

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 12-0260.01 Bart Miller x2173

HOUSE BILL 12-1033

HOUSE SPONSORSHIP

Swalm,

SENATE SPONSORSHIP

Newell,

House Committees
Economic and Business Development

Senate Committees

A BILL FOR AN ACT

101 CONCERNING CONDITIONS ON THE AUTHORITY OF THE DIRECTOR OF
102 THE DIVISION OF WORKERS' COMPENSATION TO IMPOSE
103 ADMINISTRATIVE FINES AS A RESULT OF COMPLIANCE AUDITS
104 FINDING INSTANCES OF LATE REPORTING OF INJURIES UNDER
105 THE "WORKERS' COMPENSATION ACT OF COLORADO".

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill specifies that the director of the division of workers'

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

compensation may not impose an administrative fine on an insurer or self-insured employer as a result of a compliance audit for late reporting of an injury, occupational disease, or fatality when the late reporting resulted from the insurer or self-insured employer not having notice or knowledge of the injury, occupational disease, or fatality in sufficient time to comply with the reporting period. The bill permits the director to impose a fine if the director finds that the late reporting constituted a knowing and repeated pattern of noncompliance with the reporting requirements and was not caused by the insurer or self-insured employer's lack of notice or knowledge of the injury, occupational disease, or fatality.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 8-43-304, **amend**
3 (1.5) (a) as follows:

4 **8-43-304. Violations - penalty - offset for benefits obtained**
5 **through fraud - rules.** (1.5) (a) (I) An insurer who knowingly or
6 repeatedly violates any provision of articles 40 to 47 of this title shall be
7 subject to a fine as determined by the director. If necessary, the director
8 may conduct a hearing or may refer the matter to the office of
9 administrative courts for the entry of findings of fact. The director shall
10 promulgate rules that specify, with respect to an insurer's willful or
11 repeated violations that are subject to this subsection (1.5):

12 ~~(H)~~ (A) The circumstances pursuant to which the director may
13 issue an order imposing a fine; and

14 ~~(H)~~ (B) Criteria for determining the amount of the fine.

15 (II) IF THE DIVISION DETERMINES, AS PART OF A COMPLIANCE
16 AUDIT OF AN INSURER OR SELF-INSURED EMPLOYER, THAT AN INJURY OR
17 OCCUPATIONAL DISEASE WAS NOT REPORTED TO THE DIVISION WITHIN THE
18 TIME SPECIFIED IN SECTIONS 8-43-101 AND 8-43-103 BECAUSE THE
19 INSURER OR SELF-INSURED EMPLOYER DID NOT HAVE NOTICE OR

1 KNOWLEDGE OF THE INJURY, OCCUPATIONAL DISEASE, OR FATALITY
2 WITHIN A PERIOD OF TIME THAT WOULD ALLOW THE INFORMATION TO BE
3 REPORTED TO THE DIVISION WITHIN THE TIME SPECIFIED IN SECTIONS
4 8-43-101 AND 8-43-103, THE DIRECTOR SHALL NOT IMPOSE A FINE FOR
5 LATE REPORTING UNDER THIS SUBSECTION (1.5). THE DIRECTOR MAY
6 IMPOSE A FINE UNDER THIS SUBSECTION (1.5) FOR LATE REPORTING UNDER
7 SECTIONS 8-43-101 AND 8-43-103 AS PART OF FINDINGS FROM A
8 COMPLIANCE AUDIT IF THE DIRECTOR FINDS THAT THE LATE REPORTING
9 CONSTITUTED A KNOWING AND REPEATED PATTERN OF NONCOMPLIANCE
10 WITH THE REPORTING REQUIREMENTS OF SECTIONS 8-43-101 AND
11 8-43-103 AND WAS NOT CAUSED BY THE INSURER OR SELF-INSURED
12 EMPLOYER'S LACK OF NOTICE OR KNOWLEDGE OF THE INJURY,
13 OCCUPATIONAL DISEASE, OR FATALITY WITHIN A PERIOD OF TIME THAT
14 WOULD ALLOW THE INFORMATION TO BE REPORTED TO THE DIVISION
15 WITHIN THE TIME SPECIFIED IN SECTIONS 8-43-101 AND 8-43-103.

16 **SECTION 2. Act subject to petition - effective date -**
17 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
18 the expiration of the ninety-day period after final adjournment of the
19 general assembly (August 7, 2012, if adjournment sine die is on May 9,
20 2012); except that, if a referendum petition is filed pursuant to section 1
21 (3) of article V of the state constitution against this act or an item, section,
22 or part of this act within such period, then the act, item, section, or part
23 will not take effect unless approved by the people at the general election
24 to be held in November 2012 and, in such case, will take effect on the
25 date of the official declaration of the vote thereon by the governor.

26 (2) The provisions of this act apply to fines resulting from

- 1 compliance audits of workers' compensation insurers and self-insured
- 2 employers on or after the applicable effective date of this act.