

Bill No. SB 1204

Barcode 292842

CHAMBER ACTION

Senate

House

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The Committee on Banking and Insurance (Bennett) recommended
the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Paragraph (a) of subsection (13) of section
112.0455, Florida Statutes, is amended to read:

112.0455 Drug-Free Workplace Act.--

(13) RULES.--

(a) The Agency for Health Care Administration may
adopt additional rules to support this law, using criteria
established by the United States Department of Health and
Human Services as general guidelines for modeling the state
drug-testing program, concerning, but not limited to:

1. Standards for drug-testing laboratory licensing,
suspension, and revocation of a license.

2. Urine, hair, blood, oral fluids, and other body
specimens and minimum specimen amounts which are appropriate
for drug testing, not inconsistent with other provisions

Bill No. SB 1204

Barcode 292842

1 established by law.

2 3. Methods of analysis and procedures to ensure
3 reliable drug-testing results, including standards for initial
4 tests and confirmation tests, not inconsistent with other
5 provisions established by law.

6 4. Minimum cutoff detection levels for drugs or their
7 metabolites for the purposes of determining a positive test
8 result, not inconsistent with other provisions established by
9 law.

10 5. Chain-of-custody procedures to ensure proper
11 identification, labeling, and handling of specimens being
12 tested, not inconsistent with other provisions established by
13 law.

14 6. Retention, storage, and transportation procedures
15 to ensure reliable results on confirmation tests and retests.

16 7. A list of the most common medications by brand name
17 or common name, as applicable, as well as by chemical name,
18 which may alter or affect a drug test.

19
20 This section shall not be construed to eliminate the
21 bargainable rights as provided in the collective bargaining
22 process where applicable.

23 Section 2. Subsection (10) of section 440.102, Florida
24 Statutes, is amended to read:

25 440.102 Drug-free workplace program requirements.--The
26 following provisions apply to a drug-free workplace program
27 implemented pursuant to law or to rules adopted by the Agency
28 for Health Care Administration:

29 (10) RULES.--The Agency for Health Care Administration
30 shall adopt rules pursuant to s. 112.0455 and criteria
31 established by the United States Department of Health and

Bill No. SB 1204

Barcode 292842

1 Human Services as general guidelines for modeling the state
2 drug-testing program, concerning, but not limited to:

3 (a) Standards for licensing drug-testing laboratories
4 and suspension and revocation of such licenses.

5 (b) Urine, hair, blood, oral fluids, and other body
6 specimens and minimum specimen amounts that are appropriate
7 for drug testing.

8 (c) Methods of analysis and procedures to ensure
9 reliable drug-testing results, including standards for initial
10 tests and confirmation tests.

11 (d) Minimum cutoff detection levels for each drug or
12 metabolites of such drug for the purposes of determining a
13 positive test result.

14 (e) Chain-of-custody procedures to ensure proper
15 identification, labeling, and handling of specimens tested.

16 (f) Retention, storage, and transportation procedures
17 to ensure reliable results on confirmation tests and retests.

18 Section 3. Subsection (3) of section 440.092, Florida
19 Statutes, is amended to read:

20 440.092 Special requirements for compensability;
21 deviation from employment; subsequent intervening accidents.--

22 (3) DEVIATION FROM EMPLOYMENT.--

23 (a) An employee who is injured while deviating from
24 the course of employment, whether the employee leaves or
25 remains on ~~including leaving~~ the employer's premises, is not
26 eligible for benefits unless such deviation is ~~expressly~~
27 ~~approved by the employer, or unless such deviation or act is~~
28 in response to an emergency and designed to save life or
29 property.

30 (b) For purposes of this subsection, an employee
31 deviates from the course of employment when the employee:

Bill No. SB 1204

Barcode 292842

1 1. Acts in a manner not directly related to the
2 employee's work duties; or

3 2. Acts in furtherance of the employee's personal
4 interests.

5 (c) An injury sustained during a deviation from the
6 course of employment shall not be deemed compensable even
7 where such deviation is of short duration. This includes
8 deviations where such deviation represents an inherently
9 dangerous act on the part of the employee.

10 Section 4. Section 440.136, Florida Statutes, is
11 created to read:

12 440.136 Pilot programs for combined insurance coverage
13 plans.--

14 (1) It is the intent of the Legislature to determine
15 whether the costs of the workers' compensation system can be
16 effectively contained by monitoring more closely the medical,
17 hospital, and remedial care required by s. 440.13, while
18 providing injured workers with more prompt and effective care
19 and earlier restoration of earning capacity without diminution
20 of the quality of such care. It is the further intent of the
21 Legislature to determine whether the total cost to an employer
22 who provides a policy or plan of health insurance and a
23 separate policy or plan of workers' compensation and
24 employer's liability insurance for its employees can be
25 reduced by combining both coverages under a policy or plan
26 that provides 24-hour health insurance coverage as set forth
27 in this section. Therefore, the Legislature authorizes the
28 establishment of one or more pilot programs to be administered
29 by the department, in consultation with the Office of
30 Insurance Regulation and the Agency for Health Care
31 Administration. Each pilot program shall terminate 2 years

Bill No. SB 1204

Barcode 292842

1 after the first date of operation of the program, unless
 2 extended by act of the Legislature. In order to evaluate the
 3 possible combination of these insurance policies, the
 4 department shall consult with the Office of Insurance
 5 Regulation and the Agency for Health Care Administration
 6 regarding:

7 (a) Establishing alternate delivery systems using a
 8 health maintenance organization model that includes physician
 9 fees, competitive bidding, or capitation models.

