation or suspected violation of any of the
24 provisions of this chapter or rules promulgated hereunder.

25 ~~4. Violate a stop-work order issued by the department~~
26 ~~pursuant to s. 440.107.~~

27 (b) It shall be unlawful for any insurance entity to
28 revoke or cancel a workers' compensation insurance policy or
29 membership because an employer has returned an employee to
30 work or hired an employee who has filed a workers'
31 compensation claim.

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

4 (a) It shall be unlawful for any employer to knowingly
5 fail to update applications for coverage as required by s.
6 440.381(1) and department rules within 7 days after the
7 reporting date for any change in the required information, or
8 to post notice of coverage pursuant to s. 440.40.

9 ~~(b) It shall be unlawful for any employer to knowingly~~
10 ~~participate in the creation of the employment relationship in~~
11 ~~which the employee has used any false, fraudulent, or~~
12 ~~misleading oral or written statement as evidence of identity.~~

13 (b)(c) It is unlawful for any attorney or other
14 person, in his or her individual capacity or in his or her
15 capacity as a public or private employee, or for any firm,
16 corporation, partnership, or association to receive any fee or
17 other consideration or any gratuity from a person on account
18 of services rendered for a person in connection with any
19 proceedings arising under this chapter, unless such fee,
20 consideration, or gratuity is approved by a judge of
21 compensation claims or by the Deputy Chief Judge of
22 Compensation Claims.

23 (4) Whoever violates any provision of this subsection
24 commits insurance fraud, punishable as provided in paragraph
25 (f).

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

28 1. Present or cause to be presented any false,
29 fraudulent, or misleading oral or written statement to any
30 person as evidence of compliance with s. 440.38.

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1 2. Make a deduction from the pay of any employee
2 entitled to the benefits of this chapter for the purpose of
3 requiring the employee to pay any portion of premium paid by
4 the employer to a carrier or to contribute to a benefit fund
5 or department maintained by such employer for the purpose of
6 providing compensation or medical services and supplies as
7 required by this chapter.

8 3. Fail to secure payment of compensation if required
9 to do so by this chapter.

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

11 1. To knowingly make, or cause to be made, any false,
12 fraudulent, or misleading oral or written statement for the
13 purpose of obtaining or denying any benefit or payment under
14 this chapter.

15 2. To present or cause to be presented any written or
16 oral statement as part of, or in support of, a claim for
17 payment or other benefit pursuant to any provision of this
18 chapter, knowing that such statement contains any false,
19 incomplete, or misleading information concerning any fact or
20 thing material to such claim.

21 3. To prepare or cause to be prepared any written or
22 oral statement that is intended to be presented to any
23 employer, insurance company, or self-insured program in
24 connection with, or in support of, any claim for payment or
25 other benefit pursuant to any provision of this chapter,
26 knowing that such statement contains any false, incomplete, or
27 misleading information concerning any fact or thing material
28 to such claim.

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

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1 5. To knowingly make any false, fraudulent, or
2 misleading oral or written statement, or to knowingly omit or
3 conceal material information, required by s. 440.185 or s.
4 440.381, for the purpose of obtaining workers' compensation
5 coverage or for the purpose of avoiding, delaying, or
6 diminishing the amount of payment of any workers' compensation
7 premiums.

8 6. To knowingly misrepresent or conceal payroll,
9 classification of workers, or information regarding an
10 employer's loss history which would be material to the
11 computation and application of an experience rating
12 modification factor for the purpose of avoiding or diminishing
13 the amount of payment of any workers' compensation premiums.

14 7. To knowingly present or cause to be presented any
15 false, fraudulent, or misleading oral or written statement to
16 any person as evidence of compliance with s. 440.38, as
17 evidence of eligibility for a certificate of exemption under
18 s. 440.05.

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

21 ~~9. To knowingly present or cause to be presented any~~
22 ~~false, fraudulent, or misleading oral or written statement to~~
23 ~~any person as evidence of identity for the purpose of~~
24 ~~obtaining employment or filing or supporting a claim for~~
25 ~~workers' compensation benefits.~~

26 (c) It shall be unlawful for any physician licensed
27 under chapter 458, osteopathic physician licensed under
28 chapter 459, chiropractic physician licensed under chapter
29 460, podiatric physician licensed under chapter 461,
30 optometric physician licensed under chapter 463, or any other
31 practitioner licensed under the laws of this state to

1 knowingly and willfully assist, conspire with, or urge any
2 person to fraudulently violate any of the provisions of this
3 chapter.

4 (d) It shall be unlawful for any person or
5 governmental entity licensed under chapter 395 to maintain or
6 operate a hospital in such a manner so that such person or
7 governmental entity knowingly and willfully allows the use of
8 the facilities of such hospital by any person, in a scheme or
9 conspiracy to fraudulently violate any of the provisions of
10 this chapter.

11 (e) It shall be unlawful for any attorney or other
12 person, in his or her individual capacity or in his or her
13 capacity as a public or private employee, or any firm,
14 corporation, partnership, or association, to knowingly assist,
15 conspire with, or urge any person to fraudulently violate any
16 of the provisions of this chapter.

17 (f) If the monetary value of any violation of this
18 subsection:

19 1. Is less than \$20,000, the offender commits a felony
20 of the third degree, punishable as provided in s. 775.082, s.
21 775.083, or s. 775.084.

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

25 3. Is \$100,000 or more, the offender commits a felony
26 of the first degree, punishable as provided in s. 775.082, s.
27 775.083, or s. 775.084.

28 (8) As a condition of receiving compensation as
29 provided in this chapter, an employee must execute a waiver
30 authorizing the carrier to verify or determine through the
31 Division of Unemployment Compensation whether an employing

1 unit is reporting such an employee as an employee while the
2 carrier is concurrently paying workers' compensation benefits
3 to the employee.

