

By the Committee on Banking and Insurance; and Senator Bennett

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1 A bill to be entitled
2 An act relating to state reciprocity in workers'
3 compensation claims; creating s. 440.094, F.S.;
4 providing extraterritorial coverage for employees of
5 this state who temporarily leave this state incidental
6 to his or her employment; exempting certain employees
7 from another state working in this state and the
8 employers of such employees from the workers'
9 compensation law of this state under certain
10 conditions; providing that the benefits under the
11 workers' compensation insurance or similar laws of the
12 other state are the exclusive remedy against the
13 employer for any injury received by an employee
14 working temporarily in this state; providing
15 requirements for the establishment of prima facie
16 evidence that the employer carries certain workers'
17 compensation insurance; requiring courts to take
18 judicial notice of the construction of certain laws;
19 requiring an employee having a claim under the
20 workers' compensation law of another state, territory,
21 province, or country for the same injury as the claim
22 filed in this state, to have the total amount of
23 compensation paid under another workers' compensation
24 law be credited against the compensation due under the
25 state workers' compensation law; providing criteria
26 for employees to be considered temporarily in a state;
27 providing for the application of the act to a claim;
28 amending s. 440.12, F.S.; authorizing a worker's
29 compensation insurance carrier to provide compensation
30 payments through the use of prepaid cards under
31 certain circumstances; requiring the carrier to
32 maintain records of the payments made and the time and
33 manner of the payments; amending s. 440.20, F.S.;
34 providing that the obligation of a workers'
35 compensation insurance carrier to pay compensation
36 directly to an employee is satisfied by providing
37 compensation through the use of a prepaid card;
38 providing an effective date.

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40 Be It Enacted by the Legislature of the State of Florida:

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42 Section 1. Section 440.094, Florida Statutes, is created to
43 read:

44 440.094 Extraterritorial reciprocity.-

45 (1) If an employee in this state who is subject to this
46 chapter temporarily leaves the state incidental to his or her
47 employment and receives an accidental injury arising out of and
48 in the course of employment, the employee, or the beneficiaries
49 of the employee if the injury results in death, is entitled to
50 the benefits of this chapter as if the employee were injured
51 within this state.

52 (2) An employee from another state and the employer of the
53 employee in the other state are exempt from this chapter while
54 the employee is temporarily in this state doing work for the
55 employer if:

56 (a) The employer has furnished workers' compensation
57 insurance coverage under the workers' compensation insurance or
58 similar laws of the other state to cover the employee's
59 employment while in this state;

60 (b) The extraterritorial provisions of this chapter are
61 recognized in the other state; and

62 (c) Employees and employers who are covered in this state
63 are likewise exempted from the application of the workers'
64 compensation insurance or similar laws of the other state.

65 (3) The benefits under the workers' compensation insurance
66 or similar laws of the other state, or other remedies under
67 similar laws, are the exclusive remedy against the employer for
68 any injury, whether resulting in death or not, received by the
69 employee while temporarily working for that employer in this
70 state.

71 (4) A certificate from the duly authorized officer of the
72 appropriate department of another state certifying that the
73 employer of the other state is insured in that state and has
74 provided extraterritorial coverage insuring employees while
75 working in this state is prima facie evidence that the employer
76 carries workers' compensation insurance.

77 (5) If in any appeal or other litigation the construction
78 of the laws of another jurisdiction is required, the courts
79 shall take judicial notice of such construction of the laws of
80 the other jurisdiction.

81 (6) If an employee has a claim under the workers'
82 compensation law of another state, territory, province, or
83 foreign nation for the same injury or occupational disease as
84 the claim filed in this state, the total amount of compensation
85 paid or awarded under such other workers' compensation law shall
86 be credited against the compensation due under the state
87 workers' compensation law.

88 (7) For purposes of this section, an employee is considered
89 to be temporarily in a state doing work for an employer if the
90 employee is working for no more than 10 consecutive days or no
91 more than 25 total days during a calendar year for the employer
92 in a state other than the state where the employee is primarily
93 employed.

94 (8) This section applies to any claim made on or after July
95 1, 2011, regardless of the date of the accident.

96 Section 2. Subsection (1) of section 440.12, Florida
97 Statutes, is amended to read:

98 440.12 Time for commencement and limits on weekly rate of
99 compensation.-

100 (1) ~~No~~ Compensation ~~is not shall be~~ allowed for the first 7
101 days of the disability, except ~~for~~ benefits provided ~~under for~~
102 ~~in~~ s. 440.13. However, if the injury results in disability of
103 more than 21 days, compensation shall be allowed from the
104 commencement of the disability.

105 (a) All weekly compensation payments, except for the first
106 payment, shall be paid by check or, if authorized by the
107 employee, on a prepaid card pursuant to paragraph (b) or
108 deposited directly into the employee's account at a financial
109 institution. As used in this subsection, the term "financial
110 institution" means a financial institution as defined in s.
111 655.005(1) ~~(h)~~.

112 (b) A carrier may use prepaid cards to deliver compensation
113 to employees if the employee is:

114 1. Provided with at least one means of accessing his or her
115 entire compensation payment once per week without incurring
116 fees;

117 2. Provided with the terms and conditions of the program,
118 including a description of any fees that may be assessed; and

119 3. Given the option of receiving compensation payments by
120 direct deposit into his or her personal account at a financial
121 institution.

122 (c) Each carrier shall keep a record of all payments made
123 under this subsection and the time and manner of such payments,
124 and shall furnish these records, or a report based on these
125 records, to the Bureau of Workers' Compensation Fraud upon
126 request.

127 Section 3. Paragraph (a) of subsection (1) of section
128 440.20, Florida Statutes, is amended to read:

129 440.20 Time for payment of compensation and medical bills;
130 penalties for late payment.-

131 (1)(a) Unless it denies compensability or entitlement to
132 benefits, the carrier shall pay compensation directly to the
133 employee as required by ss. 440.14, 440.15, and 440.16, in
134 accordance with the obligations set forth in ~~those such~~
135 sections. ~~If authorized by the employee,~~ The carrier's
136 obligation to pay compensation directly to the employee is
137 satisfied when the carrier directly deposits, by electronic
138 transfer or other means, compensation into the employee's
139 account at a financial institution or onto a prepaid card in
140 accordance with s. 440.12(1). As used in this paragraph, the
141 term "financial institution" means a financial institution as
142 defined in s. 655.005(1) ~~(h)~~. Compensation by direct deposit or
143 through the use of a prepaid card is considered paid on the date
144 the funds become available for withdrawal by the employee.

145 Section 4. This act shall take effect July 1, 2011.