

CHAPTER 48

LABOR AND INDUSTRY

HOUSE BILL 22-1112

BY REPRESENTATIVE(S) Daugherty, Amabile, Benavidez, Bernett, Bird, Boesenecker, Duran, Esgar, Exum, Froelich, Gonzales-Gutierrez, Gray, Herod, Hooton, Jodeh, Kipp, Lindsay, Michaelson Jenet, Mullica, Ricks, Sirota, Sullivan, Titone, Weissman, Woodrow;
also SENATOR(S) Gonzales, Buckner, Jaquez Lewis, Lee, Moreno, Rodriguez, Winter.

AN ACT

CONCERNING THE NOTICES REQUIRED PERTAINING TO ON-THE-JOB INJURIES COVERED BY WORKERS' COMPENSATION INSURANCE.

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

SECTION 1. In Colorado Revised Statutes, **amend** 8-43-102 as follows:

8-43-102. Notice to employer of injury - notice to employees - failure to report. (1)(a)(I) Every employee who sustains an injury resulting from an accident shall notify ~~said~~ THE employee's employer in writing of the injury within ~~four~~ TEN days ~~of~~ AFTER the occurrence of the injury. If the employee is physically or mentally unable to provide ~~said~~ THE notice, the employee's foreman, superintendent, OR manager or any other person in charge who has notice of ~~said~~ THE injury shall submit ~~such~~ written notice OF THE INJURY to the employer. Any other person who has notice of ~~said~~ THE injury may submit a written notice to the ~~said~~ person in charge or to the employer, and in that event the injured employee ~~shall be~~ IS relieved of the obligation to give ~~such~~ THE notice. Otherwise, if ~~said~~ THE employee fails to report ~~said~~ THE injury in writing, ~~said~~ THE employee may lose up to one day's compensation for each day's failure to ~~so~~ report. If ~~at the time of said injury, the employer has failed to display the notice specified in paragraph (b) of this subsection (1), the time period allotted to the employee shall be tolled for the duration of such failure~~ FAILS TO PROVIDE A COPY OF THE EMPLOYEE'S WRITTEN NOTICE PURSUANT TO SUBSECTION (1)(a)(II) OF THIS SECTION, OR IF, AT THE TIME OF THE INJURY, THE EMPLOYER FAILED TO DISPLAY THE NOTICE SPECIFIED IN SUBSECTION (1)(b) OF THIS SECTION, THE TIME PERIOD ALLOTTED TO THE EMPLOYEE IS TOLLED FOR THE DURATION OF TIME THAT THE EMPLOYER FAILS TO PROVIDE THE WRITTEN NOTICE AND DISPLAY THE NOTICE. IF THE EMPLOYER HAS ACTUAL NOTICE

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

OF THE INJURY OR GOOD CAUSE IS SHOWN FOR THE FAILURE OF THE EMPLOYEE TO REPORT THE INJURY IN WRITING, THERE IS NO LOSS OF COMPENSATION PURSUANT TO THIS SUBSECTION (1) FOR THE FAILURE TO REPORT THE INJURY.

(II) AN EMPLOYER WHO RECEIVES WRITTEN NOTICE OF AN INJURY PURSUANT TO THIS SUBSECTION (1) SHALL AFFIX THE DATE AND TIME OF THE RECEIPT ON THE NOTICE AND SHALL MAKE A COPY OF THE NOTICE AFFIXED WITH THE DATE AND TIME OF RECEIPT AVAILABLE TO THE INJURED EMPLOYEE WITHIN SEVEN DAYS AFTER RECEIVING THE NOTICE. AN EMPLOYER IS NOT SUBJECT TO A PENALTY UNDER ARTICLES 40 TO 47 OF THIS TITLE 8 FOR FAILING TO PROVIDE THE INJURED EMPLOYEE A COPY OF THE NOTICE REQUIRED BY THIS SUBSECTION (1)(a)(II).

(b) Every employer shall display at all times in a prominent place on the workplace premises a printed card ~~with a minimum height of~~ THAT IS AT LEAST fourteen inches HIGH and ~~a width of~~ AT LEAST eleven inches ~~with~~ WIDE, ON WHICH each letter ~~to be a minimum of~~ IS AT LEAST one-half inch in height, ~~which shall read~~ AND THAT READS as follows:

WARNING

~~IF YOU ARE INJURED ON THE JOB, WRITTEN NOTICE OF YOUR INJURY MUST BE GIVEN TO YOUR EMPLOYER WITHIN FOUR WORKING DAYS AFTER THE ACCIDENT, PURSUANT TO SECTION 8-43-102 (1), COLORADO REVISED STATUTES.~~

~~IF THE INJURY RESULTS FROM YOUR USE OF ALCOHOL OR CONTROLLED SUBSTANCES, YOUR WORKERS' COMPENSATION DISABILITY BENEFITS MAY BE REDUCED BY ONE-HALF IN ACCORDANCE WITH SECTION 8-42-112.5, COLORADO REVISED STATUTES.~~

NOTICE

IF YOU ARE INJURED ON THE JOB, YOU HAVE RIGHTS UNDER THE COLORADO WORKERS' COMPENSATION ACT. YOUR EMPLOYER IS REQUIRED BY LAW TO HAVE WORKERS' COMPENSATION INSURANCE. THE COST OF THE INSURANCE IS PAID ENTIRELY BY YOUR EMPLOYER. IF YOUR EMPLOYER DOES NOT HAVE WORKERS' COMPENSATION INSURANCE, YOU STILL HAVE RIGHTS UNDER THE LAW.

