

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 10-0491.01 Kate Meyer

HOUSE BILL 10-1109

HOUSE SPONSORSHIP

McCann,

SENATE SPONSORSHIP

Mitchell,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

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

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>.)

As a condition of participating in the federal prison industry enhancement certification program (PIECP), federal law requires

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.

workers' compensation benefits to be made available to an inmate working in a PIECP-certified training, rehabilitation, or work release program. In order to comply with that requirement, the bill clarifies that, for the purposes of state laws concerning workers' compensation, the term "employee" includes an inmate of a city, county, or city and county jail who is working, performing services, or participating in a program that has been certified under the PIECP. Further, for workers' compensation purposes, PIECP-certified programs shall carry workers' compensation insurance, and an inmate working in a PIECP-certified program is an employee of that program.

In order to provide cities, counties, and cities and counties with more insurance options for PIECP-certified programs, current law is amended to allow public entities to select more than one method of workers' compensation insurance.

The bill also clarifies that workers' compensation benefits to which an inmate is entitled as a result of working in such a program shall not be suspended for the period of time during which the inmate is incarcerated.

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

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

4 **8-40-301. Scope of term "employee".** (3) (a) Notwithstanding
5 the provisions of section 8-40-202 (1) (a) (IV), "employee" excludes any
6 person who is confined to a city or county jail or any department of
7 corrections facility as an inmate and who, as a part of such confinement,
8 is working, performing services, or participating in a training or
9 rehabilitation or work release program; EXCEPT THAT "EMPLOYEE"
10 INCLUDES AN INMATE OF A CITY, COUNTY, OR CITY AND COUNTY JAIL WHO
11 IS WORKING, PERFORMING SERVICES, OR PARTICIPATING IN A TRAINING,
12 REHABILITATION, OR WORK RELEASE PROGRAM THAT HAS BEEN CERTIFIED
13 BY THE FEDERAL PRISON INDUSTRY ENHANCEMENT CERTIFICATION
14 PROGRAM PURSUANT TO THE FEDERAL "JUSTICE SYSTEM IMPROVEMENT
15 ACT OF 1979", 18 U.S.C. SEC. 1761 (c). FOR THE PURPOSES OF ARTICLES
16 40 TO 47 OF THIS TITLE, AN INMATE PARTICIPATING IN A PROGRAM

1 CERTIFIED BY THE FEDERAL PRISON INDUSTRY ENHANCEMENT
2 CERTIFICATION PROGRAM IS AN EMPLOYEE OF THAT CERTIFIED PROGRAM,
3 WHICH CERTIFIED PROGRAM SHALL CARRY WORKERS' COMPENSATION
4 INSURANCE PURSUANT TO ARTICLES 40 TO 47 OF THIS TITLE. NO INMATE
5 PARTICIPATING IN A CERTIFIED PROGRAM SHALL BE DEEMED TO BE AN
6 EMPLOYEE OF THE CITY, COUNTY, OR CITY AND COUNTY THAT OWNS OR
7 OPERATES THE JAIL IN WHICH THE INMATE IS INCARCERATED.

8 **SECTION 2.** 8-42-113 (1), Colorado Revised Statutes, is
9 amended, and the said 8-42-113 is further amended BY THE ADDITION
10 OF A NEW SUBSECTION, to read:

11 **8-42-113. Limitations on payments to prisoners - incentives to**
12 **sheriffs and department of corrections.** (1) Notwithstanding any other
13 provision of law to the contrary EXCEPT AS PROVIDED IN SUBSECTION (4)
14 OF THIS SECTION, any individual who is otherwise entitled to benefits
15 under articles 40 to 47 of this title shall neither receive nor be entitled to
16 such benefits for any week following conviction during which such
17 individual is confined in a jail, prison, or any department of corrections
18 facility.

19 (4) THIS SECTION SHALL NOT APPLY TO BENEFITS UNDER ARTICLES
20 40 TO 47 OF THIS TITLE TO WHICH AN INMATE OF A CITY, COUNTY, OR CITY
21 AND COUNTY JAIL IS ENTITLED FOR INJURY OR OCCUPATIONAL DISEASE
22 ARISING OUT OF AND IN THE COURSE OF THE INMATE WORKING,
23 PERFORMING SERVICES, OR PARTICIPATING IN A TRAINING,
24 REHABILITATION, OR WORK RELEASE PROGRAM THAT HAS BEEN CERTIFIED
25 BY THE FEDERAL PRISON INDUSTRY ENHANCEMENT CERTIFICATION
26 PROGRAM PURSUANT TO THE FEDERAL "JUSTICE SYSTEM IMPROVEMENT
27 ACT OF 1979", 18 U.S.C. SEC. 1761 (c). THE INMATE SHALL BE ENTITLED

1 TO BENEFITS IN ACCORDANCE WITH SECTION 8-40-301 (3) (a).

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

4 **8-44-101. Insurance requirements.** (3) (a) All public entities
5 in the state shall insure and keep insured the payment of compensation by
6 electing one OR MORE of the ~~three~~ methods provided in subsection (1) of
7 this section. A public entity having an insured payroll of less than one
8 million dollars annually shall not be eligible for self-insurance; except
9 that public entities forming a pool pursuant to section 8-44-204 (3) shall
10 be eligible if the total of all the payrolls of the public entities in the pool
11 exceeds the required minimum.

12 **SECTION 4. Act subject to petition - effective date -**
13 **applicability.** (1) This act shall take effect at 12:01 a.m. on the day
14 following the expiration of the ninety-day period after final adjournment
15 of the general assembly (August 11, 2010, if adjournment sine die is on
16 May 12, 2010); except that, if a referendum petition is filed pursuant to
17 section 1 (3) of article V of the state constitution against this act or an
18 item, section, or part of this act within such period, then the act, item,
19 section, or part shall not take effect unless approved by the people at the
20 general election to be held in November 2010 and shall take effect on the
21 date of the official declaration of the vote thereon by the governor.

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