

CHAPTER 208

INSURANCE

SENATE BILL 97-108

BY SENATORS Hernandez and Linkhart;
also REPRESENTATIVES Schauer, Mace, and Owen.

AN ACT

CONCERNING THE ADMINISTRATIVE ENFORCEMENT AUTHORITY OF THE DIVISION OF INSURANCE, AND,
IN CONNECTION THEREWITH, CONTINUING THE DIVISION OF INSURANCE AND MAKING
APPROPRIATIONS.

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

SECTION 1. 24-34-104 (26) (b) and (31.5), Colorado Revised Statutes, 1988 Repl. Vol., as amended, are amended to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (26) (b) ~~The following division in the department of regulatory agencies shall terminate July 1, 1997: The division of insurance, created by sections 10-1-103 and 10-1-104, C.R.S.~~

(31.5) The following agencies, functions, or both, shall terminate on July 1, 2002:

(a) The recordkeeping functions of the department of human services relating to controlled substances in accordance with part 3 of article 22 of title 12, C.R.S.;

(b) THE DIVISION OF INSURANCE, CREATED BY SECTIONS 10-1-103 AND 10-1-104, C.R.S.

SECTION 2. 10-1-103 (6) (b), Colorado Revised Statutes, 1994 Repl. Vol., is amended to read:

10-1-103. Division of insurance - subject to termination - repeal of article. (6) (b) This article is repealed, effective July 1, ~~1997~~ 2002. Prior to such repeal, the division of insurance shall be reviewed as provided for in section 24-34-104, C.R.S.

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

SECTION 3. 10-3-1107, Colorado Revised Statutes, 1994 Repl. Vol., is amended to read:

10-3-1107. Hearings. Whenever the commissioner has reason to believe that any person has been engaged or is engaging in this state in any unfair method of competition or any unfair or deceptive act or practice, whether defined or reasonably implied in this part 11, OR HAS VIOLATED ANY OTHER PROVISION OF THIS TITLE OR ANY RULE OR LAWFUL ORDER OF THE COMMISSIONER, and that a proceeding by ~~him~~ THE COMMISSIONER in respect thereto would be to the interest of the public, ~~he~~ THE COMMISSIONER shall proceed as provided in article 4 of title 24, C.R.S. Any final action by the commissioner pursuant to this section shall be subject to judicial review by the court of appeals pursuant to section 24-4-106 (11), C.R.S.

SECTION 4. The introductory portion to 10-3-1108 (1), Colorado Revised Statutes, 1994 Repl. Vol., is amended to read:

10-3-1108. Orders. (1) If, after a hearing conducted under section 10-3-1107, the commissioner determines that the person charged has engaged in an unfair method of competition or an unfair or deceptive act or practice, OR HAS VIOLATED ANY OTHER PROVISION OF THIS TITLE OR ANY RULE OR LAWFUL ORDER OF THE COMMISSIONER, the commissioner shall reduce the findings to writing and shall issue and cause to be served on such person a copy of such findings and an order requiring such person to cease and desist from engaging in such method of competition, act, or practice, OR VIOLATION, and, ~~if such~~ EXCEPT IN THE CASE OF AN act or practice THAT IS NOT a violation of ~~section 10-3-1104, 10-3-1104.7, 10-3-1105, or 10-18-106~~ ANY SPECIFIC PROVISION OF THIS TITLE OR ANY SPECIFIC RULE OR LAWFUL ORDER OF THE COMMISSIONER, the commissioner may, at his or her discretion, order any one or more of the following:

SECTION 5. 10-1-205 (3), Colorado Revised Statutes, 1994 Repl. Vol., is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

10-1-205. Financial examination reports. (3) Within thirty days after the end of the period allowed for the receipt of written submissions or rebuttals, the commissioner shall fully consider and review the report, any written submissions or rebuttals, and any relevant portions of the examiner's workpapers and shall enter an order which:

(d) MAY IMPOSE A MONETARY PENALTY OF NOT MORE THAN ONE THOUSAND DOLLARS FOR EVERY ACT IN VIOLATION OF ANY LAW, RULE, OR PRIOR LAWFUL ORDER OF THE COMMISSIONER DESCRIBED IN THE REPORT OF EXAMINATION, BUT NOT TO EXCEED AN AGGREGATE PENALTY OF TEN THOUSAND DOLLARS, UNLESS THE COMPANY KNEW OR REASONABLY SHOULD HAVE KNOWN THAT ITS CONDUCT WAS IN VIOLATION OF ANY LAW, RULE, OR PRIOR LAWFUL ORDER OF THE COMMISSIONER, IN WHICH CASE THE PENALTY SHALL NOT BE MORE THAN TEN THOUSAND DOLLARS FOR EVERY ACT OR VIOLATION, BUT NOT TO EXCEED AN AGGREGATE PENALTY OF ONE HUNDRED FIFTY THOUSAND DOLLARS IN ANY SIX-MONTH PERIOD.