4 Section 6. Paragraph (b) of subsection (2) and
5 subsections (11) and (15) of section 440.13, Florida Statutes,
6 are amended to read:

7 440.13 Medical services and supplies; penalty for
8 violations; limitations.--

9 (2) MEDICAL TREATMENT; DUTY OF EMPLOYER TO FURNISH.--

10 (b) The employer shall provide appropriate
11 professional or nonprofessional attendant care performed only
12 at the direction and control of a physician when such care is
13 medically necessary. The physician shall prescribe such care
14 in writing. The employer or carrier shall not be responsible
15 for such care until the prescription for attendant care is
16 received by the employer and carrier, which shall specify the
17 time periods for such care, the level of care required, and
18 the type of assistance required. A prescription for attendant
19 care shall not prescribe such care retroactively. The value of
20 nonprofessional attendant care provided by a family member
21 must be determined as follows:

22 1. If the family member is not employed ~~or if the~~
23 ~~family member is employed and is providing attendant care~~
24 ~~services during hours that he or she is not engaged in~~
25 ~~employment~~, the per-hour value equals the federal minimum
26 hourly wage.

27 2. If the family member is employed and elects to
28 leave that employment to provide attendant or custodial care,
29 the per-hour value of that care equals the per-hour value of
30 the family member's former employment, not to exceed the
31 per-hour value of such care available in the community at

1 large. A family member or a combination of family members
2 providing nonprofessional attendant care under this paragraph
3 may not be compensated for more than a total of 12 hours per
4 day.

5 3. If the family member remains employed while
6 providing attendant or custodial care, the per-hour value of
7 that care equals the per-hour value of the family member's
8 employment, not to exceed the per-hour value of such care
9 available in the community at large.

10

11 Failure of the carrier to timely comply with this subsection
12 shall be a violation of this chapter and the carrier shall be
13 subject to penalties as provided for in s. 440.525.

14 (11) AUDITS.--

15 (a) The Agency for Health Care Administration may
16 investigate health care providers to determine whether
17 providers are complying with this chapter and with rules
18 adopted by the agency, whether the providers are engaging in
19 overutilization, whether providers are engaging in improper
20 billing practices, and whether providers are adhering to
21 practice parameters and protocols established in accordance
22 with this chapter. If the agency finds that a health care
23 provider has improperly billed, overutilized, or failed to
24 comply with agency rules or the requirements of this chapter,
25 including, but not limited to, practice parameters and
26 protocols established in accordance with this chapter, it must
27 notify the provider of its findings and may determine that the
28 health care provider may not receive payment from the carrier
29 or may impose penalties as set forth in subsection (8) or
30 other sections of this chapter. If the health care provider
31 has received payment from a carrier for services that were

1 | improperly billed, that constitute overutilization, or that
2 | were outside practice parameters or protocols established in
3 | accordance with this chapter, it must return those payments to
4 | the carrier. The agency may assess a penalty not to exceed
5 | \$500 for each overpayment that is not refunded within 30 days
6 | after notification of overpayment by the agency or carrier.
7 | ~~(b) The department shall monitor carriers as provided
8 | in this chapter and the Office of Insurance Regulation shall
9 | audit insurers and group self-insurance funds as provided in
10 | s. 624.3161, to determine if medical bills are paid in
11 | accordance with this section and rules of the department and
12 | Financial Services Commission, respectively. Any employer, if
13 | self-insured, or carrier found by the department or Office of
14 | Insurance Regulation not to be within 90 percent compliance as
15 | to the payment of medical bills after July 1, 1994, must be
16 | assessed a fine not to exceed 1 percent of the prior year's
17 | assessment levied against such entity under s. 440.51 for
18 | every quarter in which the entity fails to attain 90-percent
19 | compliance. The department shall fine or otherwise discipline
20 | an employer or carrier, pursuant to this chapter or rules
21 | adopted by the department, and the Office of Insurance
22 | Regulation shall fine or otherwise discipline an insurer or
23 | group self-insurance fund pursuant to the insurance code or
24 | rules adopted by the Financial Services Commission, for each
25 | late payment of compensation that is below the minimum
26 | 95-percent performance standard. Any carrier that is found to
27 | be not in compliance in subsequent consecutive quarters must
28 | implement a medical-bill review program approved by the
29 | department or office, and an insurer or group self-insurance
30 | fund is subject to disciplinary action by the Office of
31 | Insurance Regulation.~~

1 **(b)**~~(c)~~ The agency has exclusive jurisdiction to decide
2 any matters concerning reimbursement, to resolve any
3 overutilization dispute under subsection (7), and to decide
4 any question concerning overutilization under subsection (8),
5 which question or dispute arises after January 1, 1994.

6 **(c)**~~(d)~~ The following agency actions do not constitute
7 agency action subject to review under ss. 120.569 and 120.57
8 and do not constitute actions subject to s. 120.56: referral
9 by the entity responsible for utilization review; a decision
10 by the agency to refer a matter to a peer review committee;
11 establishment by a health care provider or entity of
12 procedures by which a peer review committee reviews the
13 rendering of health care services; and the review proceedings,
14 report, and recommendation of the peer review committee.

