

**Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 10-0208.01 Thomas Morris

SENATE BILL 10-012

SENATE SPONSORSHIP

Tochtrop, Carroll M., Hodge

HOUSE SPONSORSHIP

Pace, Miklosi, Ryden

Senate Committees
Judiciary

House Committees
Judiciary

A BILL FOR AN ACT

101 **CONCERNING INCREASED PENALTIES FOR VIOLATIONS OF THE**
102 **WORKERS' COMPENSATION LAWS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Interim Committee to Study Issues Related to Pinnacol Assurance. Increases the penalty for violating the workers' compensation laws from up to \$500 to up to \$1,000. Changes the mental state from "willfully" to "knowingly" in the statute that penalizes denying workers' compensation medical benefits, delaying payment of medical benefits for

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

HOUSE
3rd Reading Unamended
May 10, 2010

HOUSE
Amended 2nd Reading
May 7, 2010

SENATE
3rd Reading Unamended
April 26, 2010

SENATE
Amended 2nd Reading
April 23, 2010

more than 30 days, or stopping payments. Allows the director of the division of workers' compensation or an administrative law judge to apportion the penalties, in whole or part, among the aggrieved party, the medical services provider, and the workers' compensation cash fund.

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

2 **SECTION 1.** 8-43-304 (1), Colorado Revised Statutes, is
3 amended to read:

4 **8-43-304. Violations - penalty - offset for benefits obtained**
5 **through fraud - rules.** (1) Any employer or insurer, or any officer or
6 agent of either, or any employee, or any other person who violates any
7 provision of articles 40 to 47 of this title, or does any act prohibited
8 thereby, or fails or refuses to perform any duty lawfully enjoined within
9 the time prescribed by the director or panel, for which no penalty has been
10 specifically provided, or fails, neglects, or refuses to obey any lawful
11 order made by the director or panel or any judgment or decree made by
12 any court as provided by said articles shall be subject to such order being
13 reduced to judgment by a court of competent jurisdiction and shall also
14 be punished by a fine of not more than ~~five hundred~~ ONE THOUSAND
15 dollars per day for each such offense, ~~seventy-five percent payable to BE~~
16 APPORTIONED, IN WHOLE OR PART, AT THE DISCRETION OF THE DIRECTOR
17 OR ADMINISTRATIVE LAW JUDGE, BETWEEN the aggrieved party and
18 ~~twenty-five percent to the subsequent injury fund created in section~~
19 ~~8-46-101~~ THE WORKERS' COMPENSATION CASH FUND CREATED IN
20 SECTION 8-44-112 (7) (a); EXCEPT THAT THE AMOUNT APPORTIONED TO
21 THE AGGRIEVED PARTY SHALL BE A MINIMUM OF FIFTY PERCENT OF ANY
22 PENALTY ASSESSED.

23 **SECTION 2.** 8-43-401 (2) (a), Colorado Revised Statutes, is

1 amended to read:

2 **8-43-401. Attorney general, district attorney, or attorney of**
3 **division to act for director or office - penalties for failure of insurer**
4 **to pay benefits.** (2) (a) After all appeals have been exhausted or in cases
5 where there have been no appeals, all insurers and self-insured employers
6 shall pay benefits within thirty days ~~of when~~ AFTER any benefits are due.
7 If any insurer or self-insured employer ~~willfully~~ KNOWINGLY delays
8 payment of medical benefits for more than thirty days or ~~willfully~~
9 KNOWINGLY stops payments, such insurer or self-insured employer shall
10 pay a penalty ~~to the division~~ of eight percent of the amount of wrongfully
11 withheld benefits; EXCEPT THAT NO PENALTY IS DUE IF THE INSURER OR
12 SELF-INSURED EMPLOYER PROVES THAT THE DELAY WAS THE RESULT OF
13 EXCUSABLE NEGLIGENCE. If any insurer or self-insured employer willfully
14 withholds permanent partial disability benefits within thirty days of when
15 due, the insurer or self-insured employer shall pay a penalty to the
16 division of ten percent of the amount of such benefits due. THE
17 PENALTIES SHALL BE APPORTIONED, IN WHOLE OR PART, AT THE
18 DISCRETION OF THE DIRECTOR OR ADMINISTRATIVE LAW JUDGE, AMONG
19 THE AGGRIEVED PARTY, THE MEDICAL SERVICES PROVIDER, AND THE
20 WORKERS' COMPENSATION CASH FUND CREATED IN SECTION 8-44-112 (7)
21 (a).

22 **SECTION 3. Act subject to petition - effective date -**
23 **applicability.** (1) This act shall take effect at 12:01 a.m. on the day
24 following the expiration of the ninety-day period after final adjournment
25 of the general assembly (August 11, 2010, if adjournment sine die is on
26 May 12, 2010); except that, if a referendum petition is filed pursuant to
27 section 1 (3) of article V of the state constitution against this act or an

1 item, section, or part of this act within such period, then the act, item,
2 section, or part shall not take effect unless approved by the people at the
3 general election to be held in November, 2010, and shall take effect on
4 the date of the official declaration of the vote thereon by the governor.

5 (2) The provisions of this act shall apply to conduct occurring on
6 or after the applicable effective date of this act.