

## CHAPTER 174

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**LABOR AND INDUSTRY**

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**HOUSE BILL 96-1235**

BY REPRESENTATIVES Berry, Dean, and Dyer;  
also SENATORS Norton, Perlmutter, and Tebedo.

**AN ACT****CONCERNING LIMITATIONS ON CIVIL PENALTIES THAT MAY BE IMPOSED UNDER THE "WORKERS' COMPENSATION ACT OF COLORADO".**

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

**SECTION 1.** 8-43-203 (2), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**8-43-203. Notice concerning liability.** (2) (a) If such notice is not filed as provided in subsection (1) of this section, the employer or, if insured, the employer's insurance carrier, as the case may be, may become liable to the claimant, if the claimant is successful on the claim for compensation, for up to one day's compensation for each day's failure to so notify; EXCEPT THAT THE EMPLOYER OR, IF INSURED, THE EMPLOYER'S INSURANCE CARRIER SHALL NOT BE LIABLE FOR MORE THAN THE AGGREGATE AMOUNT OF THREE HUNDRED SIXTY-FIVE DAYS' COMPENSATION FOR FAILURE TO TIMELY ADMIT OR DENY LIABILITY. Fifty percent of any penalty paid pursuant to this subsection (2) shall be paid to the subsequent injury fund, created in section 8-46-101, and fifty percent to the claimant.

(b) If the employer or, if insured, the employer's insurance carrier admits liability, such notice shall specify the amount of compensation to be paid, to whom compensation will be paid, the period for which compensation will be paid, and the disability for which compensation will be paid, and payment thereon shall be made forthwith. An admission of liability for final payment of compensation shall include a statement that this is the final admission by the workers' compensation insurance carrier in the case, that the claimant may contest this admission if the claimant feels entitled to more compensation, to whom the claimant should provide written objection, and notice that if the claimant does not contest the final admission in writing within sixty days of the date of the final admission the case will be

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

automatically closed as to the issues admitted in the final admission. When the final admission is predicated upon medical reports, such reports shall accompany the final admission.

(c) NO PENALTY MAY BE ASSESSED UNDER THIS SUBSECTION (2) FOR FAILURE TO TIMELY ADMIT OR DENY LIABILITY IF A REQUEST FOR SUCH PENALTY IS FILED MORE THAN SEVEN YEARS AFTER THE ALLEGED VIOLATION. THE DIVISION SHALL RETAIN ORIGINAL CLAIM RECORDS FILED WITH THE DIVISION FOR AT LEAST SEVEN YEARS AFTER CLOSURE OF THE CASE. SEVEN YEARS AFTER A CASE IS CLOSED, THE RECORDS MAY ONLY BE USED FOR REOPENING A SETTLEMENT ON THE GROUNDS OF FRAUD OR MUTUAL MISTAKE OF MATERIAL FACT.

(d) Once a case is closed pursuant to this subsection (2), the issues closed may only be reopened pursuant to section 8-43-303. Upon proper showing in writing made within said times fixed therefor, the director may extend the time for filing such admission of liability or notice of contest, but not exceeding ten days at any one time. Hearings may be set to determine any matter, but, if any liability is admitted, payments shall continue according to admitted liability.

**SECTION 2. Effective date - applicability.** This act shall take effect July 1, 1996, and shall apply to all requests for penalties and applications for hearing for any penalty under articles 40 to 47 of title 8, Colorado Revised Statutes, filed on or after said date.

**SECTION 3. 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: May 23, 1996