15 (15) PRACTICE PARAMETERS.--The practice parameters and
16 protocols mandated under this chapter shall be the practice
17 parameters and protocols of the National Guideline
18 Clearinghouse, as of May 1, 2004, sponsored ~~adopted~~ by the
19 United States Agency for Healthcare Research and Quality in
20 partnership with the American Medical Association and the
21 American Association of Health Plans, or any other nationally
22 recognized organization that, in conjunction with appropriate
23 medical societies or organizations, makes available practice
24 parameters or clinical practice guidelines ~~effect on January~~
25 ~~1, 2003.~~

26 Section 7. Subsection (4) of section 440.14, Florida
27 Statutes, is amended to read:

28 440.14 Determination of pay.--

29 (4) Upon termination of the employee or upon
30 termination of the payment of fringe benefits of any employee
31 who is collecting indemnity benefits pursuant to s. 440.15(2)

1 or (3), the employer shall within 7 days of such termination
2 file a corrected 13-week wage statement reflecting the wages
3 paid and the fringe benefits that had been paid to the injured
4 employee, as provided in s. 440.02(28)~~s. 440.02(27)~~.

5 Section 8. Paragraph (b) of subsection (1) and
6 subsection (6) of section 440.15, Florida Statutes, are
7 amended to read:

8 440.15 Compensation for disability.--Compensation for
9 disability shall be paid to the employee, subject to the
10 limits provided in s. 440.12(2), as follows:

11 (1) PERMANENT TOTAL DISABILITY.--

12 (b) In the following cases, an injured employee is
13 presumed to be permanently and totally disabled unless the
14 employer or carrier establishes that the employee is
15 physically capable of engaging in at least sedentary
16 employment within a 50-mile radius of the employee's
17 residence:

18 1. Spinal cord injury involving severe paralysis of an
19 arm, a leg, or the trunk;

20 2. Amputation of an arm, a hand, a foot, or a leg
21 involving the effective loss of use of that appendage;

22 3. Severe brain or closed-head injury as evidenced by:

23 a. Severe sensory or motor disturbances;

24 b. Severe communication disturbances;

25 c. Severe complex integrated disturbances of cerebral
26 function;

27 d. Severe episodic neurological disorders; or

28 e. Other severe brain and closed-head injury
29 conditions at least as severe in nature as any condition
30 provided in sub-subparagraphs a.-d.;

31

1 4. Second-degree or third-degree burns of 25 percent
2 or more of the total body surface or third-degree burns of 5
3 percent or more to the face and hands; or

4 5. Total or industrial blindness.
5

6 In all other cases, in order to obtain permanent total
7 disability benefits, the employee must establish that he or
8 she is not able to engage in at least sedentary employment,
9 within a 50-mile radius of the employee's residence, due to
10 his or her physical limitation. Entitlement to such benefits
11 shall cease when the employee reaches age 75, unless the
12 employee is not eligible for social security benefits under 42
13 U.S.C. s. 402 or s. 423 because the employee's compensable
14 injury has prevented the employee from working sufficient
15 quarters to be eligible for such benefits, notwithstanding any
16 age limits. If the accident occurred on or after the employee
17 reaches age 70, benefits shall be payable during the
18 continuance of permanent total disability, not to exceed 5
19 years following the determination of permanent total
20 disability. Only claimants ~~with catastrophic injuries or~~
21 ~~claimants~~ who are incapable of engaging in employment, as
22 described in this paragraph, are eligible for permanent total
23 benefits. In no other case may permanent total disability be
24 awarded.

25 (6) EMPLOYEE REFUSES EMPLOYMENT.--If an injured
26 employee refuses employment suitable to the capacity thereof,
27 offered to or procured therefor, such employee shall not be
28 entitled to any compensation at any time during the
29 continuance of such refusal unless at any time in the opinion
30 of the judge of compensation claims such refusal is
31 justifiable. Time periods for the payment of benefits in

1 accordance with this section shall be counted in determining
2 the limitation of benefits as provided for in paragraphs
3 (2)(a), (3)(c), and (4)(e)~~(4)(b)~~.

4 Section 9. Paragraph (b) of subsection (6) and
5 paragraph (b) of subsection (8) of section 440.20, Florida
6 Statutes, are amended to read:

7 440.20 Time for payment of compensation and medical
8 bills; penalties for late payment.--

9 (6)

10 (b) For medical services provided on or after January
11 1, 2004, the department shall require that all medical,
12 hospital, pharmacy, or dental bills properly submitted by the
13 provider, except for bills that are disallowed or denied by
14 the carrier or its authorized vendor in accordance with
15 department rule, are timely paid within 45 calendar days after
16 the carrier's receipt of the bill. Any carrier that is found
17 to be in noncompliance in subsequent consecutive quarters must
18 implement a medical-bill review program approved by the
19 department, and an insurer or group self-insurance fund is
20 subject to disciplinary action by the Office of Insurance
21 Regulation.The department shall impose penalties for late

22 payments or disallowances or denials of medical, hospital,
23 pharmacy, or dental bills that are below a minimum 95 percent
24 timely performance standard. The carrier shall pay to the
25 Workers' Compensation Administration Trust Fund a penalty of:

26 1. Twenty-five dollars for each bill below the 95
27 percent timely performance standard, but meeting a 90 percent
28 timely standard.

29 2. Fifty dollars for each bill below a 90 percent
30 timely performance standard.

31 (8)

1 (b) ~~In order to ensure carrier compliance under this~~
2 ~~chapter, the office shall monitor, audit, and investigate the~~
3 ~~performance of carriers.~~The department office shall require
4 that all compensation benefits are timely paid in accordance
5 with this section. The department office shall impose
6 penalties for late payments of compensation that are below a
7 minimum 95 percent timely payment performance standard. The
8 carrier shall pay to the Workers' Compensation Administration
9 Trust Fund a penalty of:

10 1. Fifty dollars per number of installments of
11 compensation below the 95 percent timely payment performance
12 standard and equal to or greater than a 90 percent timely
13 payment performance standard.

14 2. One hundred dollars per number of installments of
15 compensation below a 90 percent timely payment performance
16 standard.