IT IS AGAINST THE LAW FOR YOUR EMPLOYER TO HAVE A POLICY CONTRARY TO THE REPORTING REQUIREMENTS SET FORTH IN THE COLORADO WORKERS' COMPENSATION ACT. YOUR EMPLOYER IS INSURED THROUGH _____.

IF YOU ARE INJURED ON THE JOB, NOTIFY YOUR EMPLOYER AS SOON AS YOU ARE ABLE, AND REPORT YOUR INJURY TO YOUR EMPLOYER IN WRITING WITHIN 10 DAYS AFTER THE INJURY. IF YOU DO NOT REPORT YOUR INJURY PROMPTLY, YOU MAY STILL PURSUE A CLAIM.

ADVISE YOUR EMPLOYER IF YOU NEED MEDICAL TREATMENT. IF YOU OBTAIN MEDICAL CARE, BE SURE TO REPORT TO YOUR EMPLOYER AND HEALTH-CARE

PROVIDER HOW, WHEN, AND WHERE THE INJURY OCCURRED.

YOU MAY FILE A WORKER'S CLAIM FOR COMPENSATION WITH THE DIVISION OF WORKERS' COMPENSATION. TO OBTAIN FORMS OR INFORMATION REGARDING THE WORKERS' COMPENSATION SYSTEM, THE CUSTOMER SERVICE CONTACT INFORMATION FOR THE DIVISION OF WORKERS' COMPENSATION IS _____.

~~(1.5)~~ (2) (a) (I) Every employee of an employer ~~who~~ THAT has permission to be its own insurance carrier pursuant to section 8-44-201 or of an employer ~~who~~ THAT participates in a public entity self-insurance pool pursuant to section 8-44-204 who sustains an injury resulting from an accident shall notify ~~his~~ THE EMPLOYEE'S employer in writing of ~~said~~ THE injury within ~~four~~ TEN working days ~~of~~ AFTER the occurrence of the injury, unless the employer, or the employee's foreman, superintendent, or manager, has written notice of ~~said~~ THE injury. If the employee is physically or mentally unable to provide ~~said~~ THE notice, the employee's foreman, superintendent, or manager or any other person in charge who has written notice of ~~said~~ THE injury shall submit ~~such~~ THE written notice to the employer. If ~~said~~ THE employee fails to report ~~said~~ THE injury in writing, ~~such~~ THE employee may lose up to one day's compensation for each day's failure to ~~so~~ report. Any other person who has notice of ~~said~~ THE injury may submit a written notice to the employer, which ~~report~~ shall relieve the injured employee from reporting the accident. ~~Any employer receiving written notice of an injury pursuant to this subsection (1.5) shall affix thereon the date and time of receipt of such notice and shall make a copy of such notice available to the injured employee within two working days following receipt of such notice~~ IF THE EMPLOYER FAILS TO PROVIDE A COPY OF THE EMPLOYEE'S WRITTEN NOTICE PURSUANT TO SUBSECTION (2)(a)(II) OF THIS SECTION, OR IF, AT THE TIME OF THE INJURY, THE EMPLOYER FAILED TO DISPLAY THE NOTICE SPECIFIED IN SUBSECTION (2)(b) OF THIS SECTION, THE TIME PERIOD ALLOTTED TO THE EMPLOYEE IS TOLLED FOR THE DURATION OF TIME THAT THE EMPLOYER FAILS TO PROVIDE THE WRITTEN NOTICE AND DISPLAY THE NOTICE. IF THE EMPLOYER HAS ACTUAL NOTICE OF THE INJURY OR GOOD CAUSE IS SHOWN FOR THE FAILURE OF THE EMPLOYEE TO REPORT THE INJURY IN WRITING, THERE IS NO LOSS OF COMPENSATION PURSUANT TO THIS SUBSECTION (2) FOR THE FAILURE TO REPORT THE INJURY.

(II) AN EMPLOYER WHO RECEIVES WRITTEN NOTICE OF AN INJURY PURSUANT TO THIS SUBSECTION (2) SHALL AFFIX THE DATE AND TIME OF THE RECEIPT ON THE NOTICE AND SHALL MAKE A COPY OF THE NOTICE AFFIXED WITH THE DATE AND TIME OF RECEIPT AVAILABLE TO THE INJURED EMPLOYEE WITHIN SEVEN DAYS AFTER RECEIVING THE NOTICE. AN EMPLOYER IS NOT SUBJECT TO A PENALTY UNDER ARTICLES 40 TO 47 OF THIS TITLE 8 FOR FAILING TO PROVIDE THE INJURED EMPLOYEE A COPY OF THE NOTICE REQUIRED BY THIS SUBSECTION (2)(a)(II).

