

**633.801 Short title.**--Sections 633.801-633.821 may be cited as the "Florida Firefighters Occupational Safety and Health Act."

**History.**--s. 15, ch. 2002-404.

**633.802 Definitions.**--Unless the context clearly requires otherwise, the following definitions shall apply to ss. 633.801-633.821:

(1) "Department" means the Department of Insurance.

(2) "Division" means the Division of State Fire Marshal of the department.

(3) "Firefighter employee" means any person engaged in any employment, public or private, as a firefighter under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed, responding to or assisting with fire or medical emergencies, whether or not the firefighter is on duty, except those appointed under s. 590.02(1)(d).

(4) "Firefighter employer" means the state and all political subdivisions of this state, all public and quasi-public corporations in this state, and every person carrying on any employment for this state, political subdivisions of this state, and public and quasi-public corporations in this state which employs firefighters, except those appointed under s. 590.02(1)(d).

(5) "Firefighter employment" or "employment" means any service performed by a firefighter employee for the firefighter employer.

(6) "Firefighter place of employment" or "place of employment" means the physical location at which the firefighter is employed.

**History.**--s. 15, ch. 2002-404.

**633.803 Legislative intent.**--It is the intent of the Legislature to enhance firefighter occupational safety and health in the state through the implementation and maintenance of policies, procedures, practices, rules, and standards that reduce the incidence of firefighter employee accidents, firefighter employee occupational diseases, and firefighter employee fatalities compensable under chapter 440 or otherwise. The Legislature further intends that the division develop a means by which the division can identify individual firefighter employers with a high frequency or severity of work-related injuries, conduct safety inspections

of those firefighter employers, and assist those firefighter employers in the development and implementation of firefighter employee safety and health programs. In addition, it is the intent of the Legislature that the division administer the provisions of ss. 633.801-633.821; provide assistance to firefighter employers, firefighter employees, and insurers; and enforce the policies, rules, and standards set forth in ss. 633.801-633.821.

**History.**--s. 15, ch. 2002-404.

**633.804 Safety inspections and consultations; rules.**--The division shall adopt rules governing the manner, means, and frequency of firefighter employer and firefighter employee safety inspections and consultations by all insurers and self-insurers.

**History.**--s. 15, ch. 2002-404.

**633.805 Division to make study of firefighter employee occupational diseases.**--The division shall make a continuous study of firefighter employee occupational diseases and the ways and means for their control and prevention and shall adopt rules necessary for such control and prevention. For this purpose, the division is authorized to cooperate with firefighter employers, firefighter employees, and insurers and with the Department of Health.

**History.**--s. 15, ch. 2002-404.

**633.806 Investigations by the division; refusal to admit; penalty.**--

(1) The division shall make studies and investigations with respect to safety provisions and the causes of firefighter employee injuries in firefighter employee places of employment and shall make such recommendations to the Legislature and firefighter employers and insurers as the division considers proper as to the best means of preventing firefighter injuries. In making such studies and investigations, the division may cooperate with any agency of the United States charged with the duty of enforcing any law securing safety against injury in any place of firefighter employment covered by ss. 633.801-633.821 or any agency or department of the state engaged in enforcing any law to ensure safety for firefighter employees.

(2) The division by rule may adopt procedures for conducting

investigations of firefighter employers under ss. 633.801-633.821.

**History.**--s. 15, ch. 2002-404.

**633.807 Safety; firefighter employer responsibilities.**--Every firefighter employer shall furnish and use safety devices and safeguards, adopt and use methods and processes reasonably adequate to render such an employment and place of employment safe, and do every other thing reasonably necessary to protect the lives, health, and safety of such firefighter employees. As used in this section, the terms "safe" and "safety," as applied to any employment or place of firefighter employment, mean such freedom from danger as is reasonably necessary for the protection of the lives, health, and safety of firefighter employees, including conditions and methods of sanitation and hygiene. Safety devices and safeguards required to be furnished by the firefighter employer by this section or by the division under authority of this section shall not include personal apparel and protective devices that replace personal apparel normally worn by firefighter employees during regular working hours.