17
18 This section does not affect the imposition of any penalties
19 or interest due to the claimant. If a carrier contracts with a
20 servicing agent to fulfill its administrative responsibilities
21 under this chapter, the payment practices of the servicing
22 agent are deemed the payment practices of the carrier for the
23 purpose of assessing penalties against the carrier.

24 Section 10. Subsection (2) of section 440.381, Florida
25 Statutes, is amended to read:

26 440.381 Application for coverage; reporting payroll;
27 payroll audit procedures; penalties.--

28 (2) ~~Submission of an application that contains false,~~
29 ~~misleading, or incomplete information provided with the~~
30 ~~purpose of avoiding or reducing the amount of premiums for~~
31 ~~workers' compensation coverage is a felony of the second~~

1 ~~degree, punishable as provided in s. 775.082, s. 775.083, or~~
2 ~~s. 775.084.~~The application must contain a statement that the
3 filing of an application containing false, misleading, or
4 incomplete information provided with the purpose of avoiding
5 or reducing the amount of premiums for workers' compensation
6 coverage is a felony ~~of the third degree, punishable as~~
7 ~~provided in s. 775.082, s. 775.083, or s. 775.084.~~ The
8 application must contain a sworn statement by the employer
9 attesting to the accuracy of the information submitted and
10 acknowledging the provisions of former s. 440.37(4). The
11 application must contain a sworn statement by the agent
12 attesting that the agent explained to the employer or officer
13 the classification codes that are used for premium
14 calculations.

15 Section 11. Subsections (1) and (2) of section
16 440.525, Florida Statutes, are amended to read:

17 440.525 Examination and investigation of carriers and
18 claims-handling entities.--

19 (1) The department ~~and office~~ may examine, ^{or}
20 investigate any carrier, third-party administrator, servicing
21 agent, or other claims-handling entity as often as is
22 warranted to ensure that it is fulfilling its obligations
23 under this chapter.

24 (2) An examination may cover any period of the
25 carrier's, third-party administrator's, servicing agent's, or
26 other claims-handling entity's operations since the last
27 previous examination. An investigation based upon a reasonable
28 belief by the department that a material violation of this
29 chapter has occurred may cover any time period, but may not
30 predate the last examination by more than 5 years. The
31 department may by rule establish procedures, standards, and

1 protocols for examinations and investigations. If the
2 department finds any violation of this chapter, it may impose
3 administrative penalties pursuant to this chapter. If the
4 department finds any self-insurer in violation of this
5 chapter, it may take action pursuant s. 440.38(3).
6 Examinations or investigations by the department may address,
7 but are not limited to addressing, patterns or practices of
8 unreasonable delay in claims handling; timeliness and accuracy
9 of payments and reports under ss. 440.13, 440.16, ~~and~~ 440.185,
10 and 440.20; or patterns or practices of harassment, coercion,
11 or intimidation of claimants. The department may also specify
12 by rule the documentation to be maintained for each claim
13 file.

14 Section 12. Paragraphs (c), (e), and (g) of subsection
15 (3) of section 921.0022, Florida Statutes, are amended to
16 read:

17 921.0022 Criminal Punishment Code; offense severity
18 ranking chart.--

19 (3) OFFENSE SEVERITY RANKING CHART

21 Florida	Felony	
22 Statute	Degree	Description
		(c) LEVEL 3
25 119.10(3)	3rd	Unlawful use of confidential 26 information from police reports.
27 316.066(3)(d)-(f)	3rd	Unlawfully obtaining or using 28 confidential crash reports.
29 316.193(2)(b)	3rd	Felony DUI, 3rd conviction.

30
31

1	316.1935(2)	3rd	Fleeing or attempting to elude
2			law enforcement officer in marked
3			patrol vehicle with siren and
4			lights activated.
5	319.30(4)	3rd	Possession by junkyard of motor
6			vehicle with identification
7			number plate removed.
8	319.33(1)(a)	3rd	Alter or forge any certificate of
9			title to a motor vehicle or
10			mobile home.
11	319.33(1)(c)	3rd	Procure or pass title on stolen
12			vehicle.
13	319.33(4)	3rd	With intent to defraud, possess,
14			sell, etc., a blank, forged, or
15			unlawfully obtained title or
16			registration.
17	327.35(2)(b)	3rd	Felony BUI.
18	328.05(2)	3rd	Possess, sell, or counterfeit
19			fictitious, stolen, or fraudulent
20			titles or bills of sale of
21			vessels.
22	328.07(4)	3rd	Manufacture, exchange, or possess
23			vessel with counterfeit or wrong
24			ID number.
25			
26			
27			
28			
29			
30			
31			

1	370.12(1)(e)5.	3rd	Taking, disturbing, mutilating,
2			destroying, causing to be
3			destroyed, transferring, selling,
4			offering to sell, molesting, or
5			harassing marine turtles, marine
6			turtle eggs, or marine turtle
7			nests in violation of the Marine
8			Turtle Protection Act.
9	370.12(1)(e)6.	3rd	Soliciting to commit or
10			conspiring to commit a violation
11			of the Marine Turtle Protection
12			Act.
13	376.302(5)	3rd	Fraud related to reimbursement
14			for cleanup expenses under the
15			Inland Protection Trust Fund.
16	400.903(3)	3rd	Operating a clinic without a
17			license or filing false license
18			application or other required
19			information.
20	440.105(3)(b)	3rd	Receipt of fee or consideration
21			without approval by judge of
22			compensation claims.
23	<u>440.105(4)(f)1.</u>	<u>3rd</u>	<u>Workers' compensation insurance</u>
24			<u>fraud; property value less than</u>
25			<u>\$20,000.</u>
26	440.1051(3)	3rd	False report of workers'
27			compensation fraud or retaliation
28			for making such a report.
29	501.001(2)(b)	2nd	Tampers with a consumer product
30			or the container using materially
31			false/misleading information.

