

CHAPTER 336

LABOR AND INDUSTRY

HOUSE BILL 93-1354

BY REPRESENTATIVES Foster and Acquafresca;
also SENATORS Ament, Johnson, Norton, and Tebedo.

AN ACT

**CONCERNING PREMIUM ADJUSTMENTS FOR IMPLEMENTATION OF WORKPLACE SAFETY PROGRAMS
REQUIRED BY WORKERS' COMPENSATION INSURANCE POLICIES.**

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

SECTION 1. 8-14.5-102, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

8-14.5-102. Legislative declaration. ~~The general assembly declares that the purpose of this article is to assist employers, particularly those in certain high rate classifications, in reducing the costs associated with injuries subject to coverage under the "Workers' Compensation Act of Colorado", articles 40 to 47 of this title.~~ THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT ANY ADJUSTMENTS TO PREMIUMS FOR WORKERS' COMPENSATION INSURANCE BE GRANTED ON THE BASIS OF EQUITY, RATE ADEQUACY, FAIRNESS, AND INSURER COMPLIANCE WITH COLORADO INSURANCE RATING LAWS. THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT NOTWITHSTANDING THE GRANTING OF DIFFERENT RATES TO INSURED FOR THEIR EXPERIENCE MODIFICATION, PARTICIPATION IN RETURN-TO-WORK PROGRAMS, AND PREMIUM VOLUME DISCOUNTS NOT EXCEEDING FIFTEEN PERCENT, ANY OTHER PREMIUM ADJUSTMENTS SHOULD BE PRINCIPALLY WEIGHTED IN A MANNER PRIMARILY ENCOURAGING THE ADOPTION AND SUCCESSFUL IMPLEMENTATION BY INSURED OF EFFECTIVE WORKPLACE SAFETY PROGRAMS MAINLY ENCOMPASSING RISK MANAGEMENT AND MEDICAL COST CONTAINMENT PROCEDURES.

SECTION 2. 8-14.5-103, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

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

8-14.5-103. Definitions. As used in this article, unless the context otherwise requires:

(3.5) "COMMISSIONER" MEANS THE INSURANCE COMMISSIONER, APPOINTED PURSUANT TO SECTION 10-1-104, C.R.S.

(7) "HIGH RISK EMPLOYER" MEANS ANY EMPLOYER CLASSIFIED IN THE UPPER TEN PERCENT OF THE INSURANCE RATE SCHEDULE IN THE COLORADO WORKERS' COMPENSATION INSURANCE SYSTEM.

(8) "MANAGED CARE" SHALL HAVE THE MEANING SET FORTH IN SECTION 8-42-101 (3.6) (p) (I) (B).

(9) "WORKPLACE SAFETY PROGRAM" MEANS THOSE PROGRAMS OFFERED BY INSURANCE CARRIERS AUTHORIZED TO DO BUSINESS IN THIS STATE FOR PURPOSES OF WORKERS' COMPENSATION INSURANCE POLICIES AND IMPLEMENTED BY EMPLOYERS TO PROMOTE COST CONTAINMENT AND RISK MANAGEMENT OF WORKPLACE SAFETY HAZARDS.

SECTION 3. Article 14.5 of title 8, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

8-14.5-107.5. Workplace safety programs - study by commissioner - report to general assembly for consideration in 1994 regular session. (1) THE COMMISSIONER SHALL UNDERTAKE A FULL STUDY OF CURRENT WORKPLACE SAFETY, RISK MANAGEMENT, AND COST CONTAINMENT PROGRAMS OFFERED BY INSURERS, INCLUDING THE COLORADO COMPENSATION INSURANCE AUTHORITY, A REVIEW AND ANALYSIS OF THE VARIOUS INCENTIVES USED BY INSURERS TO OBTAIN POLICYHOLDER PARTICIPATION, INCLUDING ANY PREMIUM ADJUSTMENT PROGRAMS IN USE, AND SHALL EVALUATE OTHER POSSIBLE PROGRAMS AND INCENTIVES THAT COULD BE USED BY INSURERS TO EXPAND WORKPLACE SAFETY PROGRAMS AND REWARD POLICYHOLDER PARTICIPATION. THE COMMISSIONER SHALL CONSULT WITH THE COLORADO DEPARTMENT OF LABOR AND EMPLOYMENT IN CONDUCTING THE STUDY. SUCH STUDY, REVIEW AND ANALYSIS, AND EVALUATION SHALL INCLUDE BUT NOT BE LIMITED TO THE FOLLOWING:

(a) WHETHER OR NOT BY A DATE CERTAIN, ALL INSURERS, INCLUDING THE COLORADO COMPENSATION INSURANCE AUTHORITY ISSUING WORKERS' COMPENSATION INSURANCE POLICIES IN THIS STATE SHALL OFFER ALL INSURED IN THE TEN MOST POPULOUS COUNTIES A MANAGED CARE PLAN FEATURING A DESIGNATED MEDICAL PROVIDER;