**History.**--s. 15, ch. 2002-404.

**633.808 Division authority.**--The division shall:

- (1) Investigate and prescribe by rule what safety devices, safeguards, or other means of protection must be adopted for the prevention of accidents in every firefighter employee place of employment or at any fire scene; determine what suitable devices, safeguards, or other means of protection for the prevention of occupational diseases must be adopted or followed in any or all such firefighter places of employment or at any fire scene; and adopt reasonable rules for the prevention of accidents, the safety, protection, and security of firefighter employees engaged in interior firefighting, and the prevention of occupational diseases.
- (2) Ascertain, fix, and order such reasonable standards and rules for the construction, repair, and maintenance of firefighter employee places of employment as shall render them safe. Such rules and standards shall be adopted in accordance with chapter 120.
- (3) Assist firefighter employers in the development and implementation of firefighter employee safety training programs by contracting with professional safety organizations.
- (4) Adopt rules prescribing recordkeeping responsibilities for firefighter

employers, which may include maintaining a log and summary of occupational injuries, diseases, and illnesses, for producing on request a notice of injury and firefighter employee accident investigation records, and prescribing a retention schedule for such records.

**History.**--s. 15, ch. 2002-404.

**633.809 Firefighter employers whose firefighter employees have a high frequency of work-related injuries.**--The division shall develop a means by which the division may identify individual firefighter employers whose firefighter employees have a high frequency or severity of work-related injuries. The division shall carry out safety inspections of the facilities and operations of those firefighter employers in order to assist them in reducing the frequency and severity of work-related injuries. The division shall develop safety and health programs for those firefighter employers. Insurers shall distribute such safety and health programs to the firefighter employers so identified by the division. Those firefighter employers identified by the division as having a high frequency or severity of work-related injuries shall implement a safety and health program developed by the division. The division shall carry out safety inspections of those firefighter employers so identified to ensure compliance with the safety and health program and to assist such firefighter employers in reducing the number of work-related injuries. The division may not assess penalties as a result of such inspections, except as provided by s. 633.813. Copies of any report made as the result of such an inspection shall be provided to the firefighter employer and its insurer. Firefighter employers may submit their own safety and health programs to the division for approval in lieu of using the safety and health program developed by the division. The division shall promptly review the program submitted and approve or disapprove the program within 60 days or such program shall be deemed approved. Upon approval by the division, the program shall be implemented by the firefighter employer. If the program is not approved or if a program is not submitted, the firefighter employer shall implement the program developed by the division. The division shall adopt rules setting forth the criteria for safety and health programs, as such rules relate to this section.

**History.**--s. 15, ch. 2002-404.

**633.810 Workplace safety committees and safety coordinators.**--

(1) In order to promote health and safety in firefighter employee places

of employment in this state:

(a) Each firefighter employer of 20 or more firefighter employees shall establish and administer a workplace safety committee in accordance with rules adopted under this section.

(b) Each firefighter employer of fewer than 20 firefighter employees identified by the division as having high frequency or high severity of work-related injuries shall establish and administer a workplace safety committee or designate a workplace safety coordinator who shall establish and administer workplace safety activities in accordance with rules adopted under this section.

(2) The division shall adopt rules:

(a) Prescribing the membership of the workplace safety committees so as to ensure an equal number of firefighter employee representatives who are volunteers or are elected by their peers and firefighter employer representatives, and specifying the frequency of meetings.

(b) Requiring firefighter employers to make adequate records of each meeting and to file and to maintain the records subject to inspection by the division.

(c) Prescribing the duties and functions of the workplace safety committee and workplace safety coordinator, which include, but are not limited to:

1. Establishing procedures for workplace safety inspections by the committee.
2. Establishing procedures for investigating all workplace accidents, safety-related incidents, illnesses, and deaths.
3. Evaluating accident prevention and illness prevention programs.
4. Prescribing guidelines for the training of safety committee members.

(3) The composition, selection, and function of workplace safety committees shall be a mandatory topic of negotiations with any certified collective bargaining agent for firefighter employers that operate under a collective bargaining agreement. Firefighter employers that operate under a collective bargaining agreement that contains provisions regulating the formation and operation of workplace safety committees

that meet or exceed the minimum requirements contained in this section, or firefighter employers who otherwise have existing workplace safety committees that meet or exceed the minimum requirements established by this section, are in compliance with this section.

(4) Firefighter employees shall be compensated their regular hourly wage while engaged in workplace safety committee or workplace safety coordinator training, meetings, or other duties prescribed under this section.

