

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

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 22-0606.01 Kristen Forrestal x4217

SENATE BILL 22-035

SENATE SPONSORSHIP

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Senate Committees

Business, Labor, & Technology

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Business Affairs & Labor

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.

HOUSE
3rd Reading Unamended
April 29, 2022

HOUSE
2nd Reading Unamended
April 28, 2022

SENATE
3rd Reading Unamended
April 20, 2022

SENATE
Amended 2nd Reading
April 19, 2022

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 trucks 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 owner-operators
4 are 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 of 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 owner-operators,
10 have hurt both cash flow and the bottom line for these small
11 owner-operators, many of whom are facing possible loss or closure of
12 their businesses without some assistance; and

13 (V) As the pandemic continues in 2022, 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 the law;

26 (III) Occupational accident insurance is a product that ensures the
27 protection of 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)(a.5) introductory portion, (5)(b)(II), and (5)(d); repeal (5)(e); and add
8 (6) as follows:

9 **40-11.5-102. Lease provisions - definitions - rules.** (5) (a.5) if
10 an operator of a commercial vehicle as defined in section 42-4-235
11 (1)(a)(I)(B), obtains similar coverage pursuant to this subsection (5), then
12 the operator:

13 (b) For purposes of AS USED IN this subsection (5), "similar
14 coverage" MEANS:

15 (II) For services performed by operators of commercial vehicles,
16 as defined in section 42-4-235 (1)(a)(I)(B), means insurance benefits
17 defined in subsection (5)(b)(I) of this section. The specifications of the
18 insurance, including minimum thresholds for coverage and the amount,
19 if any, of any deductibles or copayments, must meet or exceed the
20 standards set, by rule, by the division of insurance in the department of
21 regulatory agencies AN OCCUPATIONAL ACCIDENT INSURANCE POLICY
22 THAT PROVIDES A MINIMUM AGGREGATE POLICY LIMIT OF ONE MILLION
23 FIVE HUNDRED THOUSAND DOLLARS FOR ALL BENEFITS PAID FOR THE
24 BENEFIT OF THE OPERATOR, INCLUDING MEDICAL, TEMPORARY AND
25 PERMANENT DISABILITY, DEATH AND DISMEMBERMENT, AND SURVIVOR
26 BENEFITS.

27 (d) Notwithstanding any other law, if an operator of a commercial

1 vehicle, as defined in section 42-4-235 (1)(a)(I)(B), a motor carrier, or a
2 contract carrier obtains similar coverage pursuant to this subsection (5),
3 articles 40 to 47 of title 8 do not apply.

4 (e) The commissioner of insurance in the division of insurance in
5 the department of regulatory agencies shall promulgate rules establishing
6 the minimum coverages for benefits under an occupational accident
7 policy under this subsection (5):

8 (6) (a) AS USED IN THIS SECTION:

9 (I) "COMMERCIAL VEHICLE" HAS THE SAME MEANING AS SET
10 FORTH IN SECTION 42-4-235 (1)(a)(I)(B).

11 (II) "OPERATOR" MEANS THE OPERATOR OF A COMMERCIAL
12 VEHICLE:

13 (A) WHO OWNS, IS PURCHASING, OR IS LEASING THE COMMERCIAL
14 VEHICLE FROM ANY PERSON OTHER THAN THE MOTOR CARRIER; AND

15 (B) IS THE SOLE PROPRIETOR, OWNER, OR PARTNER OF AN
16 APPLICABLE ENTITY; A SHAREHOLDER OF A CORPORATION WHERE THERE
17 ARE NO MORE THAN TWO SHAREHOLDERS OF THE CORPORATION; OR A
18 MEMBER OF THE APPLICABLE ENTITY.

19 (b) FOR THE PURPOSES OF SUBSECTION (6)(a)(II) OF THIS SECTION,
20 THE OWNERSHIP, PURCHASE, OR LEASING OF A COMMERCIAL VEHICLE BY
21 AN APPLICABLE ENTITY IS DEEMED OWNERSHIP, PURCHASE, OR LEASING OF
22 THE COMMERCIAL VEHICLE BY THE SOLE PROPRIETOR, OWNER, OR
23 PARTNER OF AN APPLICABLE ENTITY; A SHAREHOLDER OF A CORPORATION
24 WHERE THERE ARE NO MORE THAN TWO SHAREHOLDERS OF THE
25 CORPORATION; OR A MEMBER OF THE APPLICABLE ENTITY.

26 **SECTION 3. Act subject to petition - effective date.** This act
27 takes effect at 12:01 a.m. on the day following the expiration of the

1 ninety-day period after final adjournment of the general assembly; except
2 that, if a referendum petition is filed pursuant to section 1 (3) of article V
3 of the state constitution against this act or an item, section, or part of this
4 act within such period, then the act, item, section, or part will not take
5 effect unless approved by the people at the general election to be held in
6 November 2022 and, in such case, will take effect on the date of the
7 official declaration of the vote thereon by the governor.