

CHAPTER 48

INSURANCE

SENATE BILL 95-174

BY SENATORS Dennis, Norton, and Johnson;
also REPRESENTATIVES Owen and Schauer.

AN ACT**CONCERNING REFERENCES TO PERSONAL INJURY PROTECTION PROVISIONS IN THE "COLORADO AUTO ACCIDENT REPAIRS ACT".**

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

SECTION 1. 10-4-705 (2), Colorado Revised Statutes, 1994 Repl. Vol., is amended to read:

10-4-705. Coverage compulsory. (2) Any owner of a motor vehicle who operates the motor vehicle on the public highways of this state or who knowingly permits the operation of the motor vehicle on the public highways of this state who fails to have in full force and effect a complying policy covering said motor vehicle at the time of any accident, on account of which benefits under ~~section 10-4-706~~ SECTION 10-4-706 (1) (b) TO (1) (e) OR ALTERNATIVELY, AS APPLICABLE, SECTION 10-4-706 (2) OR (3) would be payable, shall be personally liable for the payment of such benefits to the person for whom such payment would have been required, if such coverage had been in effect under the terms of section 10-4-707. Such an owner shall have all of the rights and obligations of any insurer under this part 7.

SECTION 2. The introductory portion to 10-4-707 (1) and 10-4-707 (5), Colorado Revised Statutes, 1994 Repl. Vol., are amended to read:

10-4-707. Benefits - how payable. (1) The coverages described in ~~section 10-4-706~~ SECTION 10-4-706 (1) (b) TO (1) (e) OR ALTERNATIVELY, AS APPLICABLE, SECTION 10-4-706 (2) OR (3) shall be applicable to:

(5) When a person injured is a person for whom benefits are required to be paid under the "Workers' Compensation Act of Colorado", the coverages described in ~~section 10-4-706~~ SECTION 10-4-706 (1) (b) TO (1) (e) OR ALTERNATIVELY, AS

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

APPLICABLE, SECTION 10-4-706 (2) OR (3) shall be reduced to the extent that benefits are actually available and covered under said act within the time period for payment of benefits under this part 7 prescribed by section 10-4-708.

SECTION 3. 10-4-708 (1) and (2), Colorado Revised Statutes, 1994 Repl. Vol., are amended to read:

10-4-708. Prompt payment of direct benefits. (1) Payment of benefits under the coverages enumerated in ~~section 10-4-706~~ SECTION 10-4-706 (1) (b) TO (1) (e) OR ALTERNATIVELY, AS APPLICABLE, SECTION 10-4-706 (2) OR (3) shall be made on a monthly basis. Benefits for any period are overdue if not paid within thirty days after the insurer receives reasonable proof of the fact and amount of expenses incurred during that period; except that an insurer may accumulate claims for periods not exceeding one month, and benefits are not overdue if paid within fifteen days after the period of accumulation. If reasonable proof is not supplied as to the entire claim, the amount supported by reasonable proof is overdue if not paid within thirty days after such proof is received by the insurer. Any part or all of the remainder of the claim that is later supported by reasonable proof is overdue if not paid within thirty days after such proof is received by the insurer. In the event that the insurer fails to pay such benefits when due, the person entitled to such benefits may bring an action in contract to recover the same.

(2) Benefits provided under ~~section 10-4-706~~ SECTION 10-4-706 (1) (b) TO (1) (e) OR ALTERNATIVELY, AS APPLICABLE, SECTION 10-4-706 (2) OR (3) may be paid by the insurer directly to any person supplying necessary care, treatment, products, services, or accommodations to the person for whom benefits are required under ~~section 10-4-706~~ SECTION 10-4-706 (1) (b) TO (1) (e) OR ALTERNATIVELY, AS APPLICABLE, SECTION 10-4-706 (2) OR (3).

SECTION 4. The introductory portion to 10-4-708.6 (1) (a) and 10-4-708.6 (2) (b), Colorado Revised Statutes, 1994 Repl. Vol., are amended to read:

10-4-708.6. Obligations of persons providing services - penalties - availability and maintenance of records. (1) (a) In addition to the standards set forth in section 10-4-706, it shall be the obligation of any health care practitioner or health care practitioner organization providing services for which compensation is provided under ~~section 10-4-706~~ SECTION 10-4-706 (1) (b) TO (1) (e) OR ALTERNATIVELY, AS APPLICABLE, SECTION 10-4-706 (2) OR (3) to assure, to the extent of such person's authority, that services or items ordered or provided by such person to beneficiaries and recipients under this part 7:

(2) (b) Any person providing services for which compensation is provided under ~~section 10-4-706~~ SECTION 10-4-706 (1) (b) TO (1) (e) OR ALTERNATIVELY, AS APPLICABLE, SECTION 10-4-706 (2) OR (3) shall maintain the originals or copies of patient records justifying and relating to services provided under said section for a period of five years after the last date of examination or treatment of the patient.

