

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 21-1017.01 Thomas Morris x4218

SENATE BILL 21-285

SENATE SPONSORSHIP

Rodriguez and Smallwood,

HOUSE SPONSORSHIP

Mullica and Van Winkle,

Senate Committees

Business, Labor, & Technology

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE OCCUPATIONAL ACCIDENT INSURANCE COVERAGE**
102 **THAT INDEPENDENT CONTRACTORS OF CARRIERS MAY ACQUIRE**
103 **PURSUANT TO STANDARDS SET BY THE DIVISION OF INSURANCE.**

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://leg.colorado.gov>.)

Under current law, common carriers and contract carriers may use independent contractors for transportation services. The contract must provide for coverage under either workers' compensation or an occupational accident insurance policy that provides "similar coverage" to that available under workers' compensation. "Similar coverage" must

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

meet or exceed standards set by the division of insurance and is defined to require benefits that are at least comparable to the benefits offered under the workers' compensation system. The bill amends the definition of "similar coverage" by repealing this "comparable benefits" requirement.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby:

4 (a) Finds that:

5 (I) During the COVID-19 pandemic, trucking companies and their
6 drivers have been essential in keeping medical equipment, groceries,
7 cleaning and sanitizing supplies, and other crucial materials moving
8 through the supply chain;

9 (II) Truck drivers have been on the front lines from the beginning
10 of this crisis, making critical deliveries to address the everyday needs of
11 the public and keep the state's economy going;

12 (III) It has been very difficult for truck drivers to remain safe,
13 particularly at the start of the pandemic, and while many workers in other
14 sectors of the economy have been able to operate remotely or stay home,
15 truck drivers cannot; and

16 (IV) By performing their duties, truck drivers have placed
17 themselves at risk for the greater good, many have fallen sick, and some
18 have tragically passed away;

19 (b) Determines that:

20 (I) Like other small businesses, those in the trucking industry have
21 been hard hit, especially small, one truck-one person businesses known
22 as owner-operators;

23 (II) Owner-operators are independent contractors who own and

1 operate their own truck and transport goods and freight for shippers or
2 under contract with another trucking operator or business;

3 (III) A large percentage of these small trucking operators are
4 minority or disadvantaged businesses, and as independent businesses,
5 these owner-operators are responsible for all business-related expenses,
6 including occupational accident insurance;

7 (IV) The higher costs for conducting business during the
8 COVID-19 pandemic, along with greater uncertainty as to freight
9 volumes and lower freight rates for many of these small operators, have
10 hurt both cash flow and the bottom line for these small operators, many
11 of whom are facing possible loss or closure of their businesses without
12 some assistance; and

13 (V) As the pandemic continues in 2021, the state and the economy
14 will continue to be heavily dependent on the trucking industry and small
15 owner-operators, and without some action, Colorado may lose more of
16 these small businesses due to the financial strains that have been placed
17 upon them during this time; and

18 (c) Declares that:

19 (I) To alleviate some of the financial stress on these small
20 independent trucking businesses, it is critical that they have access to an
21 affordable insurance option for work-related injury coverage;

22 (II) This option, occupational accident insurance, is readily
23 available in other states, but due to restrictions in current Colorado law,
24 similar affordable policies cannot be offered in Colorado unless a change
25 is made to that law;

26 (III) Occupational accident insurance is a product that ensures the
27 protection and affordability for these small, often minority-owned,

1 businesses as they establish themselves and potentially grow their
2 footprint in Colorado; and

3 (IV) Having access to an occupational accident insurance product
4 allows these small trucking companies to compete in neighboring states
5 that already provide access to this important insurance product.

6 **SECTION 2.** In Colorado Revised Statutes, 40-11.5-102, **amend**
7 (5)(b)(I) as follows:

8 **40-11.5-102. Lease provisions - definitions - rules.** (5) (b) For
9 purposes of this subsection (5), "similar coverage":

10 (I) Means insurance benefits designed for independent contractors
11 and sole proprietors who reject workers' compensation coverage and
12 elect, pursuant to this subsection (5), coverage providing medical,
13 temporary and permanent disability, death and dismemberment, and
14 survivor benefits that are subject to regulation by the division of
15 insurance in the department of regulatory agencies. The specifications of
16 the insurance, including coverages, exclusions, policy limits, and the
17 amount, if any, of any deductibles or copayments, must be filed with the
18 division of insurance. The specifications must meet or exceed standards
19 set by the division of insurance. ~~and the standards must specify that the~~
20 ~~benefits offered by the insurance coverage must be at least comparable to~~
21 ~~the benefits offered under the workers' compensation system.~~

22 **SECTION 3. Act subject to petition - effective date -**
23 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
24 the expiration of the ninety-day period after final adjournment of the
25 general assembly; except that, if a referendum petition is filed pursuant
26 to section 1 (3) of article V of the state constitution against this act or an
27 item, section, or part of this act within such period, then the act, item,

1 section, or part will not take effect unless approved by the people at the
2 general election to be held in November 2022 and, in such case, will take
3 effect on the date of the official declaration of the vote thereon by the
4 governor.

5 (2) This act applies to the specifications of similar coverage
6 insurance filed with the division of insurance on or after the applicable
7 effective date of this act.