(b) Every employer ~~who~~ THAT has permission to be its own insurance carrier pursuant to section 8-44-201 or ~~who~~ THAT participates in a public entity self-insurance pool pursuant to section 8-44-204 shall display at all times in a prominent place on the workplace premises a printed card ~~with a minimum height of THAT IS AT LEAST fourteen inches HIGH and a width of AT LEAST eleven inches with WIDE, ON WHICH each letter to be a minimum of IS AT LEAST one-half inch in height, which shall read~~ AND THAT READS as follows:

WARNING

~~IF YOU ARE INJURED ON THE JOB, WRITTEN NOTICE OF YOUR INJURY MUST BE GIVEN TO YOUR EMPLOYER WITHIN FOUR WORKING DAYS AFTER THE ACCIDENT, PURSUANT TO SECTION 8-43-102 (1.5), COLORADO REVISED STATUTES.~~

~~IF THE INJURY RESULTS FROM YOUR USE OF ALCOHOL OR CONTROLLED SUBSTANCES, YOUR WORKERS' COMPENSATION DISABILITY BENEFITS MAY BE REDUCED BY ONE-HALF IN ACCORDANCE WITH SECTION 8-42-112.5, COLORADO REVISED STATUTES.~~

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IT IS AGAINST THE LAW FOR YOUR EMPLOYER TO HAVE A POLICY CONTRARY TO THE REPORTING REQUIREMENTS SET FORTH IN THE COLORADO WORKERS' COMPENSATION ACT. YOUR EMPLOYER IS INSURED THROUGH _____.

IF YOU ARE INJURED ON THE JOB, NOTIFY YOUR EMPLOYER AS SOON AS YOU ARE ABLE, AND REPORT YOUR INJURY TO YOUR EMPLOYER IN WRITING WITHIN 10 DAYS AFTER THE INJURY. IF YOU DO NOT REPORT YOUR INJURY PROMPTLY, YOU MAY STILL PURSUE A CLAIM.

ADVISE YOUR EMPLOYER IF YOU NEED MEDICAL TREATMENT. IF YOU OBTAIN MEDICAL CARE, BE SURE TO REPORT TO YOUR EMPLOYER AND HEALTH-CARE PROVIDER HOW, WHEN, AND WHERE THE INJURY OCCURRED.

YOU MAY FILE A WORKER'S CLAIM FOR COMPENSATION WITH THE DIVISION OF WORKERS' COMPENSATION. TO OBTAIN FORMS OR INFORMATION REGARDING THE WORKERS' COMPENSATION SYSTEM, THE CUSTOMER SERVICE CONTACT INFORMATION FOR THE DIVISION OF WORKERS' COMPENSATION IS _____.

~~(2)~~ (3) AN EMPLOYEE AFFECTED BY THE CONTRACTION OF AN OCCUPATIONAL DISEASE OR SOMEONE ON BEHALF OF THE AFFECTED EMPLOYEE SHALL GIVE written notice of the contraction of an THE occupational disease shall be given to the employer by the affected employee or by someone on behalf of the affected employee within thirty days after the first distinct manifestation thereof OF THE DISEASE. In the event of death from such THE occupational disease, written notice thereof OF THE EMPLOYEE'S DEATH shall be given to the employer within thirty days after such death. Failure to give either of such notices shall be deemed waived unless objection is made at a hearing on the claim prior to any award or decision thereon. Actual knowledge by an employer in whose employment an employee THE DEATH. IF THE EMPLOYER OF AN EMPLOYEE WHO WAS LAST INJURIOUSLY EXPOSED TO AN

occupational disease HAS ACTUAL KNOWLEDGE of the contraction of ~~such~~ THE disease by ~~such~~ THE employee and of THE EMPLOYEE'S exposure to the conditions causing it, ~~shall be~~ SUCH ACTUAL KNOWLEDGE IS deemed notice of its contraction. ~~If the notice required in this section is not given as provided and within the time fixed, the director may reduce the compensation that would otherwise have been payable in such manner and to such extent as the director deems just, reasonable, and proper under the existing circumstances~~ IF THE EMPLOYER DOES NOT HAVE ACTUAL KNOWLEDGE OF THE CONTRACTION OF THE DISEASE, OR IF THERE IS NOT GOOD CAUSE FOR THE EMPLOYEE'S FAILURE TO PROVIDE WRITTEN NOTICE WITHIN THE TIME ALLOTTED BY THIS SUBSECTION (3), THE DIRECTOR MAY REDUCE THE COMPENSATION THAT WOULD OTHERWISE HAVE BEEN PAYABLE IN THE MANNER AND TO THE EXTENT AS THE DIRECTOR DEEMS JUST, REASONABLE, AND PROPER UNDER THE EXISTING CIRCUMSTANCES, NEVER TO EXCEED ONE DAY'S COMPENSATION FOR EACH DAY'S FAILURE TO REPORT.

SECTION 2. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; 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 will not take effect unless approved by the people at the general election to be held in November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to claims arising on or after the applicable effective date of this act.

Approved: March 24, 2022