SECTION 5. 10-4-709 (1), Colorado Revised Statutes, 1994 Repl. Vol., is amended to read:

10-4-709. Coordination of benefits. (1) To avoid duplication of benefits

available through other insurance or contract rights, providers of other benefits under sections 10-16-104 (3) (b) (II) and (5), 10-16-108 (1) and (3), 10-16-214, 10-16-311, and parts 1 and 4 of article 16 of this title are hereby required to coordinate such benefits with coverages required under ~~section 10-4-706~~ SECTION 10-4-706 (1) (b) TO (1) (e) OR ALTERNATIVELY, AS APPLICABLE, SECTION 10-4-706 (2) OR (3) and all providers of other benefits are expressly authorized to coordinate such benefits with coverages required under this part 7. The coordination of benefits provided in this subsection (1) shall apply to agreements entered into on or after April 1, 1974.

SECTION 6. 10-4-710 (1), Colorado Revised Statutes, 1994 Repl. Vol., is amended to read:

10-4-710. Required coverages are minimum. (1) Nothing in this part 7 shall be construed to prohibit the issuance of policies providing coverages more extensive than the minimum coverages required under this part 7 nor to require the segregation of such minimum coverages from other coverages in the same policy. However, loss statistics as to bodily injury liability, property damage liability, and benefits under ~~section 10-4-706~~ SECTION 10-4-706 (1) (b) TO (1) (e) OR ALTERNATIVELY, AS APPLICABLE, SECTION 10-4-706 (2) OR (3) shall be kept separately for rating purposes and such statistics shall be filed with the commissioner each year.

SECTION 7. 10-4-713 (1), (2) (a), and (2) (b), Colorado Revised Statutes, 1994 Repl. Vol., are amended to read:

10-4-713. No tort recovery for direct benefits. (1) Neither any person eligible for direct benefits described in ~~section 10-4-706~~ SECTION 10-4-706 (1) (b) TO (1) (e) OR ALTERNATIVELY, AS APPLICABLE, SECTION 10-4-706 (2) OR (3) nor any insurer providing benefits described in ~~section 10-4-706~~ SECTION 10-4-706 (1) (b) TO (1) (e) OR ALTERNATIVELY, AS APPLICABLE, SECTION 10-4-706 (2) OR (3) shall have any right to recover against an owner, user, or operator of a motor vehicle or against any person or organization legally responsible for the acts or omissions of such person in any action for damages for benefits required to be paid under ~~section 10-4-706~~ SECTION 10-4-706 (1) (b) TO (1) (e) OR ALTERNATIVELY, AS APPLICABLE, SECTION 10-4-706 (2) OR (3), regardless of any deductible option, waiting period, or percentage limitation; except that an insurer paying benefits under ~~section 10-4-706~~ SECTION 10-4-706 (1) (b) TO (1) (e) OR ALTERNATIVELY, AS APPLICABLE, SECTION 10-4-706 (2) OR (3) to or for any one person for whose injuries legal liability exists or may exist on the part of a third person who is not an insured under a policy of automobile liability insurance issued by an insurer licensed to write automobile liability insurance in this state shall have a direct cause of action against an alleged tort-feasor to only the extent of the alleged tort-feasor's insurance coverage in excess of reasonable compensation paid to the injured person for such person's injury or damage by the alleged tort-feasor's insurer when the injured person could recover in tort pursuant to section 10-4-714. Nothing in this section shall be construed to afford such provider of benefits under ~~section 10-4-706~~ SECTION 10-4-706 (1) (b) TO (1) (e) OR ALTERNATIVELY, AS APPLICABLE, SECTION 10-4-706 (2) OR (3) a cause of action or claim against a person to whom or for whom such benefits were paid except in those cases in which such benefits were paid by reason of fraud or material misrepresentation of fact.

