

CHAPTER 43

LABOR AND INDUSTRY

HOUSE BILL 12-1033

BY REPRESENTATIVE(S) Swalm, Beezley, Brown, DelGrosso, Fields, Hamner, Holbert, Labuda, Liston, Pabon, Todd, Vigil, Wilson;
also SENATOR(S) Newell, Aguilar, Cadman, Jahn, White.

AN ACT

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

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

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

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

(⊕) (A) The circumstances pursuant to which the director may issue an order imposing a fine; and

(⊕) (B) Criteria for determining the amount of the fine.

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

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

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

SECTION 2. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 8, 2012, if adjournment sine die is on May 9, 2012); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2012 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) The provisions of this act apply to fines resulting from compliance audits of workers' compensation insurers and self-insured pools on or after the applicable effective date of this act.

Approved: March 22, 2012