

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

UNEDITED
UNREVISED
DRAFT
5.15.20

DRAFT

LLS NO. 20-1245.01 Yelana Love x2295

SENATE BILL

SENATE SPONSORSHIP

Fenberg,

HOUSE SPONSORSHIP

(None),

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

A BILL FOR AN ACT

101 CONCERNING THE CREATION OF PRESUMPTIONS RELATED TO AN
102 ESSENTIAL WORKER WHO CONTRACTS **COVID-19** FOR THE
103 PURPOSE OF THE "WORKERS' COMPENSATION ACT OF
104 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.

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

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

4 **8-41-208.5. Coverage for job-related contraction of**
5 **COVID-19.** (1) AS USED IN THIS SECTION:

6 (a) "COVID-19" MEANS THE DISEASE CAUSED BY SEVERE
7 ACUTE RESPIRATORY SYNDROME CORONAVIRUS 2.

8 (b) "ESSENTIAL WORKER" MEANS THE FOLLOWING EMPLOYEES
9 REQUIRED TO WORK OUTSIDE OF THE EMPLOYEE'S HOME:

10 (I) FIRST RESPONDERS, INCLUDING LAW ENFORCEMENT OFFICERS,
11 FIREFIGHTERS, EMERGENCY MEDICAL TECHNICIANS, PARAMEDICS,
12 AMBULANCE DRIVERS, OR 911 DISPATCHERS;

13 (II) CORRECTION OFFICERS;

14 (IV) MEDICAL, HEALTH CARE, AND PUBLIC HEALTH WORKERS
15 INCLUDING PHYSICIANS AND PHYSICIAN'S ASSISTANTS LICENSED UNDER
16 ARTICLE 240 OF TITLE 12, MENTAL HEALTH PROFESSIONALS LICENSED
17 UNDER ARTICLE 245 OF TITLE 12; NURSES LICENSED UNDER ARTICLE 255
18 OF TITLE 12; NURSE AIDES CERTIFIED UNDER ARTICLE 260 OF TITLE 12,
19 OCCUPATIONAL THERAPISTS OR OCCUPATIONAL THERAPY ASSISTANTS
20 LICENSED UNDER ARTICLE 270 OF TITLE 12; PHYSICAL THERAPISTS OR
21 PHYSICAL THERAPY ASSISTANTS LICENSED OR CERTIFIED UNDER ARTICLE
22 285 OF TITLE 12, AND SURGICAL ASSISTANTS AND SURGICAL
23 TECHNOLOGISTS REGISTERED UNDER ARTICLE 310 OF TITLE 12.

24 (V) HOME HEALTH CARE WORKERS;

25 (VI) COMMERCIAL CLEANING WORKERS, INCLUDING JANITORS OR
26 CUSTODIANS, AT ANY FACILITY TREATING COVID-19 PATIENTS OR AT ANY

1 FACILITY WITH AN IDENTIFIED COVID-19 OUTBREAK;
2 (VII) FOOD PROCESSING AND AGRICULTURAL WORKERS;
3 (IX) PACKAGE DELIVERY DRIVERS
4 (X) GROCERY STORE WORKERS;
5 (XI) PUBLIC TRANSPORTATION DRIVERS;
6 (XII) AIRLINE EMPLOYEES, INCLUDING FLIGHT ATTENDANTS,
7 PILOTS, AND CLEANING CREW WORKERS;
8 (XIII) NURSING HOME WORKERS, INCLUDING CLEANING STAFF;
9 (XIV) PHARMACISTS LICENSED UNDER ARTICLE 280 OF TITLE 12
10 AND INDIVIDUALS WORKING AT THE DIRECTION OF A PHARMACIST;
11 (XV) UTILITY WORKERS, INCLUDING WORKERS WHO PROVIDE
12 TELECOMMUNICATIONS, ENERGY, OR HEATING, VENTILATION, AND AIR
13 CONDITIONING OR MECHANICAL SERVICES AT ANY FACILITY TREATING
14 PATIENTS DIAGNOSED WITH COVID-19, AT ANY FACILITY WITH AN
15 IDENTIFIED COVID-19 OUTBREAK OR AT A HOME WITH AN INDIVIDUAL
16 DIAGNOSED WITH COVID-19;
17 (XVI) CONSTRUCTION OR MAINTENANCE WORKERS AT A FACILITY
18 TREATING PATIENTS DIAGNOSED WITH COVID-19, A FACILITY WITH AN
19 IDENTIFIED COVID-19 OUTBREAK, OR A HOME OR DWELLING WITH AN
20 INDIVIDUAL DIAGNOSED WITH COVID-19; AND
21 (XVII) WORKERS AT RESIDENTIAL CARE OR RESIDENTIAL LIVING
22 FACILITIES, INCLUDING MENTAL HEALTH FACILITIES, TREATING PATIENTS
23 DIAGNOSED WITH COVID-19 OR WITH AN IDENTIFIED COVID-19
24 OUTBREAK.
25 (c) "IDENTIFIED COVID-19 OUTBREAK" MEANS A COVID-19
26 OUTBREAK AS DETERMINED BY DEPARTMENT OF PUBLIC HEALTH AND
27 ENVIRONMENT, CREATED IN SECTION 25-1-102.