1	624.401(4)(a)	3rd	Transacting insurance without a
2			certificate of authority.
3	624.401(4)(b)1.	3rd	Transacting insurance without a
4			certificate of authority; premium
5			collected less than \$20,000.
6	626.902(1)(a) & (b)	3rd	Representing an unauthorized
7			insurer.
8	697.08	3rd	Equity skimming.
9	790.15(3)	3rd	Person directs another to
10			discharge firearm from a vehicle.
11	796.05(1)	3rd	Live on earnings of a prostitute.
12	806.10(1)	3rd	Maliciously injure, destroy, or
13			interfere with vehicles or
14			equipment used in firefighting.
15	806.10(2)	3rd	Interferes with or assaults
16			firefighter in performance of
17			duty.
18	810.09(2)(c)	3rd	Trespass on property other than
19			structure or conveyance armed
20			with firearm or dangerous weapon.
21	812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but
22			less than \$10,000.
23	812.0145(2)(c)	3rd	Theft from person 65 years of age
24			or older; \$300 or more but less
25			than \$10,000.
26	815.04(4)(b)	2nd	Computer offense devised to
27			defraud or obtain property.
28	817.034(4)(a)3.	3rd	Engages in scheme to defraud
29			(Florida Communications Fraud
30			Act), property valued at less
31			than \$20,000.

1	817.233	3rd	Burning to defraud insurer.
2	817.234(8)(b)-(c)	3rd	Unlawful solicitation of persons
3			involved in motor vehicle
4			accidents.
5	817.234(11)(a)	3rd	Insurance fraud; property value
6			less than \$20,000.
7	817.236	3rd	Filing a false motor vehicle
8			insurance application.
9	817.2361	3rd	Creating, marketing, or
10			presenting a false or fraudulent
11			motor vehicle insurance card.
12	817.413(2)	3rd	Sale of used goods as new.
13	817.505(4)	3rd	Patient brokering.
14	828.12(2)	3rd	Tortures any animal with intent
15			to inflict intense pain, serious
16			physical injury, or death.
17	831.28(2)(a)	3rd	Counterfeiting a payment
18			instrument with intent to defraud
19			or possessing a counterfeit
20			payment instrument.
21	831.29	2nd	Possession of instruments for
22			counterfeiting drivers' licenses
23			or identification cards.
24	838.021(3)(b)	3rd	Threatens unlawful harm to public
25			servant.
26	843.19	3rd	Injure, disable, or kill police
27			dog or horse.
28	860.15(3)	3rd	Overcharging for repairs and
29			parts.
30	870.01(2)	3rd	Riot; inciting or encouraging.
31			

1	893.13(1)(a)2.	3rd	Sell, manufacture, or deliver
2			cannabis (or other s.
3			893.03(1)(c), (2)(c)1., (2)(c)2.,
4			(2)(c)3., (2)(c)5., (2)(c)6.,
5			(2)(c)7., (2)(c)8., (2)(c)9.,
6			(3), or (4) drugs).
7	893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s.
8			893.03(1)(c), (2)(c)1., (2)(c)2.,
9			(2)(c)3., (2)(c)5., (2)(c)6.,
10			(2)(c)7., (2)(c)8., (2)(c)9.,
11			(3), or (4) drugs within 1,000
12			feet of university.
13	893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s.
14			893.03(1)(c), (2)(c)1., (2)(c)2.,
15			(2)(c)3., (2)(c)5., (2)(c)6.,
16			(2)(c)7., (2)(c)8., (2)(c)9.,
17			(3), or (4) drugs within 1,000
18			feet of public housing facility.
19	893.13(6)(a)	3rd	Possession of any controlled
20			substance other than felony
21			possession of cannabis.
22	893.13(7)(a)8.	3rd	Withhold information from
23			practitioner regarding previous
24			receipt of or prescription for a
25			controlled substance.
26	893.13(7)(a)9.	3rd	Obtain or attempt to obtain
27			controlled substance by fraud,
28			forgery, misrepresentation, etc.
29	893.13(7)(a)10.	3rd	Affix false or forged label to
30			package of controlled substance.
31			

1	893.13(7)(a)11.	3rd	Furnish false or fraudulent
2			material information on any
3			document or record required by
4			chapter 893.
5	893.13(8)(a)1.	3rd	Knowingly assist a patient, other
6			person, or owner of an animal in
7			obtaining a controlled substance
8			through deceptive, untrue, or
9			fraudulent representations in or
10			related to the practitioner's
11			practice.
12	893.13(8)(a)2.	3rd	Employ a trick or scheme in the
13			practitioner's practice to assist
14			a patient, other person, or owner
15			of an animal in obtaining a
16			controlled substance.
17	893.13(8)(a)3.	3rd	Knowingly write a prescription
18			for a controlled substance for a
19			fictitious person.
20	893.13(8)(a)4.	3rd	Write a prescription for a
21			controlled substance for a
22			patient, other person, or an
23			animal if the sole purpose of
24			writing the prescription is a
25			monetary benefit for the
26			practitioner.
27	918.13(1)(a)	3rd	Alter, destroy, or conceal
28			investigation evidence.
29	944.47(1)(a)1.-2.	3rd	Introduce contraband to
30			correctional facility.
31			

