SENATE BILL

SENATE SPONSORSHIP
Fenberg,

HOUSE SPONSORSHIP
( None),

BILL TOPIC: "Workers' Compensation For COVID-19"

A BILL FOR AN ACT

Concerning the creation of presumptions related to an essential worker who contracts COVID-19 for the purpose of the "Workers' Compensation Act of Colorado".

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://leg.colorado.gov.)

The bill summary for this measure has been intentionally omitted and will appear on future redrafts of this measure.

Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.
Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, add 8-41-208.5 as follows:

8-41-208.5. Coverage for job-related contraction of COVID-19. (1) As used in this section:

(a) "COVID-19" means the disease caused by severe acute respiratory syndrome coronavirus 2.

(b) "Essential worker" means the following employees required to work outside of the employee's home:

(I) First responders, including law enforcement officers, firefighters, emergency medical technicians, paramedics, ambulance drivers, or 911 dispatchers;

(II) Correction officers;

(IV) Medical, health care, and public health workers including physicians and physician's assistants licensed under Article 240 of Title 12, mental health professionals licensed under Article 245 of Title 12; nurses licensed under Article 255 of Title 12; nurse aides certified under Article 260 of Title 12, occupational therapists or occupational therapy assistants licensed under Article 270 of Title 12; physical therapists or physical therapy assistants licensed or certified under Article 285 of Title 12, and surgical assistants and surgical technologists registered under Article 310 of Title 12.

(V) Home health care workers;

(VI) Commercial cleaning workers, including janitors or custodians, at any facility treating COVID-19 patients or at any
FACILITY WITH AN IDENTIFIED COVID-19 OUTBREAK;

(VII) FOOD PROCESSING AND AGRICULTURAL WORKERS;

(IX) PACKAGE DELIVERY DRIVERS

(X) GROCERY STORE WORKERS;

(XI) PUBLIC TRANSPORTATION DRIVERS;

(XII) AIRLINE EMPLOYEES, INCLUDING FLIGHT ATTENDANTS, PILOTS, AND CLEANING CREW WORKERS;

(XIII) NURSING HOME WORKERS, INCLUDING CLEANING STAFF;

(XIV) PHARMACISTS LICENSED UNDER ARTICLE 280 OF TITLE 12 AND INDIVIDUALS WORKING AT THE DIRECTION OF A PHARMACIST;

(XV) UTILITY WORKERS, INCLUDING WORKERS WHO PROVIDE TELECOMMUNICATIONS, ENERGY, OR HEATING, VENTILATION, AND AIR CONDITIONING OR MECHANICAL SERVICES AT ANY FACILITY TREATING PATIENTS DIAGNOSED WITH COVID-19, AT ANY FACILITY WITH AN IDENTIFIED COVID-19 OUTBREAK OR AT A HOME WITH AN INDIVIDUAL DIAGNOSED WITH COVID-19;

(XVI) CONSTRUCTION OR MAINTENANCE WORKERS AT A FACILITY TREATING PATIENTS DIAGNOSED WITH COVID-19, A FACILITY WITH AN IDENTIFIED COVID-19 OUTBREAK, OR A HOME OR DWELLING WITH AN INDIVIDUAL DIAGNOSED WITH COVID-19; AND

(XVII) WORKERS AT RESIDENTIAL CARE OR RESIDENTIAL LIVING FACILITIES, INCLUDING MENTAL HEALTH FACILITIES, TREATING PATIENTS DIAGNOSED WITH COVID-19 OR WITH AN IDENTIFIED COVID-19 OUTBREAK.

(c) "IDENTIFIED COVID-19 OUTBREAK" MEANS A COVID-19 OUTBREAK AS DETERMINED BY DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, CREATED IN SECTION 25-1-102.
(2) (a) If an essential worker contracts COVID-19, the contraction is:

   (I) presumed to have arisen out of and in the course of employment; and

   (II) an accident, injury, and occupational disease as defined in sections 8-40-201(1), (2), and (14), respectively.

(b) For purposes of this section, an essential worker has contracted COVID-19 if the worker:

   (I) through laboratory testing prescribed by a licensed physician of a specimen the essential worker provides, tests positive for the virus that causes COVID-19; or

   (II) if laboratory testing is unavailable, is diagnosed with COVID-19 by a licensed physician or COVID-19 is listed as the cause of death by a licensed physician on a death certificate.

(3) The presumption set forth in subsection (2) of this section may be overcome by clear and convincing evidence of specific causation establishing that the essential worker's contraction of COVID-19 did not arise out of or in the course of the essential worker's employment.

(4) Nothing in this section limits an employee's ability to establish a compensable accidental injury or occupational disease claim under articles 40 to 47 of this title 8.

(5) The presumption set forth in subsection (2) of this section does not apply to a claim for damages by a third party.

(6) An admission of liability or order awarding benefits to an essential worker who is entitled to the presumption set forth in subsection (2) of this section is not binding in any other legal
(7) Notwithstanding any provision to the contrary, the insurer or if insured, the employer, may offset its liability for temporary and permanent disability benefits and death benefits by any disability and death benefits received by an employee or the employee’s dependents from any source related to the employee’s contraction of COVID-19, except from any source arising from a contract entered into by or on behalf of the employee.

SECTION 2. Applicability. This act applies to conduct occurring on or after the effective date of this act.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.