(2) (a) Notwithstanding the provisions of subsection (1) of this section, where a motor vehicle accident involves a private passenger motor vehicle, a public school vehicle designed to transport seven or more passengers, and a nonprivate passenger motor vehicle, the insurer of the private passenger motor vehicle or the insurer of the vehicle designed to transport seven or more passengers shall have a direct cause of action for all benefits actually paid by such insurer under ~~section 10-4-706~~ SECTION 10-4-706 (1) (b) TO (1) (e) OR ALTERNATIVELY, AS APPLICABLE, SECTION 10-4-706 (2) OR (3) against the owner, user, or operator of the nonprivate passenger motor vehicle or against any person or organization legally responsible for the acts or omissions of such owner, user, or operator; except that, when the injured person could recover in tort pursuant to section 10-4-714, such direct cause of action shall be to only the extent of the alleged tort-feasor's insurance coverage in excess of reasonable compensation paid to the injured person for such person's injury or damage by the alleged tort-feasor's insurer.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (2), where a motor vehicle accident involves a private passenger motor vehicle or a nonprivate passenger motor vehicle and a motor vehicle owned or operated by the regional transportation district, except maintenance or service vehicles owned or operated by the district, the insurer of the private passenger motor vehicle or the nonprivate passenger motor vehicle shall not have any cause of action or right of reimbursement for any benefits actually paid by such insurer under ~~section 10-4-706~~ SECTION 10-4-706 (1) (b) TO (1) (e) OR ALTERNATIVELY, AS APPLICABLE, SECTION 10-4-706 (2) OR (3) against the regional transportation district or against the user or operator of the regional transportation district motor vehicle.

SECTION 8. The introductory portion to 10-4-715 (1), Colorado Revised Statutes, 1994 Repl. Vol., is amended to read:

10-4-715. No limitation on tort action against noncomplying tortfeasors.

(1) Nothing in this part 7 shall be construed to limit the right to maintain an action in tort by either a provider of direct benefits under ~~section 10-4-706~~ SECTION 10-4-706 (1) (b) TO (1) (e) OR ALTERNATIVELY, AS APPLICABLE, SECTION 10-4-706 (2) OR (3) or by a person who has been injured or damaged as a result of an automobile accident against an alleged ~~tortfeasor~~ TORT-FEASOR where such alleged ~~tortfeasor~~ TORT-FEASOR was either:

SECTION 9. 10-4-716 (2), Colorado Revised Statutes, 1994 Repl. Vol., is amended to read:

10-4-716. Self-insurers. (2) The director may, in his OR HER discretion, upon the application of such person, issue a certificate of self-insurance when ~~he~~ THE DIRECTOR is satisfied that such person is possessed and will continue to be possessed of ability to pay direct benefits as required under ~~section 10-4-706~~ SECTION 10-4-706 (1) (b) TO (1) (e) and to pay any and all judgments which may be obtained against such person. Upon not less than five days' notice and a hearing pursuant to such notice, the director may, upon reasonable grounds, cancel a certificate of self-insurance. Failure to pay any benefits under ~~section 10-4-706~~ SECTION 10-4-706 (1) (b) TO (1) (e) or failure to pay any judgment within thirty days after such judgment shall have become final shall constitute a reasonable ground for the cancellation of a certificate of self-insurance.

SECTION 10. 10-4-717 (1) (a) and (3), Colorado Revised Statutes, 1994 Repl. Vol., are amended to read:

10-4-717. Intercompany arbitration. (1) Every insurer licensed to write motor vehicle insurance in this state shall be deemed to have agreed, as a condition to maintaining such license after January 1, 1974:

(a) That, where its insured is or would be held legally liable under the provisions of section 10-4-713 (2) for the benefits paid by another insurer, described in ~~section 10-4-706~~ SECTION 10-4-706 (1) (b) TO (1) (e) OR ALTERNATIVELY, AS APPLICABLE, SECTION 10-4-706 (2) OR (3), it will reimburse such other insurer to the extent of such benefits but not in excess of the amount of damages so recoverable for the type of loss covered by such benefits and only to the extent of the alleged tort-feasor's insurance coverage in excess of reasonable compensation paid to the injured person for such person's injury or damage by the alleged tort-feasor's insurer; and

(3) Notwithstanding any statute of limitations to the contrary, any demand for initial arbitration proceedings shall be brought within one year of the first payment of any of the benefits described in ~~section 10-4-706~~ SECTION 10-4-706 (1) (b) TO (1) (e) OR ALTERNATIVELY, AS APPLICABLE, SECTION 10-4-706 (2) OR (3) by the insurer claiming for reimbursement. Arbitration proceedings need not await final payment of benefits, and the award, if any, shall include provision for reimbursement of subsequent benefits. Proceedings may be reopened to challenge the propriety of payments subsequently made, but no question of fact decided by a prior award shall be reconsidered in any such subsequent hearing.

SECTION 11. 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: April 7, 1995