1	944.47(1)(c)	2nd	Possess contraband while upon the
2			grounds of a correctional
3			institution.
4	985.3141	3rd	Escapes from a juvenile facility
5			(secure detention or residential
6			commitment facility).
7			(e) LEVEL 5
8	316.027(1)(a)	3rd	Accidents involving personal
9			injuries, failure to stop;
10			leaving scene.
11	316.1935(4)	2nd	Aggravated fleeing or eluding.
12	322.34(6)	3rd	Careless operation of motor
13			vehicle with suspended license,
14			resulting in death or serious
15			bodily injury.
16	327.30(5)	3rd	Vessel accidents involving
17			personal injury; leaving scene.
18	381.0041(11)(b)	3rd	Donate blood, plasma, or organs
19			knowing HIV positive.
20	440.10(1)(g)	2nd	Failure to obtain workers'
21			compensation coverage.
22	<u>440.105(4)(f)2.</u>	<u>2nd</u>	<u>Workers' compensation insurance</u>
23			<u>fraud; property value \$20,000 or</u>
24			<u>more but less than \$100,000.</u>
25	440.105(5)	2nd	Unlawful solicitation for the
26			purpose of making workers'
27			compensation claims.
28			
29			
30			
31			

1	440.381(2)	2nd	Submission of false, misleading,
2			or incomplete information with
3			the purpose of avoiding or
4			reducing workers' compensation
5			premiums.
6	624.401(4)(b)2.	2nd	Transacting insurance without a
7			certificate or authority; premium
8			collected \$20,000 or more but
9			less than \$100,000.
10	626.902(1)(c)	2nd	Representing an unauthorized
11			insurer; repeat offender.
12	790.01(2)	3rd	Carrying a concealed firearm.
13	790.162	2nd	Threat to throw or discharge
14			destructive device.
15	790.163(1)	2nd	False report of deadly explosive
16			or weapon of mass destruction.
17	790.221(1)	2nd	Possession of short-barreled
18			shotgun or machine gun.
19	790.23	2nd	Felons in possession of firearms
20			or electronic weapons or devices.
21	800.04(6)(c)	3rd	Lewd or lascivious conduct;
22			offender less than 18 years.
23	800.04(7)(c)	2nd	Lewd or lascivious exhibition;
24			offender 18 years or older.
25	806.111(1)	3rd	Possess, manufacture, or dispense
26			fire bomb with intent to damage
27			any structure or property.
28	812.0145(2)(b)	2nd	Theft from person 65 years of age
29			or older; \$10,000 or more but
30			less than \$50,000.
31			

1	812.015(8)	3rd	Retail theft; property stolen is
2			valued at \$300 or more and one or
3			more specified acts.
4	812.019(1)	2nd	Stolen property; dealing in or
5			trafficking in.
6	812.131(2)(b)	3rd	Robbery by sudden snatching.
7	812.16(2)	3rd	Owning, operating, or conducting
8			a chop shop.
9	817.034(4)(a)2.	2nd	Communications fraud, value
10			\$20,000 to \$50,000.
11	817.234(11)(b)	2nd	Insurance fraud; property value
12			\$20,000 or more but less than
13			\$100,000.
14	817.2341(1),		
15	(2)(a)&(3)(a)	3rd	Filing false financial
16			statements, making false entries
17			of material fact or false
18			statements regarding property
19			values relating to the solvency
20			of an insuring entity.
21	817.568(2)(b)	2nd	Fraudulent use of personal
22			identification information; value
23			of benefit, services received,
24			payment avoided, or amount of
25			injury or fraud, \$5,000 or more
26			or use of personal identification
27			information of 10 or more
28			individuals.
29	817.625(2)(b)	2nd	Second or subsequent fraudulent
30			use of scanning device or
31			reencoder.

1	825.1025(4)	3rd	Lewd or lascivious exhibition in
2			the presence of an elderly person
3			or disabled adult.
4	827.071(4)	2nd	Possess with intent to promote
5			any photographic material, motion
6			picture, etc., which includes
7			sexual conduct by a child.
8	839.13(2)(b)	2nd	Falsifying records of an
9			individual in the care and
10			custody of a state agency
11			involving great bodily harm or
12			death.
13	843.01	3rd	Resist officer with violence to
14			person; resist arrest with
15			violence.
16	874.05(2)	2nd	Encouraging or recruiting another
17			to join a criminal street gang;
18			second or subsequent offense.
19	893.13(1)(a)1.	2nd	Sell, manufacture, or deliver
20			cocaine (or other s.
21			893.03(1)(a), (1)(b), (1)(d),
22			(2)(a), (2)(b), or (2)(c)4.
23			drugs).
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1	893.13(1)(c)2.	2nd	Sell, manufacture, or deliver
2			cannabis (or other s.
3			893.03(1)(c), (2)(c)1., (2)(c)2.,
4			(2)(c)3., (2)(c)5., (2)(c)6.,
5			(2)(c)7., (2)(c)8., (2)(c)9.,
6			(3), or (4) drugs) within 1,000
7			feet of a child care facility,
8			school, or state, county, or
9			municipal park or publicly owned
10			recreational facility or
11			community center.
12	893.13(1)(d)1.	1st	Sell, manufacture, or deliver
13			cocaine (or other s.
14			893.03(1)(a), (1)(b), (1)(d),
15			(2)(a), (2)(b), or (2)(c)4.
16			drugs) within 1,000 feet of
17			university.
18	893.13(1)(e)2.	2nd	Sell, manufacture, or deliver
19			cannabis or other drug prohibited
20			under s. 893.03(1)(c), (2)(c)1.,
21			(2)(c)2., (2)(c)3., (2)(c)5.,
22			(2)(c)6., (2)(c)7., (2)(c)8.,
23			(2)(c)9., (3), or (4) within
24			1,000 feet of property used for
25			religious services or a specified
26			business site.
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1	893.13(1)(f)1.	1st	Sell, manufacture, or deliver
2			cocaine (or other s.
3			893.03(1)(a), (1)(b), (1)(d), or
4			(2)(a), (2)(b), or (2)(c)4.
5			drugs) within 1,000 feet of
6			public housing facility.
7	893.13(4)(b)	2nd	Deliver to minor cannabis (or
8			other s. 893.03(1)(c), (2)(c)1.,
9			(2)(c)2., (2)(c)3., (2)(c)5.,
10			(2)(c)6., (2)(c)7., (2)(c)8.,
11			(2)(c)9., (3), or (4) drugs).
12			(g) LEVEL 7
13	316.027(1)(b)	2nd	Accident involving death, failure
14			to stop; leaving scene.
15	316.193(3)(c)2.	3rd	DUI resulting in serious bodily
16			injury.
17	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious
18			bodily injury.
19	402.319(2)	2nd	Misrepresentation and negligence
20			or intentional act resulting in
21			great bodily harm, permanent
22			disfiguration, permanent
23			disability, or death.
24	409.920(2)	3rd	Medicaid provider fraud.
25	<u>440.105(4)(f)3.</u>	<u>1st</u>	<u>Workers' compensation insurance</u>
26			<u>fraud, the amount of the claim or</u>
27			<u>premium \$100,000 or more.</u>
28	456.065(2)	3rd	Practicing a health care
29			profession without a license.
30			
31			

