

Florida Lawmakers to Review Law Targeting Injured Undocumented Workers

By: Howard Berkes, NPR, and Michael Grabell, ProPublica

The second-highest ranking member of the Florida Senate pledged a legislative review of a state law that employers and insurance companies are using to have injured undocumented workers arrested and potentially deported to avoid paying them workers' compensation benefits.

"Legitimate injuries shouldn't be denied just because the person was an undocumented immigrant," said Republican Sen. Anitere Flores, the president pro tempore of the state Senate and chair of the Banking and Insurance Committee.

"One needs to balance the going after fraudulent claims," she said, "with not overcompensating and then denying claims to those individuals who have actually been injured."

Flores spoke in response to a recent NPR and ProPublica investigation and a subsequent statement by the nation's largest insurance fraud group, which called on Florida lawmakers to change the law. The Coalition Against Insurance Fraud said employers and insurance companies are applying the law in ways that place "the credibility of combating real fraud at risk."

"Legislators in the Sunshine State need to correct this loophole so workers hurt on the job get the care they need," said Dennis Jay, executive director of the coalition, which is made up of insurance companies, government agencies, consumer organizations and insurance fraud investigators.

"I just see the credibility of the anti-fraud effort being hurt by such practices," Jay said in an interview.

NPR and ProPublica found that nearly 800 undocumented workers in Florida have been charged with workers' comp fraud for using illicit Social Security numbers to either get their jobs, file for workers' compensation benefits or both. More than 560 didn't actually file workers' comp claims but still were charged with fraud. Another 130 suffered legitimate workplace injuries but were denied benefits and prosecuted. Some were detained by federal immigration authorities and deported.

Like most states, Florida provides workers' comp benefits to undocumented workers despite their legal status. The state's workers' comp law was amended in 2003 to make the use of false identification in obtaining jobs and workers' comp benefits a felony.

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Coalition Against Insurance Fraud

"I don't see how they can legally justify that," Jay said. "It also paints insurers as uncaring, greedy corporations that allow human suffering to make a buck."

Some of the insurance companies who have used the Florida law to deny claims are members of Jay's coalition, as is the state agency that administers the law.

Jon Moore, spokesman for the Florida Division of Investigative and Forensic Services, said his agency is "obligated to enforce the law as it relates to the workers' compensation system in Florida." But he said, "another look into the questions that are being posed may be warranted. What is the balance between the harm and the benefits that are being produced?"

Flores said she is especially concerned about companies who may hire undocumented workers knowing that the threat of prosecution and deportation may keep them from pursuing workers' comp claims if they are injured at work.

Jay added that his group is already engaging Florida lawmakers and will offer assistance in drafting alternative legislation.