

**NOTE: This bill has been prepared for the signature of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.**



SENATE BILL 10-012

BY SENATOR(S) Tochtrop, Carroll M., Hodge, Boyd;  
also REPRESENTATIVE(S) Pace, Miklosi, Ryden, Vigil.

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

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

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

**8-43-304. Violations - penalty - offset for benefits obtained through fraud - rules.** (1) Any employer or insurer, or any officer or agent of either, or any employee, or any other person who violates any provision of articles 40 to 47 of this title, or does any act prohibited thereby, or fails or refuses to perform any duty lawfully enjoined within the time prescribed by the director or panel, for which no penalty has been specifically provided, or fails, neglects, or refuses to obey any lawful order made by the director or panel or any judgment or decree made by any court as provided by said articles shall be subject to such order being reduced to judgment by a court of competent jurisdiction and shall also be punished by a fine of not more than ~~five hundred~~ ONE THOUSAND dollars per day for each such offense, ~~seventy-five percent payable~~ to BE APPORTIONED, IN

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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.*

WHOLE OR PART, AT THE DISCRETION OF THE DIRECTOR OR ADMINISTRATIVE LAW JUDGE, BETWEEN the aggrieved party and ~~twenty-five percent to the subsequent injury fund created in section 8-46-101~~ THE WORKERS' COMPENSATION CASH FUND CREATED IN SECTION 8-44-112 (7) (a); EXCEPT THAT THE AMOUNT APPORTIONED TO THE AGGRIEVED PARTY SHALL BE A MINIMUM OF FIFTY PERCENT OF ANY PENALTY ASSESSED.

**SECTION 2.** 8-43-401 (2) (a), Colorado Revised Statutes, is amended to read:

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

**SECTION 3. 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) The provisions of this act shall apply to conduct occurring on or after the applicable effective date of this act.

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Brandon C. Shaffer  
PRESIDENT OF  
THE SENATE

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Terrance D. Carroll  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

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Karen Goldman  
SECRETARY OF  
THE SENATE

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Marilyn Eddins  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

APPROVED \_\_\_\_\_

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Bill Ritter, Jr.  
GOVERNOR OF THE STATE OF COLORADO