1	456.065(2)	2nd	Practicing a health care
2			profession without a license
3			which results in serious bodily
4			injury.
5	458.327(1)	3rd	Practicing medicine without a
6			license.
7	459.013(1)	3rd	Practicing osteopathic medicine
8			without a license.
9	460.411(1)	3rd	Practicing chiropractic medicine
10			without a license.
11	461.012(1)	3rd	Practicing podiatric medicine
12			without a license.
13	462.17	3rd	Practicing naturopathy without a
14			license.
15	463.015(1)	3rd	Practicing optometry without a
16			license.
17	464.016(1)	3rd	Practicing nursing without a
18			license.
19	465.015(2)	3rd	Practicing pharmacy without a
20			license.
21	466.026(1)	3rd	Practicing dentistry or dental
22			hygiene without a license.
23	467.201	3rd	Practicing midwifery without a
24			license.
25	468.366	3rd	Delivering respiratory care
26			services without a license.
27	483.828(1)	3rd	Practicing as clinical laboratory
28			personnel without a license.
29	483.901(9)	3rd	Practicing medical physics
30			without a license.
31			

1	484.013(1)(c)	3rd	Preparing or dispensing optical
2			devices without a prescription.
3	484.053	3rd	Dispensing hearing aids without a
4			license.
5	494.0018(2)	1st	Conviction of any violation of
6			ss. 494.001-494.0077 in which the
7			total money and property
8			unlawfully obtained exceeded
9			\$50,000 and there were five or
10			more victims.
11	560.123(8)(b)1.	3rd	Failure to report currency or
12			payment instruments exceeding
13			\$300 but less than \$20,000 by
14			money transmitter.
15	560.125(5)(a)	3rd	Money transmitter business by
16			unauthorized person, currency or
17			payment instruments exceeding
18			\$300 but less than \$20,000.
19	655.50(10)(b)1.	3rd	Failure to report financial
20			transactions exceeding \$300 but
21			less than \$20,000 by financial
22			institution.
23	782.051(3)	2nd	Attempted felony murder of a
24			person by a person other than the
25			perpetrator or the perpetrator of
26			an attempted felony.
27	782.07(1)	2nd	Killing of a human being by the
28			act, procurement, or culpable
29			negligence of another
30			(manslaughter).
31			

1	782.071	2nd	Killing of human being or viable
2			fetus by the operation of a motor
3			vehicle in a reckless manner
4			(vehicular homicide).
5	782.072	2nd	Killing of a human being by the
6			operation of a vessel in a
7			reckless manner (vessel
8			homicide).
9	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
10			causing great bodily harm or
11			disfigurement.
12	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
13			weapon.
14	784.045(1)(b)	2nd	Aggravated battery; perpetrator
15			aware victim pregnant.
16	784.048(4)	3rd	Aggravated stalking; violation of
17			injunction or court order.
18	784.07(2)(d)	1st	Aggravated battery on law
19			enforcement officer.
20	784.074(1)(a)	1st	Aggravated battery on sexually
21			violent predators facility staff.
22	784.08(2)(a)	1st	Aggravated battery on a person 65
23			years of age or older.
24	784.081(1)	1st	Aggravated battery on specified
25			official or employee.
26	784.082(1)	1st	Aggravated battery by detained
27			person on visitor or other
28			detainee.
29	784.083(1)	1st	Aggravated battery on code
30			inspector.
31			

1	790.07(4)	1st	Specified weapons violation
2			subsequent to previous conviction
3			of s. 790.07(1) or (2).
4	790.16(1)	1st	Discharge of a machine gun under
5			specified circumstances.
6	790.165(2)	2nd	Manufacture, sell, possess, or
7			deliver hoax bomb.
8	790.165(3)	2nd	Possessing, displaying, or
9			threatening to use any hoax bomb
10			while committing or attempting to
11			commit a felony.
12	790.166(3)	2nd	Possessing, selling, using, or
13			attempting to use a hoax weapon
14			of mass destruction.
15	790.166(4)	2nd	Possessing, displaying, or
16			threatening to use a hoax weapon
17			of mass destruction while
18			committing or attempting to
19			commit a felony.
20	796.03	2nd	Procuring any person under 16
21			years for prostitution.
22	800.04(5)(c)1.	2nd	Lewd or lascivious molestation;
23			victim less than 12 years of age;
24			offender less than 18 years.
25	800.04(5)(c)2.	2nd	Lewd or lascivious molestation;
26			victim 12 years of age or older
27			but less than 16 years; offender
28			18 years or older.
29	806.01(2)	2nd	Maliciously damage structure by
30			fire or explosive.
31			

