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# FLORIDA

## EMPLOYMENT LAW LETTER

Part of your Florida Employment Law Service

G. Thomas Harper, Editor  
www.HarperGerlach.com

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#### Absenteeism

Absenteeism is one of the most common problems facing employers today. To find a wealth of information on dealing with employee absenteeism (regardless of whether the absence is legitimate), go to [www.HRHero.com/news](http://www.HRHero.com/news). Subscribers will find:

- an absenteeism HR Special Report;
- a sample policy; and
- information about HR Quick List, a reference book with sections on absenteeism and employee leave.

### WORKERS' COMPENSATION

## Florida lawmakers broaden workers' comp coverage for 'first responders'

*On June 8, Governor Charlie Crist signed a new law relating to workers' compensation for first responders that changes the burdens of proof for some work-related injuries and conditions and broadens coverage for others. The law took effect upon the governor's signature, so it's important to read on to learn how it affects local and state government employers.*

### Who's covered by the new law?

First, the new law defines "first responder" as "a law enforcement officer, . . . a firefighter, . . . or an emergency medical technician [EMT] or paramedic . . . employed by state or local government." The definition also includes *volunteer* law enforcement officers, firefighters, EMTs, and paramedics.

### What does the new law say?

The law includes a smorgasbord of issues specifically related to first responders' claims. It addresses the burden of proof in toxic exposure cases by providing that such claims will be compensable if "there is a preponderance of the evidence establishing that exposure to the specific substance involved, at the levels to which the first responder was exposed, can cause the injury or disease sustained by the employee." With regard to occupational disease, causation

and sufficient exposure to the harmful substance must be proven by a preponderance of the evidence. It also provides for the compensability of adverse results or complications arising from smallpox vaccines.

The new law also relaxes standards for compensability for psychiatric injuries sustained by first responders. If a mental or nervous disorder arises out of a first responder's employment but is *unaccompanied by a physical injury*, the first responder may receive medical benefits (but not indemnity benefits). The first responder may receive indemnity benefits if a compensable physical injury accompanies the mental or nervous injury. Further, temporary benefits for a first responder aren't subject to limits under Florida Statute (F.S.) 440.093 of the Florida workers' comp provisions or the one percent limitation on permanent psychiatric impairment benefits under F.S. 440.15(3)(c).

The new law also allows for the payment of permanent total supplemental benefits after age 62 if the employer doesn't participate in the social security program (F.S. 112.1815).

### Bottom line

This new law may very well affect your bottom line because city and county government employers are likely to see an increase in the cost of workers' comp insurance for first responders. Time will

tell whether we see an increase in the number of toxic exposure, occupational disease, and psychiatric claims for first responders. Public employers must be diligent in ensuring safety regulations are being strictly followed to prevent as many of these claims as possible. ❖

For a copy of this article please send an e-mail request to Tom Harper at:  
gth@harpergerlach.com

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*Florida Employment Law Letter presents*

# Union Avoidance

## MASTER CLASS

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Don't wait for a union to target your workforce for organization. Learn what you can do — NOW — to keep your workplace union-free and avoid the disruption that can come from collective bargaining:

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- What's happening with the Change to Win coalition
- How to develop your personal Union Avoidance Plan, one that fights fairly and effectively against union campaigns
- How to react to modern labor's newest organizing techniques
- Carrots and sticks you should NEVER consider when trying to influence employees' voting on organization
- How to deal with employee discipline if your plant is being organized
- And much, much more!

**October 23, 2007  
Orlando, Florida**

**8:30 a.m. - 4:30 p.m.**

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