

By Senator Thrasher

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

13
14 Be It Enacted by the Legislature of the State of Florida:

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

18 440.09 Coverage.—

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

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

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

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

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

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

58 2. The benefits under the workers' compensation insurance

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

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

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

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

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