1	810.02(3)(a)	2nd	Burglary of occupied dwelling;
2			unarmed; no assault or battery.
3	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
4			unarmed; no assault or battery.
5	810.02(3)(d)	2nd	Burglary of occupied conveyance;
6			unarmed; no assault or battery.
7	812.014(2)(a)	1st	Property stolen, valued at
8			\$100,000 or more; cargo stolen
9			valued at \$50,000 or more;
10			property stolen while causing
11			other property damage; 1st degree
12			grand theft.
13	812.014(2)(b)3.	2nd	Property stolen, emergency
14			medical equipment; 2nd degree
15			grand theft.
16	812.0145(2)(a)	1st	Theft from person 65 years of age
17			or older; \$50,000 or more.
18	812.019(2)	1st	Stolen property; initiates,
19			organizes, plans, etc., the theft
20			of property and traffics in
21			stolen property.
22	812.131(2)(a)	2nd	Robbery by sudden snatching.
23	812.133(2)(b)	1st	Carjacking; no firearm, deadly
24			weapon, or other weapon.
25	817.234(8)(a)	2nd	Solicitation of motor vehicle
26			accident victims with intent to
27			defraud.
28	817.234(9)	2nd	Organizing, planning, or
29			participating in an intentional
30			motor vehicle collision.
31			

1	817.234(11)(c)	1st	Insurance fraud; property value
2			\$100,000 or more.
3	817.2341(2)(b)&		
4	(3)(b)	1st	Making false entries of material
5			fact or false statements
6			regarding property values
7			relating to the solvency of an
8			insuring entity which are a
9			significant cause of the
10			insolvency of that entity.
11	825.102(3)(b)	2nd	Neglecting an elderly person or
12			disabled adult causing great
13			bodily harm, disability, or
14			disfigurement.
15	825.103(2)(b)	2nd	Exploiting an elderly person or
16			disabled adult and property is
17			valued at \$20,000 or more, but
18			less than \$100,000.
19	827.03(3)(b)	2nd	Neglect of a child causing great
20			bodily harm, disability, or
21			disfigurement.
22	827.04(3)	3rd	Impregnation of a child under 16
23			years of age by person 21 years
24			of age or older.
25	837.05(2)	3rd	Giving false information about
26			alleged capital felony to a law
27			enforcement officer.
28	838.015	2nd	Bribery.
29	838.016	2nd	Unlawful compensation or reward
30			for official behavior.
31			

1	838.021(3)(a)	2nd	Unlawful harm to a public
2			servant.
3	838.22	2nd	Bid tampering.
4	872.06	2nd	Abuse of a dead human body.
5	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
6			cocaine (or other drug prohibited
7			under s. 893.03(1)(a), (1)(b),
8			(1)(d), (2)(a), (2)(b), or
9			(2)(c)4.) within 1,000 feet of a
10			child care facility, school, or
11			state, county, or municipal park
12			or publicly owned recreational
13			facility or community center.
14	893.13(1)(e)1.	1st	Sell, manufacture, or deliver
15			cocaine or other drug prohibited
16			under s. 893.03(1)(a), (1)(b),
17			(1)(d), (2)(a), (2)(b), or
18			(2)(c)4., within 1,000 feet of
19			property used for religious
20			services or a specified business
21			site.
22	893.13(4)(a)	1st	Deliver to minor cocaine (or
23			other s. 893.03(1)(a), (1)(b),
24			(1)(d), (2)(a), (2)(b), or
25			(2)(c)4. drugs).
26	893.135(1)(a)1.	1st	Trafficking in cannabis, more
27			than 25 lbs., less than 2,000
28			lbs.
29	893.135(1)(b)1.a.	1st	Trafficking in cocaine, more than
30			28 grams, less than 200 grams.
31			

1	893.135(1)(c)1.a.	1st	Trafficking in illegal drugs,
2			more than 4 grams, less than 14
3			grams.
4	893.135(1)(d)1.	1st	Trafficking in phencyclidine,
5			more than 28 grams, less than 200
6			grams.
7	893.135(1)(e)1.	1st	Trafficking in methaqualone, more
8			than 200 grams, less than 5
9			kilograms.
10	893.135(1)(f)1.	1st	Trafficking in amphetamine, more
11			than 14 grams, less than 28
12			grams.
13	893.135(1)(g)1.a.	1st	Trafficking in flunitrazepam, 4
14			grams or more, less than 14
15			grams.
16	893.135(1)(h)1.a.	1st	Trafficking in
17			gamma-hydroxybutyric acid (GHB),
18			1 kilogram or more, less than 5
19			kilograms.
20	893.135(1)(j)1.a.	1st	Trafficking in 1,4-Butanediol, 1
21			kilogram or more, less than 5
22			kilograms.
23	893.135(1)(k)2.a.	1st	Trafficking in Phenethylamines,
24			10 grams or more, less than 200
25			grams.
26	896.101(5)(a)	3rd	Money laundering, financial
27			transactions exceeding \$300 but
28			less than \$20,000.
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1 896.104(4)(a)1. 3rd Structuring transactions to evade
2 reporting or registration
3 requirements, financial
4 transactions exceeding \$300 but
5 less than \$20,000.

6 Section 13. This act shall take effect upon becoming a
7 law.

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SENATE SUMMARY

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Authorizes certain members of limited liability companies to opt out of workers' compensation coverage in the same manner as officers of corporations. Provides for payment for mental or nervous injuries resulting from sexual battery or robbery. Allows insurers and self-insured employers to verify whether persons collecting benefits are listed as employees of another employing unit. Revises the method for calculating the value of attendant services provided by a family member. Revises practice parameters applicable to provision of medical care. (See bill for details.)