

Bill No. CS for SB 2330

Barcode 201420

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

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The Committee on Criminal Justice (Crist) recommended the following amendment:

**Senate Amendment (with title amendment)**

On page 4, line 22, through  
page 9, line 3, delete those lines

and insert:

Section 2. Subsections (2), (3), and (4) of section  
440.105, Florida Statutes, are amended to read:

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

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

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

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

2. Discharge or refuse to hire an employee or job

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1 applicant because the employee or applicant has filed a claim  
2 for benefits under this chapter.

3           3. Discharge, discipline, or take any other adverse  
4 personnel action against any employee for disclosing  
5 information to the department or any law enforcement agency  
6 relating to any violation or suspected violation of any of the  
7 provisions of this chapter or rules promulgated hereunder.

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

10           (b) It shall be unlawful for any insurance entity to  
11 revoke or cancel a workers' compensation insurance policy or  
12 membership because an employer has returned an employee to  
13 work or hired an employee who has filed a workers'  
14 compensation claim.

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

18           (a) It shall be unlawful for any employer to knowingly  
19 fail to update applications for coverage as required by s.  
20 440.381(1) and department rules within 7 days after the  
21 reporting date for any change in the required information, or  
22 to post notice of coverage pursuant to s. 440.40.

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

27           **(b)(c)** It is unlawful for any attorney or other  
28 person, in his or her individual capacity or in his or her  
29 capacity as a public or private employee, or for any firm,  
30 corporation, partnership, or association to receive any fee or  
31 other consideration or any gratuity from a person on account

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1 of services rendered for a person in connection with any  
2 proceedings arising under this chapter, unless such fee,  
3 consideration, or gratuity is approved by a judge of  
4 compensation claims or by the Deputy Chief Judge of  
5 Compensation Claims.

6 (4) Unless otherwise specifically provided, whoever  
7 violates any provision of this subsection commits insurance  
8 fraud, punishable as provided in paragraph (f).

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

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

14 2. Make a deduction from the pay of any employee  
15 entitled to the benefits of this chapter for the purpose of  
16 requiring the employee to pay any portion of premium paid by  
17 the employer to a carrier or to contribute to a benefit fund  
18 or department maintained by such employer for the purpose of  
19 providing compensation or medical services and supplies as  
20 required by this chapter.

21 3. Fail to secure workers' ~~payment of~~ compensation if  
22 required to do so by this chapter.

23 a. However, if an employer knowingly fails to secure  
24 workers' compensation coverage for an employee when required  
25 by this chapter and such employee subsequently suffers a  
26 work-related injury requiring medical treatment, the employer  
27 commits a felony of the second degree, punishable as provided  
28 in s. 775.082, s. 775.083, or s. 775.084.

29 b. However, if an employer knowingly fails to secure  
30 workers' compensation coverage for an employee when required  
31 by this chapter and such employee subsequently suffers a

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1 work-related death, the employer commits a felony of the first  
2 degree, punishable as provided in s. 775.082, s. 775.083, or  
3 s. 775.084.

4 (b) It ~~is shall be~~ unlawful for any person:

5 1. To knowingly make, or cause to be made, any false,  
6 fraudulent, or misleading oral or written statement for the  
7 purpose of obtaining or denying any benefit or payment under  
8 this chapter.

9 2. To present or cause to be presented any written or  
10 oral statement as part of, or in support of, a claim for  
11 payment or other benefit pursuant to any provision of this  
12 chapter, knowing that such statement contains any false,  
13 incomplete, or misleading information concerning any fact or  
14 thing material to such claim.

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

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

25 5. To knowingly make any false, fraudulent, or  
26 misleading oral or written statement, or to knowingly omit or  
27 conceal material information, required by s. 440.185 or s.  
28 440.381, for the purpose of obtaining workers' compensation  
29 coverage or for the purpose of avoiding, delaying, or  
30 diminishing the amount of payment of any workers' compensation  
31 premiums.

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1           6. To knowingly misrepresent or conceal payroll,  
 2 classification of workers, or information regarding an  
 3 employer's loss history which would be material to the  
 4 computation and application of an experience rating  
 5 modification factor for the purpose of avoiding or diminishing  
 6 the amount of payment of any workers' compensation premiums.