10 (b) Controlling and enhancing the selection of
 11 providers of medical, hospital, and remedial care and using
 12 the peer review and utilization review procedures in s. 440.13
 13 to control the utilization of care by physicians providing
 14 treatment under s. 440.13(2).

15 (c) Establishing, by agreement, appropriate fees for
 16 medical, hospital, and remedial care under this chapter.

17 (d) Promoting effective and timely utilization of
 18 medical, hospital, and remedial care by injured workers.

19 (e) Coordinating the duration of payment of disability
 20 benefits, with that determination made by qualified
 21 participating providers of medical, hospital, or remedial
 22 care.

23 (f) Initiating one or more pilot programs under which
 24 participating employers provide a 24-hour health insurance
 25 policy to their employees under a single insurance policy or
 26 self-insured plan. The policy or plan must provide a level of
 27 health insurance benefits which meets criteria established by
 28 the department, in consultation with the Office of Insurance
 29 Regulation and the Agency for Health Care Administration,
 30 which provides medical benefits for at least occupational
 31 injuries and illnesses comparable to those required by this

Bill No. SB 1204

Barcode 292842

1 chapter, and which may use deductibles and coinsurance
 2 provisions that require the employee to pay a portion of the
 3 actual medical care received by the employee, notwithstanding
 4 any other provision of this chapter. The policy or plan may
 5 also provide indemnity benefits as specified in s.
 6 440.38(1)(e). The employer shall pay the entire premium for
 7 the 24-hour health insurance policy or self-insured plan other
 8 than the portion of the premium which relates to dependent
 9 coverage.

10 (g) Other methods of monitoring reduced costs within
 11 the workers' compensation system while maintaining quality
 12 care.

13 (2) The department may, without a bidding process,
 14 negotiate and enter in to such contracts as may be necessary
 15 or appropriate in its judgment to implement the pilot program.

16 (3) The department may accept grants and moneys from
 17 any source and may expend such grants and moneys for the
 18 purposes of the program.

19 (4) The pilot programs may not vary the methods for
 20 calculating weekly payments for disability compensation under
 21 this chapter. Likewise, the pilot programs may not limit the
 22 right to a hearing under s. 440.25.

23 (5) The department shall make an interim report on or
 24 before December 1, 2008, and a final report on or before the
 25 termination date specified in subsection (1) to the Governor,
 26 the President of the Senate, the Speaker of the House of
 27 Representatives, the Minority Leader of the Senate, and the
 28 Minority Leader of the House of Representatives on the
 29 activities, findings, and recommendations of the department,
 30 the Office of Insurance Regulation, and the Agency for Health
 31 Care Administration relative to the pilot programs. The

Bill No. SB 1204

Barcode 292842

1 department shall monitor, evaluate, and report the following
2 information regarding physicians, hospitals, and other
3 remedial care providers:

- 4 (a) Cost savings.
- 5 (b) Effectiveness.
- 6 (c) Effect on earning capacity and indemnity payments.
- 7 (d) Complaints from injured workers and providers.
- 8 (e) Concurrent review of quality of care.
- 9 (f) Other pertinent matters.

10

11 The information from the pilot programs shall be reported in a
12 format to permit comparisons to other similar data.

13 Section 5. This act shall take effect July 1, 2007.

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

17 And the title is amended as follows:

18 Delete everything before the enacting clause

19

20 and insert:

21 A bill to be entitled

22 An act relating to employees; amending ss.

23 112.0455 and 440.102, F.S.; providing for the

24 use of oral fluids in an appropriate amount for

25 a specimen for use in a drug test for the

26 drug-free workplace program; amending s.

27 440.092, F.S.; providing special requirements

28 for compensability relating to deviation from

29 employment and subsequent intervening

30 accidents; creating s. 440.136, F.S.;

31 authorizing the Department of Financial

Bill No. SB 1204

Barcode 292842

1 Services, in consultation with the Office of
2 Insurance Regulation and the Agency for Health
3 Care Administration to establish one or more
4 pilot programs to be administered by the
5 department; requiring that the pilot programs
6 study the feasibility of combining health and
7 workers' compensation policies for employees;
8 providing the criteria for operating the pilot
9 programs; requiring the department to prepare
10 an interim report by a specified date and a
11 final report at the end of the 2-year term of
12 the pilot program; providing the content of the
13 reports; providing an effective date.

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