

CHAPTER 167

LABOR AND INDUSTRY

SENATE BILL 22-035

BY SENATOR(S) Rodriguez and Smallwood, Buckner, Cooke, Gonzales, Hisey, Holbert, Lee, Liston, Lundeen, Priola, Simpson, Woodward;
also REPRESENTATIVE(S) Bird and Van Winkle, Bennett, Carver, Jodeh, Mullica, Sandridge, Van Beber, Will.

AN ACT

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

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

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

(a) Finds that:

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

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

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

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

(b) Determines that:

(I) Like other small businesses, those in the trucking industry have been hard hit,

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

especially small, one-truck, one-person businesses known as owner-operators;

(II) Owner-operators are independent contractors who own and operate their own trucks and transport goods and freight for shippers or under contract with another trucking operator or business;

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

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

(V) As the pandemic continues in 2022, the state and the economy will continue to be heavily dependent on the trucking industry and small owner-operators, and without some action, Colorado may lose more of these small businesses due to the financial strains that have been placed upon them during this time; and

(c) Declares that:

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

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

(III) Occupational accident insurance is a product that ensures the protection of and affordability for these small, often minority-owned, businesses as they establish themselves and potentially grow their footprint in Colorado; and

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

SECTION 2. In Colorado Revised Statutes, 40-11.5-102, **amend** (5)(a.5) introductory portion, (5)(b) introductory portion, (5)(b)(II), and (5)(d); **repeal** (5)(e); and **add** (6) as follows:

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

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

(II) For services performed by operators of commercial vehicles, ~~as defined in~~

~~section 42-4-235 (1)(a)(I)(B), means insurance benefits defined in subsection (5)(b)(I) of this section. The specifications of the insurance, including minimum thresholds for coverage and the amount, if any, of any deductibles or copayments, must meet or exceed the standards set, by rule, by the division of insurance in the department of regulatory agencies~~ AN OCCUPATIONAL ACCIDENT INSURANCE POLICY THAT PROVIDES A MINIMUM AGGREGATE POLICY LIMIT OF ONE MILLION FIVE HUNDRED THOUSAND DOLLARS FOR ALL BENEFITS PAID FOR THE BENEFIT OF THE OPERATOR, INCLUDING MEDICAL, TEMPORARY AND PERMANENT DISABILITY, DEATH AND DISMEMBERMENT, AND SURVIVOR BENEFITS.

(d) Notwithstanding any other law, if an operator of a commercial vehicle, ~~as defined in section 42-4-235 (1)(a)(I)(B)~~, a motor carrier, or a contract carrier obtains similar coverage pursuant to this subsection (5), articles 40 to 47 of title 8 do not apply.

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

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

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

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

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

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

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

SECTION 3. Act subject to petition - effective date. 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; 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 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 17, 2022