7           7. To knowingly present or cause to be presented any  
 8 false, fraudulent, or misleading oral or written statement to  
 9 any person as evidence of compliance with s. 440.38, as  
 10 evidence of eligibility for a certificate of exemption under  
 11 s. 440.05.

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

14           ~~9. 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 identity for the purpose of~~  
 17 ~~obtaining employment or filing or supporting a claim for~~  
 18 ~~workers' compensation benefits.~~

19           (c) It shall be unlawful for any physician licensed  
 20 under chapter 458, osteopathic physician licensed under  
 21 chapter 459, chiropractic physician licensed under chapter  
 22 460, podiatric physician licensed under chapter 461,  
 23 optometric physician licensed under chapter 463, or any other  
 24 practitioner licensed under the laws of this state to  
 25 knowingly and willfully assist, conspire with, or urge any  
 26 person to fraudulently violate any of the provisions of this  
 27 chapter.

28           (d) It shall be unlawful for any person or  
 29 governmental entity licensed under chapter 395 to maintain or  
 30 operate a hospital in such a manner so that such person or  
 31 governmental entity knowingly and willfully allows the use of

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1 the facilities of such hospital by any person, in a scheme or  
2 conspiracy to fraudulently violate any of the provisions of  
3 this chapter.

4 (e) It shall be unlawful for any attorney or other  
5 person, in his or her individual capacity or in his or her  
6 capacity as a public or private employee, or any firm,  
7 corporation, partnership, or association, to knowingly assist,  
8 conspire with, or urge any person to fraudulently violate any  
9 of the provisions of this chapter.

10 (f) If the monetary value of any violation of this  
11 subsection:

12 1. Is less than \$20,000, the offender commits a felony  
13 of the third degree, punishable as provided in s. 775.082, s.  
14 775.083, or s. 775.084.

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

18 3. Is \$100,000 or more, the offender commits a felony  
19 of the first degree, punishable as provided in s. 775.082, s.  
20 775.083, or s. 775.084.

21 Section 3. Section 448.09, Florida Statutes, is  
22 amended to read:

23 448.09 Unauthorized aliens; employment prohibited.--

24 (1) It is ~~shall be~~ unlawful for any person knowingly  
25 to employ, hire, recruit, or refer, either for herself or  
26 himself or on behalf of another, for private or public  
27 employment within the state, an alien who is not duly  
28 authorized to work by the immigration laws or the Attorney  
29 General of the United States.

30 (2) It is unlawful to knowingly present or cause to be  
31 presented any false, fraudulent, or misleading oral or written

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1 statements to any person as evidence of identity for the  
 2 purpose of obtaining employment. The first violation of  
 3 subsection (1) shall be a noncriminal violation as defined in  
 4 s. 775.08(3) and, upon conviction, shall be punishable as  
 5 provided in s. 775.082(5) by a civil fine of not more than  
 6 \$500, regardless of the number of aliens with respect to whom  
 7 the violation occurred.

8 (3) Any person who violates ~~has been previously~~  
 9 ~~convicted for a violation of~~ subsection (1) or subsection (2)  
 10 is ~~and who thereafter violates subsection (1),~~ shall be guilty  
 11 of a misdemeanor of the first ~~second~~ degree, punishable as  
 12 provided in s. 775.082 or s. 775.083. ~~Any such subsequent~~  
 13 ~~violation of this section shall constitute a separate offense~~  
 14 ~~with respect to each unauthorized alien.~~

15  
16 (Redesignate subsequent sections.)

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

20 And the title is amended as follows:

21 On page 1, line 17, following the semicolon

22  
23 insert:

24 deleting provisions relating to a prohibition  
 25 against employers participating in creation of  
 26 employment relationships based on false,  
 27 fraudulent, or misleading information; deleting  
 28 provisions relating to presentation of false,  
 29 fraudulent, or misleading information to obtain  
 30 employment; amending s. 448.09, F.S.;

31 prohibiting presentation of certain false,

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1 fraudulent, or misleading information for the  
2 purpose of obtaining employment; providing  
3 penalties; revising penalties for unauthorized  
4 employment of aliens;  
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