

In 2023, the General Assembly considered a number of bills related to business and economic development including several related to automobile dealerships and consumer protection.

Business

Senate Bill 23-019 subjects out of state online car dealers to the jurisdiction of the Colorado Motor Vehicle Licensing Board in the Department of Revenue when those dealers do business in the state. Such dealers do not need to maintain a physical location in Colorado, but if their business activities would be licensed in the state then they are subject to investigations, cease and desist orders, and administrative hearings by the board.

Under current law a car manufacturer pays a dealership for warranty repairs based on the dealer's charges for parts and labor. *Senate Bill 23-078* requires that the manufacturers pay the dealer the retail labor rate multiplied by the applicable time allowances prescribed in the labor time guide used by the dealer. The bill also modifies the circumstances under which a manufacturer may contest the accuracy of charges made by the car dealer.

Senate Bill 21-260 created fees for retail delivery services that went into effect on July 1, 2022. *Senate Bill 23-143* modified the administration of these fees. The bill created an exemption from the fees for businesses

with retail sales less than or equal to \$500,000. It also allows sellers to pay the fee on the purchaser's behalf, so the fee does not need to be separately itemized, and requires the Department of Revenue to waive processing costs if those costs would exceed the amount of delivery fees the retailer is remitting.

Consumer Protection

The General Assembly passed several laws intended to protect consumers during the 2023 legislative session.

Beginning December 31, 2023, *Senate Bill 23-150* requires manufacturers and sellers of pre-moistened, nonwoven disposable wipes to label product packaging with the phrase "Do Not Flush." Failure to comply constitutes a deceptive trade practice under the Colorado Consumer Protection Act.

A value protection agreement is a benefit offered by car dealers for a purchaser that offsets the lost value of a car from an adverse event or theft. *Senate Bill 23-015* establishes requirements for these agreements. A dealer may only offer a protection agreement that meets specified requirements, and must not condition the extension of credit or terms of a sale or lease on the purchase of an agreement. These agreements are not considered insurance and are not regulated as such by the Division



of Insurance in the Department of Regulatory Agencies.

Beginning July 1, 2024, *House Bill 23-1229* modifies the requirements for loans of less than \$1000 and provides that state law limiting interest rates on consumer credit loans applies to all businesses offering such loans in Colorado.

Senate Bill 23-093 makes changes to state laws related to consumer protections in medical transactions, including:

- placing a three percent cap on the interest rate on medical debt;
- establishing requirements for payment plans and legal action by a creditor or debt collector related to medical debt;
- specifying what must be included on itemized statements for debt collection disputes;
- requiring a health care facility to provide an estimate of the cost for a person who intends to self-pay for services and limiting by how much the final cost can exceed the initial estimate; and
- prohibiting collection of debt during an appeals process.

The bill makes failure to comply with these requirements and current laws related to out-of-network billing a deceptive trade practice.

Insurance

In 2023, the General Assembly passed the following bills related to the business of insurance.

Under *House Bill 23-1004*, an insurer that issues a non-English language policy is required to certify that the policy has been correctly translated by a certified or qualified translator who has also certified that the policy was correctly translated. The bill also requires insurers to offer insurance policy documents in any language in which the insurer advertises the policy, and offer a form that allows an applicant to select their preferred language for those policy documents. Failure to meet these requirements voids any written coverage rejections or exclusions resulting from the insurer's failure to comply with the policy.

House Bill 23-1174 specifies what factors insurers must consider in determining replacement cost of a dwelling as part of a homeowner's insurance policy. For policies issued or renewed as of January 1, 2025, insurers must provide homeowners with additional information about replacement costs. The Division of Insurance (DOI) in the Department of Regulatory Agencies must contract with an independent third-party to prepare an annual report on the cost of reconstructing homes in Colorado. The first report is due April 1, 2025. After a stakeholder process, the DOI may contract for an evaluation of policies to address homeowner's insurance affordability. Finally, the bill extends the notification period within which an insurer cannot cancel or refuse to



renew a homeowner's insurance from at least 30 days in advance to 60 days.

House Bill 23-1288 creates the Fair Access to Insurance Requirements Plan Association, a nonprofit, unincorporated public entity, whose members consist of all companies that offer or sell property insurance in Colorado. The association is established to offer property and insurance policies and reinsurance through licensed producers to provide coverage that is not otherwise available, called the FAIR Plan. All income, losses, and expenses are shared among member insurers. The association is managed by a board of directors, who are to be appointed by the Governor by January 1, 2024. The Commissioner of Insurance may adopt rules for the association or the plan. The association must submit an annual report to the commissioner beginning April 1, 2025. The association may collect fees from member insurers and any fees paid may be recouped from the member insurers' policyholders, but not by an increase in premiums.

Workers' Compensation.

House Bill 23-1196 amends the Colorado Youth Employment Opportunity Act of 1971 to allow aggrieved parties, including children and their parents, to pursue legal remedies and remedies under the Workers' Compensation Act.

Under *House Bill 23-1076*, workers' compensation benefits administered by the Division of Workers' Compensation (DOWC) and the Division of Independent Medical

Examiner (DIME) are changed in several ways. Specifically, the bill:

- changes the limit on workers' compensation claims by reason of mental impairment from 12 to 36 weeks;
- removes the option for state employees to petition the DOWC for a replacement of prosthetics, eyeglasses, hearing aids, and similar products;
- allows an expedited hearing for employees whose temporary total disability benefits are terminated by the employer based on an authorized medical provider's release to return to regular employment;
- confirms that employers cannot limit maintenance medical benefits in an admission of liability;
- provides that record packets for an independent medical review may be limited to those medical records that are relevant to the injury;
- provides rulemaking authority to the DOWC to determine the amount and allocation of costs to be paid by the parties for an independent medical examination;
- expands the authority of the DIME prehearing unit to allow parties to attend a prehearing conference to resolve disputes regarding medical records;
- allows the DIME prehearing unit to make indigence determinations for payment purposes; and
- amends the maximum allowable rate for a contingent attorney fee from 20 to 25 percent of the amount of contested benefits that are presumed to be unreasonable.



Economic Development

Under current law, the Advanced Industry Export Acceleration Program in the Office of Economic Development and International Trade, which supports the growth of businesses in seven advanced industries including aerospace, bioscience, and infrastructure engineering, is repealed on January 1, 2025 and the Advanced Industry Acceleration Grant Program ends July 1, 2024. Further, the requirement that half the amount of growth in bioscience and clean technology income tax wage withholding be deposited in the Advanced Industries Acceleration Cash Fund ends in FY 2022-23. *Senate Bill 23-066* extends both programs by 10 years and the transfer requirements by two years. The bill also repeals the requirement that a business show a profit during the last fiscal year to be eligible for an international export development expense reimbursement.

Senate Bill 23-006 codifies into Colorado law the Rural Opportunity Office in the Colorado Office of Economic Development and International Trade. The main duties and responsibilities of the office include:

- serving as the central coordinator of rural economic development programs and initiatives;
- working with coal transitioning communities to explore business and economic development opportunities;
- making recommendations that inform the Governor's policy on rural economic development matters; and

- measuring the success of program outreach and conduct research on whether rural communities receive more statewide funding as a result of the office's efforts.

