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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.; providing
4 extraterritorial coverage; exempting certain employees
5 working in this state and the employers of such employees
6 from the Workers' Compensation Law of this state under
7 certain conditions; providing requirements for the
8 establishment of prima facie evidence that the employer
9 carries certain workers' compensation insurance; requiring
10 courts to take judicial notice of the construction of
11 certain laws; authorizing the Division of Workers'
12 Compensation to enter into agreements with the workers'
13 compensation agencies of other states for certain
14 purposes; providing requirements for claims made in other
15 states; providing criteria for employees to be considered
16 temporarily in a state; providing application; providing
17 an effective date.

18
19 Be It Enacted by the Legislature of the State of Florida:

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

23 440.09 Coverage.—

24 (1) The employer must pay compensation or furnish benefits
25 required by this chapter if the employee suffers an accidental
26 compensable injury or death arising out of work performed in the
27 course and the scope of employment. The injury, its occupational
28 cause, and any resulting manifestations or disability must be

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29 established to a reasonable degree of medical certainty, based
30 on objective relevant medical findings, and the accidental
31 compensable injury must be the major contributing cause of any
32 resulting injuries. For purposes of this section, "major
33 contributing cause" means the cause which is more than 50
34 percent responsible for the injury as compared to all other
35 causes combined for which treatment or benefits are sought. In
36 cases involving occupational disease or repetitive exposure,
37 both causation and sufficient exposure to support causation must
38 be proven by clear and convincing evidence. Pain or other
39 subjective complaints alone, in the absence of objective
40 relevant medical findings, are not compensable. For purposes of
41 this section, "objective relevant medical findings" are those
42 objective findings that correlate to the subjective complaints
43 of the injured employee and are confirmed by physical
44 examination findings or diagnostic testing. Establishment of the
45 causal relationship between a compensable accident and injuries
46 for conditions that are not readily observable must be by
47 medical evidence only, as demonstrated by physical examination
48 findings or diagnostic testing. Major contributing cause must be
49 demonstrated by medical evidence only.

50 (e)1. If an employee in this state subject to this chapter
51 temporarily leaves the state incidental to his or her employment
52 and receives an accidental injury arising out of and in the
53 course of employment, the employee, or beneficiaries of the
54 employee if the injury results in death, is entitled to the
55 benefits of this chapter as if the employee were injured within
56 this state.

57 2. An employee from another state and the employer of the
58 employee in the other state are exempt from this chapter while
59 the employee is temporarily in this state doing work for the
60 employer if:

61 a. The employer has furnished workers' compensation
62 insurance coverage under the workers' compensation insurance or
63 similar laws of the other state to cover the employee's
64 employment while in this state;

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

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

70 3. The benefits under the workers' compensation insurance
71 or similar laws of the other state, or other remedies under
72 similar law, are the exclusive remedy against the employer for
73 any injury, whether resulting in death or not, received by the
74 employee while temporarily working for that employer in this
75 state.

76 4. A certificate from the duly authorized officer of the
77 department or similar department of another state certifying
78 that the employer of the other state is insured in that state
79 and has provided extraterritorial coverage insuring employees
80 while working in this state is prima facie evidence that the
81 employer carries that workers' compensation insurance.

82 5. Whenever in any appeal or other litigation the
83 construction of the laws of another jurisdiction is required,
84 the courts shall take judicial notice of such construction of

85 the laws of the other jurisdiction.

86 6. The division may enter into an agreement with the
87 workers' compensation agency of any other state relating to
88 conflicts of jurisdiction where the contract of employment is in
89 one state and the injuries occur in the other state, or where
90 there is a dispute as to the boundaries or jurisdiction of the
91 states; and, when such an agreement has been executed and made
92 public by the respective state agencies, the rights of employees
93 hired in the other state and injured while temporarily in this
94 state, or hired in this state and injured while temporarily in
95 the other state, or where the jurisdiction is otherwise
96 uncertain, shall be determined pursuant to such agreement and
97 confined to the jurisdiction provided in the agreement.

98 7. When an employee has a claim under the workers'
99 compensation law of another state, territory, province, or
100 foreign nation for the same injury or occupational disease as
101 the claim filed in this state, the total amount of compensation
102 paid or awarded under such other workers' compensation law shall
103 be credited against the compensation due under the Florida
104 Workers' Compensation Law. The employee is entitled to the full
105 amount of compensation due under the Florida Workers'
106 Compensation Law. If compensation under the Florida Workers'
107 Compensation Law is more than the compensation under another
108 law, or compensation paid to the employee under another law is
109 recovered from the employee, the insurer shall pay any unpaid
110 compensation to the employee up to the amount required by the
111 claim under the Florida Workers' Compensation Law.

112 8. For purposes of this paragraph, an employee is

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113 considered to be temporarily in a state doing work for an
114 employer if the employee is working for his employer in a state
115 other than the state where he or she is primarily employed, for
116 no more than 10 consecutive days, or no more than 25 total days,
117 during a calendar year.

118 9. This paragraph applies to any claim made on or after
119 July 1, 2011, regardless of the date of the accident.

120 Section 2. This act shall take effect July 1, 2011.