**History.**--s. 15, ch. 2002-404.

**633.811 Firefighter employer penalties.**--If any firefighter employer violates or fails or refuses to comply with ss. 633.801-633.821, or with any rule adopted by the division under such sections in accordance with chapter 120 for the prevention of injuries, accidents, or occupational diseases or with any lawful order of the division in connection with ss. 633.801-633.821, or fails or refuses to furnish or adopt any safety device, safeguard, or other means of protection prescribed by division rule under ss. 633.801-633.821 for the prevention of accidents or occupational diseases, the division may assess against the firefighter employer a civil penalty of not less than \$100 nor more than \$5,000 for each day the violation, omission, failure, or refusal continues after the firefighter employer has been given written notice of such violation, omission, failure, or refusal. The total penalty for each violation shall not exceed \$50,000. The division shall adopt rules requiring penalties commensurate with the frequency or severity of safety violations. A hearing shall be held in the county in which the violation, omission, failure, or refusal is alleged to have occurred, unless otherwise agreed to by the firefighter employer and authorized by the division. All penalties assessed and collected under this section shall be deposited in the Insurance Commissioner's Regulatory Trust Fund.

**History.**--s. 15, ch. 2002-404.

**633.812 Division cooperation with Federal Government; exemption from requirements for private firefighter employers.**--

(1) The division shall cooperate with the Federal Government so that duplicate inspections will be avoided while at the same time ensuring safe firefighter employee places of employment for the citizens of this state.

(2) Except as provided in this section, a private firefighter employer is

not subject to the requirements of the division if:

(a) The private firefighter employer is subject to the federal regulations in 29 C.F.R. ss. 1910 and 1926.

(b) The private firefighter employer has adopted and implemented a written safety program that conforms to the requirements of 29 C.F.R. ss. 1910 and 1926.

(c) A private firefighter employer with 20 or more full-time firefighter employees shall include provisions for a safety committee in the safety program. The safety committee shall include firefighter employee representation and shall meet at least once each calendar quarter. The private firefighter employer shall make adequate records of each meeting and maintain the records subject to inspections under subsection (3). The safety committee shall, if appropriate, make recommendations regarding improvements to the safety program and corrections of hazards affecting workplace safety.

(d) The private firefighter employer provides the division with a written statement that certifies compliance with this subsection.

(3) The division may enter at any reasonable time any place of private firefighter employment for the purpose of verifying the accuracy of the written certification. If the division determines that the private firefighter employer has not complied with the requirements of subsection (2), the private firefighter employer shall be subject to the rules of the division until the private firefighter employer complies with subsection (2) and recertifies that fact to the division.

(4) This section shall not restrict the division's performance of any duties pursuant to a written contract between the division and the federal Occupational Safety and Health Administration.

**History.**--s. 15, ch. 2002-404.

**633.813 Failure to implement a safety and health program; cancellations.**--If a firefighter employer that is found by the division to have a high frequency or severity of work-related injuries fails to implement a safety and health program, the insurer or self-insurer's fund that is providing coverage for the firefighter employer may cancel the contract for insurance with the firefighter employer. In the alternative, the insurer or fund may terminate any discount or deviation granted to the firefighter employer for the remainder of the term of the policy. If the

contract is canceled or the discount or deviation is terminated, the insurer shall make such reports as are required by law.

**History.**--s. 15, ch. 2002-404.

**633.814 Expenses of administration.**--The amounts that are needed to administer ss. 633.801-633.821 shall be disbursed from the Insurance Commissioner's Regulatory Trust Fund.

**History.**--s. 15, ch. 2002-404.

**633.815 Refusal to admit; penalty.**--The division and authorized representatives of the division may enter and inspect any firefighter place of employment at any reasonable time for the purpose of investigating compliance with ss. 633.801-633.821 and conducting inspections for the proper enforcement of ss. 633.801-633.821. A firefighter employer who refuses to admit any member of the division or authorized representative of the division to any place of employment or to allow investigation and inspection pursuant to this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

**History.**--s. 15, ch. 2002-404.

**633.816 Firefighter employee rights and responsibilities.**--

(1) Each firefighter employee of a firefighter employer covered under ss. 633.801-633.821 shall comply with rules adopted by the division and with reasonable workplace safety and health standards, rules, policies, procedures, and work practices established by the firefighter employer and the workplace safety committee. A firefighter employee who knowingly fails to comply with this subsection may be disciplined or discharged by the firefighter employer.

(2) A firefighter employer may not discharge, threaten to discharge, cause to be discharged, intimidate, coerce, otherwise discipline, or in any manner discriminate against a firefighter employee for any of the following reasons:

(a) The firefighter employee has testified or is about to testify, on her or his own behalf or on behalf of others, in any proceeding instituted under ss. 633.801-633.821;

(b) The firefighter employee has exercised any other right afforded

under ss. 633.801-633.821; or

(c) The firefighter employee is engaged in activities relating to the workplace safety committee.

(3) No pay, position, seniority, or other benefit may be lost for exercising any right under, or for seeking compliance with any requirement of, ss. 633.801-633.821.

