

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

REREVISED

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

LLS NO. 10-0491.01 Kate Meyer

HOUSE BILL 10-1109

HOUSE SPONSORSHIP

McCann,

SENATE SPONSORSHIP

Mitchell,

House Committees
Judiciary

Senate Committees
Judiciary

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.

SENATE
3rd Reading Unam ended
March 25, 2010

SENATE
Am ended 2nd Reading
March 23, 2010

HOUSE
3rd Reading Unam ended
February 26, 2010

HOUSE
Am ended 2nd Reading
February 25, 2010

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 DEPARTMENT OF CORRECTIONS FACILITY OR A
11 CITY, COUNTY, OR CITY AND COUNTY JAIL WHO IS WORKING, PERFORMING
12 SERVICES, OR PARTICIPATING IN A TRAINING, REHABILITATION, OR WORK
13 RELEASE PROGRAM THAT HAS BEEN CERTIFIED BY THE FEDERAL PRISON
14 INDUSTRY ENHANCEMENT CERTIFICATION PROGRAM PURSUANT TO THE
15 FEDERAL "JUSTICE SYSTEM IMPROVEMENT ACT OF 1979", 18 U.S.C. SEC.
16 1761 (c). FOR THE PURPOSES OF ARTICLES 40 TO 47 OF THIS TITLE, AN

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

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

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

21 (4) THIS SECTION SHALL NOT APPLY TO BENEFITS UNDER ARTICLES
22 40 TO 47 OF THIS TITLE TO WHICH AN INMATE OF A DEPARTMENT OF
23 CORRECTIONS FACILITY OR A CITY, COUNTY, OR CITY AND COUNTY JAIL IS
24 ENTITLED FOR INJURY OR OCCUPATIONAL DISEASE ARISING OUT OF AND IN
25 THE COURSE OF THE INMATE WORKING, PERFORMING SERVICES, OR
26 PARTICIPATING IN A TRAINING, REHABILITATION, OR WORK RELEASE
27 PROGRAM THAT HAS BEEN CERTIFIED BY THE FEDERAL PRISON INDUSTRY

1 ENHANCEMENT CERTIFICATION PROGRAM PURSUANT TO THE FEDERAL
2 "JUSTICE SYSTEM IMPROVEMENT ACT OF 1979", 18 U.S.C. SEC. 1761 (c).
3 THE INMATE SHALL BE ENTITLED TO BENEFITS IN ACCORDANCE WITH
4 SECTION 8-40-301 (3) (a).

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

7 **8-44-101. Insurance requirements.** (3) (a) (I) EXCEPT AS
8 OTHERWISE PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (a), all
9 public entities in the state shall insure and keep insured the payment of
10 compensation by electing one _____ of the ~~three~~ methods provided in
11 subsection (1) of this section. A public entity having an insured payroll
12 of less than one million dollars annually shall not be eligible for
13 self-insurance; except that public entities forming a pool pursuant to
14 section 8-44-204 (3) shall be eligible if the total of all the payrolls of the
15 public entities in the pool exceeds the required minimum.

16 (II) ANY PUBLIC ENTITY IN THE STATE THAT IS PARTICIPATING IN
17 THE FEDERAL PRISON INDUSTRY ENHANCEMENT CERTIFICATION PROGRAM
18 PURSUANT TO THE FEDERAL "JUSTICE SYSTEM IMPROVEMENT ACT OF
19 1979", 18 U.S.C. SEC. 1761 (c), SHALL INSURE AND KEEP INSURED THE
20 PAYMENT OF COMPENSATION BY ELECTING ONE OF THE METHODS
21 PROVIDED IN SUBSECTION (1) OF THIS SECTION; EXCEPT THAT THE METHOD
22 FOR INSURING THE PARTICIPANTS OF SUCH PROGRAM NEED NOT BE THE
23 SAME METHOD SELECTED BY THE PUBLIC ENTITY PURSUANT TO
24 SUBPARAGRAPH (I) OF THIS PARAGRAPH (a).

25 **SECTION 4. Act subject to petition - effective date -**
26 **applicability.** (1) This act shall take effect at 12:01 a.m. on the day
27 following the expiration of the ninety-day period after final adjournment

1 of the general assembly (August 11, 2010, if adjournment sine die is on
2 May 12, 2010); except that, if a referendum petition is filed pursuant to
3 section 1 (3) of article V of the state constitution against this act or an
4 item, section, or part of this act within such period, then the act, item,
5 section, or part shall not take effect unless approved by the people at the
6 general election to be held in November 2010 and shall take effect on the
7 date of the official declaration of the vote thereon by the governor.

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