SECTION 6. 10-1-205 (4), Colorado Revised Statutes, 1994 Repl. Vol., is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

10-1-205. Financial examination reports. (4) (e) ANY ORDER ISSUED BY THE COMMISSIONER PURSUANT TO PARAGRAPH (d) OF SUBSECTION (3) OF THIS SECTION MAY BE APPEALED DIRECTLY TO THE COURT OF APPEALS.

SECTION 7. 10-4-716, Colorado Revised Statutes, 1995 Repl. Vol., as amended, is amended to read:

10-4-716. Self-insurers. (1) Any person in whose name more than twenty-five motor vehicles are registered may qualify as a self-insurer by obtaining a certificate of self-insurance issued by the ~~director~~ COMMISSIONER.

(2) The ~~director~~ COMMISSIONER may, in his or her discretion, upon the application of such person, issue a certificate of self-insurance when 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 (1) (b) to (1) (e) and to pay any and all judgments ~~which~~ THAT may be obtained against such person. Upon not less than five days' notice and a hearing pursuant to such notice, the ~~director~~ COMMISSIONER may, upon reasonable grounds, cancel a certificate of self-insurance. Failure to pay any benefits under 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 8. 10-4-720 (1), Colorado Revised Statutes, 1994 Repl. Vol., is amended to read:

10-4-720. Cancellation - renewal - reclassification. (1) Except in accordance with the provisions of this part 7, no insurer shall cancel or fail to renew a policy of insurance which complies with this part 7, issued in this state, as to any resident of the household of the named insured, for any reason other than nonpayment of premium, or increase a premium for any coverage on any such policy unless the increase is part of a general increase in premiums filed with the commissioner and does not result from a reclassification of the insured, or reduce the coverage under any such policy unless the reduction is part of a general reduction in coverage ~~approved by~~ FILED WITH the commissioner or to satisfy the requirements of other sections of this part 7.

SECTION 9. 42-7-501, Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended to read:

42-7-501. Self-insurers. (1) Any person in whose name more than twenty-five motor vehicles are registered may qualify as a self-insurer by obtaining a certificate of self-insurance issued by the ~~director~~ COMMISSIONER OF INSURANCE.

(2) The ~~director~~ COMMISSIONER OF INSURANCE may, in his or her discretion, upon the application of such person, issue a certificate of self-insurance when the ~~director~~ COMMISSIONER OF INSURANCE is satisfied that such person is possessed and will continue to be possessed of ability to pay all judgments ~~which~~ THAT may be obtained against such person. Upon not less than five days' notice and a hearing pursuant to such notice, the ~~director~~ COMMISSIONER OF INSURANCE may, upon reasonable grounds, cancel a certificate of self-insurance. Failure to pay any judgment within thirty days after such judgment has become final shall constitute a reasonable ground

for the cancellation of a certificate of self-insurance.

SECTION 10. Appropriations. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the division of insurance cash fund not otherwise appropriated, to the department of regulatory agencies, division of insurance, for the fiscal year beginning July 1, 1997, the sum of two hundred forty-five thousand four hundred one dollars (\$245,401) and 0.6 FTE, or so much thereof as may be necessary, for the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated to the department of law, for the fiscal year beginning July 1, 1997, the sum of two hundred four thousand nine hundred eighty-four dollars (\$204,984) and 2.8 FTE, or so much thereof as may be necessary, for the provision of legal services to the department of regulatory agencies related to the implementation of this act. Said sum shall be from cash funds exempt received from the department of regulatory agencies out of the appropriation made in subsection (1) of the section.

SECTION 11. Effective date - applicability. This act shall take effect July 1, 1997, and shall apply to acts occurring on or after said date.

SECTION 12. 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 27, 1997