

CHAPTER 192

LABOR AND INDUSTRY

HOUSE BILL 04-1090

BY REPRESENTATIVE(S) Rhodes, Frangas, McGihon, and Stafford;
also SENATOR(S) Kester, Fitz-Gerald, Tapia, Taylor, and Teck.

AN ACT

CONCERNING CRITERIA FOR INDEPENDENT CONTRACTORS FOR PURPOSES OF WORKERS' COMPENSATION COVERAGE.

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

SECTION 1. The introductory portion to 8-43-409 (1), Colorado Revised Statutes, is amended, and the said 8-43-409 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

8-43-409. Defaulting employers - penalties - enjoined from continuing business - fines - procedure - definition. (1) Any employer subject to the terms and provisions of articles 40 to 47 of this title who fails to insure or to keep the insurance required by said articles in force or who allows the same to lapse or fails to effect a renewal thereof shall not continue any business operations while such default in effective insurance continues. Upon receiving information from any person or entity that an employer is in default of its insurance obligations, the director shall forthwith investigate and, if the information can be substantiated, the director shall notify the employer of the opportunity to request a prehearing conference on the issue of default. AS PART OF THE DIRECTOR'S INVESTIGATION, THE DIRECTOR MAY VERIFY THAT ALL EMPLOYEES OF THAT EMPLOYER ARE INSURED THROUGH THE EMPLOYER'S WORKERS' COMPENSATION PLAN. THE DIRECTOR MAY FORWARD ANY WORKERS' COMPENSATION COVERAGE ISSUE TO THE EMPLOYER'S WORKERS' COMPENSATION CARRIER FOR FURTHER INVESTIGATION BY SUCH CARRIER. Thereafter, if necessary, the director shall set the issue of the employer's default for hearing in accordance with hearing time schedule and procedures set forth in articles 40 to 47 of this title and rules promulgated by the director. Upon a finding that the employer is in default of its insurance obligations, the director shall either:

(8) FOR THE PURPOSES OF THIS SECTION, "CONSTRUCTION SITE" MEANS A LOCATION

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

WHERE A STRUCTURE THAT IS ATTACHED OR WILL BE ATTACHED TO REAL PROPERTY IS CONSTRUCTED, ALTERED, OR REMODELED.

SECTION 2. 8-47-203 (1) (c) (I), Colorado Revised Statutes, is amended to read:

8-47-203. Access to files, records, and orders. (1) Notwithstanding the provisions of section 8-47-202, the filing of a claim for compensation is deemed to be a limited waiver of the doctor-patient privilege to persons who are necessary to resolve the claim. Access to claim files maintained by the division will be permitted only as follows:

(c) (I) The director may permit access to other governmental entities only as required for the performance of their official duties and only if those official duties relate to enforcement of provisions of articles 40 to 47 of this title; EXCEPT THAT THE DEPARTMENT OF REVENUE MAY ACCESS RESULTS OF ANY INQUIRY MADE BY THE DIVISION TO DETERMINE WHETHER AN EMPLOYER HAS ANY LIABILITY PURSUANT TO ARTICLES 22 TO 29 OF TITLE 39, C.R.S. As used in this subparagraph (I), "enforcement" includes duties of governmental entities involved in the administration of the provisions of articles 40 to 47 of this title or if such duties relate to the enforcement of child support under section 26-13-122, C.R.S. This provision is not intended to restrict the rights of persons otherwise provided for in articles 40 to 47 of this title to inspect and copy files.

SECTION 3. Effective date - applicability. (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution (August 4, 2004, if adjournment sine die is on May 5, 2004); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) The provisions of this act shall apply to investigations of the director of the division of workers' compensation and investigations of the department of revenue concerning the tax status of a worker commenced on or after the applicable effective date of this act.

Approved: April 23, 2004