(b) WHETHER OR NOT BY A DATE CERTAIN, IF IT IS IN THE BEST INTEREST OF EMPLOYERS AND EMPLOYEES, ALL INSURERS INCLUDING THE COLORADO COMPENSATION INSURANCE AUTHORITY ISSUING WORKERS' COMPENSATION INSURANCE POLICIES IN THIS STATE SHALL OFFER TO ALL OR SOME SELECTED CLASSES OF INSURED SOME TYPE OF BASIC WORKPLACE SAFETY PROGRAM;

(c) WHETHER OR NOT THE BOARD OR THE COMMISSIONER SHOULD CONTINUE PROVIDING CERTIFICATION OF WORKPLACE SAFETY PROGRAMS OR WHETHER SUCH CERTIFICATION SHOULD BE PROVIDED BY INSURERS FOR INSURED;

(d) WHETHER OR NOT BY JULY 1, 1995, THE COMMISSIONER SHOULD PROMULGATE REGULATIONS CONCERNING THE GRANTING OF PREMIUM ADJUSTMENTS FOR AN INSURED'S PARTICIPATION AND IMPLEMENTATION OF A BASIC WORKPLACE SAFETY PROGRAM OR MANAGED CARE PROGRAM;

(e) THE PARTICIPATION BY INSUREDS IN EXISTING WORKPLACE SAFETY PROGRAMS OFFERED BY INSURERS AND THE METHODS BY WHICH INSURERS OFFER SUCH PROGRAMS;

(f) INSURER COMPLIANCE WITH DEDUCTIBLE PROVISIONS;

(g) INSURER COMPLIANCE WITH THE PROVISIONS OF PART 4 OF ARTICLE 4 OF TITLE 10, C.R.S., REGARDING THE CURRENT DESIGN AND USE OF ANY PREMIUM ADJUSTMENT, RATE DEVIATION, PREMIUM DISCOUNT, RETRO-RATE, SCHEDULED ADJUSTMENT, OR OTHER TYPE OF FINANCIAL PLAN AND THEIR EFFECT ON THE FAIRNESS AND REASONABLENESS OF RATES FOR THOSE INSUREDS NOT QUALIFYING FOR EXPERIENCE OR SCHEDULE RATING;

(h) THE EFFICACY OF REDUCING THE PREMIUM DOLLAR VOLUME NEEDED FOR AN INSURED TO BECOME EXPERIENCE RATED;

(i) A COST BENEFIT ANALYSIS OF IMPLEMENTATION OF WORKPLACE SAFETY PROGRAMS.

(2) (a) THE COMMISSIONER SHALL REPORT THE FINDINGS OF THE STUDY UNDERTAKEN PURSUANT TO SUBSECTION (1) OF THIS SECTION AND ANY PROPOSED LEGISLATION TO IMPLEMENT CONCLUSIONS THEREOF TO THE GENERAL ASSEMBLY BY JANUARY 1, 1994, FOR PURPOSES OF CONSIDERATION BY THE GENERAL ASSEMBLY DURING THE 1994 REGULAR SESSION. SUCH REPORT SHALL SPECIFICALLY PROVIDE THE GENERAL ASSEMBLY WITH RECOMMENDATIONS FOR IMPROVING THE PARTICIPATION AND EFFECTIVE IMPLEMENTATION OF WORKPLACE SAFETY, RISK MANAGEMENT, AND COST CONTAINMENT PROGRAMS BY INSURERS FOR THE PURPOSE OF REDUCING BOTH OVERALL COSTS OF ON-SITE JOB INJURIES AND WORKERS' COMPENSATION INSURANCE PREMIUMS.

(b) INSURERS SHALL MAKE ALL NECESSARY INFORMATION AND RECORDS PERTAINING TO WORKPLACE SAFETY PROGRAMS OF SUCH INSURERS AVAILABLE TO THE COMMISSIONER IN CARRYING OUT THE STUDY REQUIRED BY SUBSECTION (1) OF THIS SECTION. THE REASONABLE COSTS OF SUCH STUDY SHALL BE BORNE BY INSURERS, INCLUDING THE COLORADO COMPENSATION INSURANCE AUTHORITY, AS DETERMINED BY THE COMMISSIONER BASED ON THE TOTAL COST OF SUCH STUDY.

SECTION 4. 8-44-111, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

8-44-111. Workers' compensation insurance - deductibles. (1.5) WHENEVER ANY INSURER, INCLUDING THE COLORADO COMPENSATION INSURANCE AUTHORITY CREATED IN SECTION 8-45-101, ISSUES A WORKERS' COMPENSATION POLICY IN THIS STATE, AND ANNUALLY THEREAFTER, THE INSURER MUST ISSUE A POLICY INCLUDING THE DEDUCTIBLE PROVISION IF REQUESTED BY THE INSURED EMPLOYER; EXCEPT THAT THE COMMISSIONER SHALL PROMULGATE RULES ESTABLISHING CRITERIA TO ALLOW

THE INSURER TO DENY A DEDUCTIBLE POLICY TO AN EMPLOYER BASED ON FINANCIAL INABILITY TO REIMBURSE THE INSURER FOR THE DEDUCTIBLE PLAN SELECTED.

SECTION 5. Effective date. This act shall take effect July 1, 1993.

SECTION 6. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 9, 1993