**History.**--s. 15, ch. 2002-404.

**633.817 Compliance.**--Failure of a firefighter employer or an insurer to comply with ss. 633.801-633.821, or with any rules adopted under ss. 633.801-633.821, constitutes grounds for the division to seek remedies, including injunctive relief, by making appropriate filings with the circuit court.

**History.**--s. 15, ch. 2002-404.

**633.818 False statements to insurers.**--A firefighter employer who knowingly and willfully falsifies or conceals a material fact, who makes a false, fictitious, or fraudulent statement or representation, or who makes or uses any false document knowing the document to contain any false, fictitious, or fraudulent entry or statement to an insurer of workers' compensation insurance under ss. 633.801-633.821 commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

**History.**--s. 15, ch. 2002-404.

**633.819 Matters within jurisdiction of the division; false, fictitious, or fraudulent acts, statements, and representations prohibited; penalty; statute of limitations.**--A person may not, in any matter within the jurisdiction of the division, knowingly and willfully falsify or conceal a material fact; make any false, fictitious, or fraudulent statement or representation; or make or use any false document, knowing the same to contain any false, fictitious, or fraudulent statement or entry. A person who violates this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. The statute of limitations for prosecution of an act committed in violation of this section is 5 years after the date the act was committed or, if not discovered within 30 days after the act was committed, 5 years after the date the act was discovered.

**History.**--s. 15, ch. 2002-404.

**633.820 Volunteer firefighters.**--Sections 633.803-633.821 apply to volunteer firefighters and volunteer fire departments.

**History.**--s. 15, ch. 2002-404.

**633.821 Workplace safety.**--

(1) The division shall assist in making the firefighter employee place of employment a safer place to work and decreasing the frequency and severity of on-the-job injuries in such workplace.

(2) The division shall have the authority to adopt rules for the purpose of ensuring safe working conditions for all firefighter employees by authorizing the enforcement of effective standards, by assisting and encouraging firefighter employers to maintain safe working conditions, and by providing for education and training in the field of safety. Specifically, the division may by rule adopt all or any part of subparts C through T and subpart Z of 29 C.F.R. s. 1910, as revised April 8, 1998; the National Fire Protection Association, Inc., Standard 1500, paragraph 5-7 (Personal Alert Safety System) (1992 edition); and ANSI A 10.4-1990.

(3) With respect to 29 C.F.R. s. 1910.134(g)(4), the two individuals located outside the immediately dangerous to life and health atmosphere may be assigned to an additional role, such as incident commander, pumper operator, engineer, or driver, so long as such individual is able to immediately perform assistance or rescue activities without jeopardizing the safety or health of any firefighter working at an incident. Also with respect to 29 C.F.R. s. 1910.134(g)(4):

(a) Each county, municipality, and special district shall implement such provision by April 1, 2002, except as provided in paragraphs (b) and (c).

(b) If any county, municipality, or special district is unable to implement such provision by April 1, 2002, without adding additional personnel to its firefighting staff or expending significant additional funds, such county, municipality, or special district shall have an additional 6 months within which to implement such provision. Such county, municipality, or special district shall notify the division that the 6-month extension to implement such provision is in effect in such county, municipality, or special district within 30 days after its decision to extend the time for the additional 6 months. The decision to extend the time for implementation shall be

made prior to April 1, 2002.

(c) If, after the extension granted in paragraph (b), the county, municipality, or special district, after having worked with and cooperated fully with the division and the Firefighters Employment, Standards, and Training Council, is still unable to implement such provisions without adding additional personnel to its firefighting staff or expending significant additional funds, such municipality, county, or special district shall be exempt from the requirements of 29 C.F.R. s. 1910.134(g)(4). However, each year thereafter the division shall review each such county, municipality, or special district to determine if such county, municipality, or special district has the ability to implement such provision without adding additional personnel to its firefighting staff or expending significant additional funds. If the division determines that any county, municipality, or special district has the ability to implement such provision without adding additional personnel to its firefighting staff or expending significant additional funds, the division shall require such county, municipality, or special district to implement such provision. Such requirement by the division under this paragraph constitutes final agency action subject to chapter 120.

(4) The provisions of chapter 440 that pertain to workplace safety apply to the division.

(5) The division may adopt any rule necessary to implement, interpret, and make specific the provisions of this section, provided the division may not adopt by rule any other standard or standards of the Occupational Safety and Health Administration or the National Fire Protection Association relating solely to ss. 633.801-633.821 and firefighter employment safety without specific legislative authority.

**History.**--s. 15, ch. 2002-404.