

By Senator Farmer

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1 A bill to be entitled
2 An act relating to prohibited activities under the
3 Workers' Compensation Law; amending s. 440.105, F.S.;
4 requiring employers to comply with specified
5 provisions relating to the unlawful employment of
6 aliens, unfair immigration-related employment
7 practices, and penalties for document fraud; providing
8 a criminal penalty for violating such provisions;
9 exempting certain entities from reporting such
10 violations to the Division of Investigative and
11 Forensic Services, Bureau of Workers' Compensation
12 Fraud; deleting a prohibition against an employer's
13 knowing participation in creating certain employment
14 relationships; requiring that certain false,
15 fraudulent, misleading, or incomplete statements or
16 information be relevant to a person's eligibility for
17 workers' compensation benefits or payments to violate
18 certain insurance fraud provisions; conforming a
19 provision to changes made by the act; providing an
20 effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. Paragraph (a) of subsection (1), paragraph (b)
25 of subsection (3), paragraph (b) of subsection (4), and
26 subsection (7) of section 440.105, Florida Statutes, are
27 amended, and paragraph (f) of subsection (4) of that section is
28 republished, to read:

29 440.105 Prohibited activities; reports; penalties;

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30 limitations.-

31 (1) (a) Any insurance carrier, any individual self-insured,
32 any commercial or group self-insurance fund, any professional
33 practitioner licensed or regulated by the Department of Health,
34 except as otherwise provided by law, any medical review
35 committee as defined in s. 766.101, any private medical review
36 committee, and any insurer, agent, or other person licensed
37 under the insurance code, or any employee thereof, having
38 knowledge or who believes that a fraudulent act, other than an
39 act described in paragraph (3) (b), or that any other act or
40 practice that ~~which~~, upon conviction, constitutes a felony or
41 misdemeanor under this chapter is being or has been committed
42 shall send to the Division of Investigative and Forensic
43 Services, Bureau of Workers' Compensation Fraud, a report or
44 information pertinent to such knowledge or belief and such
45 additional information relative thereto as the bureau may
46 require. The bureau shall review such information or reports and
47 select such information or reports as, in its judgment, may
48 require further investigation. It shall then cause an
49 independent examination of the facts surrounding such
50 information or report to be made to determine the extent, if
51 any, to which a fraudulent act or any other act or practice that
52 ~~which~~, upon conviction, constitutes a felony or a misdemeanor
53 under this chapter is being committed. The bureau shall report
54 any alleged violations of law which its investigations disclose
55 to the appropriate licensing agency and state attorney or other
56 prosecuting agency having jurisdiction with respect to any such
57 violations of this chapter. If prosecution by the state attorney
58 or other prosecuting agency having jurisdiction with respect to

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59 such violation is not begun within 60 days of the bureau's
60 report, the state attorney or other prosecuting agency having
61 jurisdiction with respect to such violation shall inform the
62 bureau of the reasons for the lack of prosecution.

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

66 (b) An employer in this state shall comply with 8 U.S.C.
67 ss. 1324a, 1324b, and 1324c, relating to the unlawful employment
68 of aliens, unfair immigration-related employment practices, and
69 penalties for document fraud, respectively ~~It shall be unlawful~~
70 ~~for any employer to knowingly participate in the creation of the~~
71 ~~employment relationship in which the employee has used any~~
72 ~~false, fraudulent, or misleading oral or written statement as~~
73 ~~evidence of identity.~~

74 (4) Whoever violates any provision of this subsection
75 commits insurance fraud, punishable as provided in paragraph
76 (f).

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

78 1. To knowingly make, or cause to be made, any false,
79 fraudulent, or misleading oral or written statement relevant to
80 his or her eligibility ~~for the purpose of obtaining or denying~~
81 any benefit or payment under this chapter.

82 2. To present or cause to be presented any written or oral
83 statement relevant to his or her eligibility for ~~as part of, or~~
84 ~~in support of,~~ a claim for payment or other benefit pursuant to
85 any provision of this chapter, knowing that such statement
86 contains any false, incomplete, or misleading information
87 concerning any fact or thing material to such claim.

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88 3. To prepare or cause to be prepared any written or oral
89 statement that is intended to be presented to any employer,
90 insurance company, or self-insured program in connection with,
91 or in support of, any claim for payment or other benefit
92 pursuant to any provision of this chapter, knowing that such
93 statement contains any false, incomplete, or misleading
94 information concerning any fact or thing relevant to his or her
95 eligibility for workers' compensation benefits ~~material to such~~
96 ~~claim~~.

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

99 5. To knowingly make any false, fraudulent, or misleading
100 oral or written statement, or to knowingly omit or conceal
101 material information, relevant to his or her eligibility for
102 workers' compensation benefits and required by s. 440.185 or s.
103 440.381, for the purpose of obtaining workers' compensation
104 coverage or for the purpose of avoiding, delaying, or
105 diminishing the amount of payment of any workers' compensation
106 premiums.

107 6. To knowingly misrepresent or conceal payroll,
108 classification of workers, or information regarding an
109 employer's loss history which would be material to the
110 computation and application of an experience rating modification
111 factor for the purpose of avoiding or diminishing the amount of
112 payment of any workers' compensation premiums.

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

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

119 9. To knowingly present or cause to be presented any false,
120 fraudulent, or misleading oral or written statement relevant to
121 his or her eligibility ~~to any person as evidence of identity for~~
122 ~~the purpose of obtaining employment or filing or supporting a~~
123 ~~claim~~ for workers' compensation benefits.

124 (f) If the monetary value of any violation of this
125 subsection:

126 1. Is less than \$20,000, the offender commits a felony of
127 the third degree, punishable as provided in s. 775.082, s.
128 775.083, or s. 775.084.

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

132 3. Is \$100,000 or more, the offender commits a felony of
133 the first degree, punishable as provided in s. 775.082, s.
134 775.083, or s. 775.084.

135 (7) An injured employee or any other party making a claim
136 under this chapter shall provide his or her personal signature
137 attesting that he or she has reviewed, understands, and
138 acknowledges the following statement: "Any person who, knowingly
139 and with intent to injure, defraud, or deceive any employer or
140 employee, insurance company, or self-insured program, files a
141 statement of claim containing any false or misleading
142 information relevant to his or her eligibility for workers'
143 compensation benefits commits insurance fraud, punishable as
144 provided in s. 817.234." If the injured employee or other party
145 refuses to sign the document attesting that he or she has

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146 reviewed, understands, and acknowledges the statement, benefits,
147 or payments under this chapter must ~~shall~~ be suspended until
148 such signature is obtained.

149 Section 2. This act shall take effect October 1, 2018.