

CHAPTER 174

LABOR AND INDUSTRY

SENATE BILL 99-161

BY SENATORS Tebedo, Andrews, Congrove, Dyer, Epps, Lamborn, Musgrave, Owen, Teck, Arnold, and Sullivant;
also REPRESENTATIVES Berry, McElhany, May, McKay, Young, Allen, Hoppe, King, Larson, Lee, McPherson, Paschall,
Scott, Spence, Spradley, Stengel, and T. Williams.

AN ACT

CONCERNING REDUCTION OF WORKERS' COMPENSATION DISABILITY BENEFITS WHERE THERE IS
EVIDENCE OF INTOXICATION.

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

SECTION 1. Article 42 of title 8, Colorado Revised Statutes, is amended BY
THE ADDITION OF A NEW SECTION to read:

8-42-112.5. Limitation on payments - use of controlled substances.

(1) NONMEDICAL BENEFITS OTHERWISE PAYABLE TO AN INJURED WORKER SHALL BE REDUCED FIFTY PERCENT WHERE INJURY RESULTS FROM THE PRESENCE IN THE WORKER'S SYSTEM, DURING WORKING HOURS, OF NOT MEDICALLY PRESCRIBED CONTROLLED SUBSTANCES, AS DEFINED IN SECTION 12-22-303 (7), C.R.S., OR OF A BLOOD ALCOHOL LEVEL AT OR ABOVE 0.10 PERCENT, OR AT OR ABOVE AN APPLICABLE LOWER LEVEL AS SET FORTH BY FEDERAL STATUTE OR REGULATION, AS EVIDENCED BY A FORENSIC DRUG OR ALCOHOL TEST CONDUCTED BY A MEDICAL FACILITY OR LABORATORY LICENSED OR CERTIFIED TO CONDUCT SUCH TESTS. A DUPLICATE SAMPLE FROM ANY TEST CONDUCTED SHALL BE PRESERVED AND MADE AVAILABLE TO THE WORKER FOR PURPOSES OF A SECOND TEST TO BE CONDUCTED AT THE WORKER'S EXPENSE. IF THE TEST INDICATES THE PRESENCE OF SUCH SUBSTANCES OR OF ALCOHOL AT SUCH LEVEL, IT SHALL BE PRESUMED THAT THE EMPLOYEE WAS INTOXICATED AND THAT THE INJURY WAS DUE TO SUCH INTOXICATION. THIS PRESUMPTION MAY BE OVERCOME BY CLEAR AND CONVINCING EVIDENCE.

(2) AS USED IN THIS SECTION, "NONMEDICAL BENEFITS" MEANS ALL BENEFITS PROVIDED FOR IN ARTICLES 40 TO 47 OF THIS TITLE OTHER THAN DISBURSEMENTS FOR MEDICAL, SURGICAL, NURSING, AND HOSPITAL SERVICES, APPARATUS, AND SUPPLIES.

SECTION 2. 8-42-112 (1), Colorado Revised Statutes, is amended 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.

8-42-112. Acts of employees reducing compensation. (1) The compensation provided for in articles 40 to 47 of this title shall be reduced fifty percent:

(a) Where injury is caused by the willful failure of the employee to use safety devices provided by the employer; OR

(b) Where injury results from the employee's willful failure to obey any reasonable rule adopted by the employer for the safety of the employee.

(c) ~~Where injury results from the intoxication of the employee. When an employee has a 0.10 or more grams of alcohol per one hundred milliliters of blood or 0.10 or more grams of alcohol per two hundred ten liters of breath as shown by chemical analysis, it shall be presumed that the employee was intoxicated and that the injury was due to such intoxication. This presumption may be overcome by clear and convincing evidence.~~

SECTION 3. 8-43-102 (1) (b) and (1.5) (b), Colorado Revised Statutes, are amended to read:

8-43-102. Notice to employer of injury - notice to employees of requirement - failure to report. (1) (b) Every employer shall display at all times in a prominent place on the workplace premises a printed card with a minimum height of fourteen inches and a width of eleven inches with each letter to be a minimum of one-half inch in height, which shall read as follows:

WARNING

~~**IF INJURED ON THE JOB, WRITTEN NOTICE MUST BE GIVEN TO YOUR EMPLOYER WITHIN FOUR WORKING DAYS OF THE ACCIDENT, PURSUANT TO SECTION 8-43-102 (1), C.R.S. IF YOU ARE INJURED ON THE JOB, WRITTEN NOTICE OF YOUR INJURY MUST BE GIVEN TO YOUR EMPLOYER WITHIN FOUR WORKING DAYS AFTER THE ACCIDENT, PURSUANT TO SECTION 8-43-102 (1), COLORADO REVISED STATUTES.**~~

IF THE INJURY RESULTS FROM YOUR USE OF ALCOHOL OR CONTROLLED SUBSTANCES, YOUR WORKERS' COMPENSATION DISABILITY BENEFITS MAY BE REDUCED BY ONE-HALF IN ACCORDANCE WITH SECTION 8-42-112.5, COLORADO REVISED STATUTES.

(1.5) (b) Every employer who has permission to be its own insurance carrier pursuant to section 8-44-201 or who participates in a public entity self-insurance pool pursuant to section 8-44-204 shall display at all times in a prominent place on the workplace premises a printed card with a minimum height of fourteen inches and a width of eleven inches with each letter to be a minimum of one-half inch in height, which shall read as follows:

WARNING

~~IF INJURED ON THE JOB, WRITTEN NOTICE MUST BE GIVEN TO YOUR EMPLOYER WITHIN FOUR WORKING DAYS OF THE ACCIDENT, PURSUANT TO SECTION 8-43-102 (1), C.R.S. IF YOU ARE INJURED ON THE JOB, WRITTEN NOTICE OF YOUR INJURY MUST BE GIVEN TO YOUR EMPLOYER WITHIN FOUR WORKING DAYS AFTER THE ACCIDENT, PURSUANT TO SECTION 8-43-102 (1.5), COLORADO REVISED STATUTES.~~

IF THE INJURY RESULTS FROM YOUR USE OF ALCOHOL OR CONTROLLED SUBSTANCES, YOUR WORKERS' COMPENSATION DISABILITY BENEFITS MAY BE REDUCED BY ONE-HALF IN ACCORDANCE WITH SECTION 8-42-112.5, COLORADO REVISED STATUTES.

SECTION 4. Effective date - applicability. This act shall take effect July 1, 1999, and shall apply to injuries occurring on or after said date.

SECTION 5. 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 17, 1999