

## CHAPTER 171

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**LABOR AND INDUSTRY**


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**HOUSE BILL 10-1109**

BY REPRESENTATIVE(S) McCann, Court, Hullinghorst, Labuda, Schafer S., Vigil;  
also SENATOR(S) Mitchell, Boyd, Hudak.

**AN ACT**

**CONCERNING THE AVAILABILITY OF WORKERS' COMPENSATION TO JAIL INMATES WHO ARE WORKING FOR A PROGRAM THAT HAS BEEN CERTIFIED BY THE FEDERAL PRISON INDUSTRY ENHANCEMENT CERTIFICATION PROGRAM.**

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

**SECTION 1.** 8-40-301 (3) (a), Colorado Revised Statutes, is amended to read:

**8-40-301. Scope of term "employee".** (3) (a) Notwithstanding the provisions of section 8-40-202 (1) (a) (IV), "employee" excludes any person who is confined to a city or county jail or any department of corrections facility as an inmate and who, as a part of such confinement, is working, performing services, or participating in a training or rehabilitation or work release program; EXCEPT THAT "EMPLOYEE" INCLUDES AN INMATE OF A DEPARTMENT OF CORRECTIONS FACILITY OR A CITY, COUNTY, OR CITY AND COUNTY JAIL WHO IS WORKING, PERFORMING SERVICES, OR PARTICIPATING IN A TRAINING, REHABILITATION, OR WORK RELEASE PROGRAM THAT HAS BEEN CERTIFIED BY THE FEDERAL PRISON INDUSTRY ENHANCEMENT CERTIFICATION PROGRAM PURSUANT TO THE FEDERAL "JUSTICE SYSTEM IMPROVEMENT ACT OF 1979", 18 U.S.C. SEC. 1761 (c). FOR THE PURPOSES OF ARTICLES 40 TO 47 OF THIS TITLE, AN INMATE PARTICIPATING IN A PROGRAM CERTIFIED BY THE FEDERAL PRISON INDUSTRY ENHANCEMENT CERTIFICATION PROGRAM IS AN EMPLOYEE OF THAT CERTIFIED PROGRAM, WHICH CERTIFIED PROGRAM SHALL CARRY WORKERS' COMPENSATION INSURANCE PURSUANT TO ARTICLES 40 TO 47 OF THIS TITLE. NO INMATE PARTICIPATING IN A CERTIFIED PROGRAM SHALL BE DEEMED TO BE AN EMPLOYEE OF THE STATE, CITY, COUNTY, OR CITY AND COUNTY THAT OWNS, OPERATES, OR CONTRACTS FOR THE OPERATION OF THE FACILITY OR JAIL IN WHICH THE INMATE IS INCARCERATED.

**SECTION 2.** 8-42-113 (1), Colorado Revised Statutes, is amended, and the said

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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.*

8-42-113 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**8-42-113. Limitations on payments to prisoners - incentives to sheriffs and department of corrections.** (1) Notwithstanding any other provision of law to the contrary EXCEPT AS PROVIDED IN SUBSECTION (4) OF THIS SECTION, any individual who is otherwise entitled to benefits under articles 40 to 47 of this title shall neither receive nor be entitled to such benefits for any week following conviction during which such individual is confined in a jail, prison, or any department of corrections facility.

(4) THIS SECTION SHALL NOT APPLY TO BENEFITS UNDER ARTICLES 40 TO 47 OF THIS TITLE TO WHICH AN INMATE OF A DEPARTMENT OF CORRECTIONS FACILITY OR A CITY, COUNTY, OR CITY AND COUNTY JAIL IS ENTITLED FOR INJURY OR OCCUPATIONAL DISEASE ARISING OUT OF AND IN THE COURSE OF THE INMATE WORKING, PERFORMING SERVICES, OR PARTICIPATING IN A TRAINING, REHABILITATION, OR WORK RELEASE PROGRAM THAT HAS BEEN CERTIFIED BY THE FEDERAL PRISON INDUSTRY ENHANCEMENT CERTIFICATION PROGRAM PURSUANT TO THE FEDERAL "JUSTICE SYSTEM IMPROVEMENT ACT OF 1979", 18 U.S.C. SEC. 1761 (c). THE INMATE SHALL BE ENTITLED TO BENEFITS IN ACCORDANCE WITH SECTION 8-40-301 (3) (a).

**SECTION 3.** 8-44-101 (3) (a), Colorado Revised Statutes, is amended to read:

**8-44-101. Insurance requirements.** (3) (a) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (a), all public entities in the state shall insure and keep insured the payment of compensation by electing one of the ~~three~~ methods provided in subsection (1) of this section. A public entity having an insured payroll of less than one million dollars annually shall not be eligible for self-insurance; except that public entities forming a pool pursuant to section 8-44-204 (3) shall be eligible if the total of all the payrolls of the public entities in the pool exceeds the required minimum.

(II) ANY PUBLIC ENTITY IN THE STATE THAT IS PARTICIPATING IN THE FEDERAL PRISON INDUSTRY ENHANCEMENT CERTIFICATION PROGRAM PURSUANT TO THE FEDERAL "JUSTICE SYSTEM IMPROVEMENT ACT OF 1979", 18 U.S.C. SEC. 1761 (c), SHALL INSURE AND KEEP INSURED THE PAYMENT OF COMPENSATION BY ELECTING ONE OF THE METHODS PROVIDED IN SUBSECTION (1) OF THIS SECTION; EXCEPT THAT THE METHOD FOR INSURING THE PARTICIPANTS OF SUCH PROGRAM NEED NOT BE THE SAME METHOD SELECTED BY THE PUBLIC ENTITY PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (a).

**SECTION 4. Act subject to petition - 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 (August 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a referendum petition

is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part shall not take effect unless approved by the people at the general election to be held in November 2010 and shall take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act shall apply to claims for benefits arising on or after the effective date of this act.

Approved: April 29, 2010