

HB 757

2010

1 A bill to be entitled
2 An act relating to state reciprocity in workers'
3 compensation claims; amending s. 440.09, F.S.; exempting
4 certain employees working in this state and the employers
5 of such employees from the Workers' Compensation Law of
6 this state under certain conditions; providing
7 requirements for the establishment of prima facie evidence
8 that the employer carries certain workers' compensation
9 insurance; requiring courts to take judicial notice of the
10 construction of certain laws; providing an effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

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14 Section 1. Paragraph (e) is added to subsection (1) of
15 section 440.09, Florida Statutes, to read:

16 440.09 Coverage.—

17 (1) The employer must pay compensation or furnish benefits
18 required by this chapter if the employee suffers an accidental
19 compensable injury or death arising out of work performed in the
20 course and the scope of employment. The injury, its occupational
21 cause, and any resulting manifestations or disability must be
22 established to a reasonable degree of medical certainty, based
23 on objective relevant medical findings, and the accidental
24 compensable injury must be the major contributing cause of any
25 resulting injuries. For purposes of this section, "major
26 contributing cause" means the cause which is more than 50
27 percent responsible for the injury as compared to all other
28 causes combined for which treatment or benefits are sought. In

29 cases involving occupational disease or repetitive exposure,
30 both causation and sufficient exposure to support causation must
31 be proven by clear and convincing evidence. Pain or other
32 subjective complaints alone, in the absence of objective
33 relevant medical findings, are not compensable. For purposes of
34 this section, "objective relevant medical findings" are those
35 objective findings that correlate to the subjective complaints
36 of the injured employee and are confirmed by physical
37 examination findings or diagnostic testing. Establishment of the
38 causal relationship between a compensable accident and injuries
39 for conditions that are not readily observable must be by
40 medical evidence only, as demonstrated by physical examination
41 findings or diagnostic testing. Major contributing cause must be
42 demonstrated by medical evidence only.

43 (e)1. An employee from another state and the employer of
44 the employee in the other state are exempt from the provisions
45 of this chapter while the employee is temporarily in this state
46 doing work for the employer if:

47 a. The employer has furnished workers' compensation
48 insurance coverage under the workers' compensation insurance or
49 similar laws of the other state to cover the employee's
50 employment while in this state;

51 b. The extraterritorial provisions of this chapter are
52 recognized in the other state; and

53 c. Employees and employers who are covered in this state
54 are likewise exempted from the application of the workers'
55 compensation insurance or similar laws of the other state.

56 2. The benefits under the workers' compensation insurance

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57 or similar laws of the other state, or other remedies under
58 similar law, are the exclusive remedy against the employer for
59 any injury, whether resulting in death or not, received by the
60 employee while working for that employer in this state.

61 3. A certificate from the duly authorized officer of the
62 labor department or similar department of another state
63 certifying that the employer of the other state is insured
64 therein and has provided extraterritorial coverage insuring
65 employees while working in this state is prima facie evidence
66 that the employer carries that workers' compensation insurance.

67 4. An employer from another state who meets the
68 requirements of this paragraph is not subject to the
69 requirements of ss. 440.10(1)(g) and 440.38(7).

70 5. Whenever in any appeal or other litigation the
71 construction of the laws of another jurisdiction is required,
72 the courts shall take judicial notice of such construction of
73 the laws of the other jurisdiction.

74 Section 2. This act shall take effect July 1, 2010.