1 (2) (a) IF AN ESSENTIAL WORKER CONTRACTS COVID-19, THE
2 CONTRACTION IS:

3 (I) PRESUMED TO HAVE ARISEN OUT OF AND IN THE COURSE OF
4 EMPLOYMENT; AND

5 (II) AN ACCIDENT, INJURY, AND OCCUPATIONAL DISEASE AS
6 DEFINED IN SECTIONS 8-40-201(1) , (2), AND (14), RESPECTIVELY.

7 (b) FOR PURPOSES OF THIS SECTION, AN ESSENTIAL WORKER HAS
8 CONTRACTED COVID-19 IF THE WORKER:

9 (I) THROUGH LABORATORY TESTING PRESCRIBED BY A LICENSED
10 PHYSICIAN OF A SPECIMEN THE ESSENTIAL WORKER PROVIDES, TESTS
11 POSITIVE FOR THE VIRUS THAT CAUSES COVID-19; OR

12 (II) IF LABORATORY TESTING IS UNAVAILABLE, IS DIAGNOSED WITH
13 COVID-19 BY A LICENSED PHYSICIAN OR COVID-19 IS LISTED AS THE
14 CAUSE OF DEATH BY A LICENSED PHYSICIAN ON A DEATH CERTIFICATE.

15 (3) THE PRESUMPTION SET FORTH IN SUBSECTION (2) OF THIS
16 SECTION MAY BE OVERCOME BY CLEAR AND CONVINCING EVIDENCE OF
17 SPECIFIC CAUSATION ESTABLISHING THAT THE ESSENTIAL WORKER'S
18 CONTRACTION OF COVID-19 DID NOT ARISE OUT OF OR IN THE COURSE OF
19 THE ESSENTIAL WORKER'S EMPLOYMENT.

20 (4) NOTHING IN THIS SECTION LIMITS AN EMPLOYEE'S ABILITY TO
21 ESTABLISH A COMPENSABLE ACCIDENTAL INJURY OR OCCUPATIONAL
22 DISEASE CLAIM UNDER ARTICLES 40 TO 47 OF THIS TITLE 8.

23 (5) THE PRESUMPTION SET FORTH IN SUBSECTION (2) OF THIS
24 SECTION DOES NOT APPLY TO A CLAIM FOR DAMAGES BY A THIRD PARTY.

25 (6) AN ADMISSION OF LIABILITY OR ORDER AWARDDING BENEFITS TO
26 AN ESSENTIAL WORKER WHO IS ENTITLED TO THE PRESUMPTION SET FORTH
27 IN SUBSECTION (2) OF THIS SECTION IS NOT BINDING IN ANY OTHER LEGAL

1 PROCEEDING.

2 (7) NOTWITHSTANDING ANY PROVISION TO THE CONTRARY, THE
3 INSURER OR IF INSURED, THE EMPLOYER, MAY OFFSET ITS LIABILITY FOR
4 TEMPORARY AND PERMANENT DISABILITY BENEFITS AND DEATH BENEFITS
5 BY ANY DISABILITY AND DEATH BENEFITS RECEIVED BY AN EMPLOYEE OR
6 THE EMPLOYEE'S DEPENDENTS FROM ANY SOURCE RELATED TO THE
7 EMPLOYEE'S CONTRACTION OF COVID-19, EXCEPT FROM ANY SOURCE
8 ARISING FROM A CONTRACT ENTERED INTO BY OR ON BEHALF OF THE
9 EMPLOYEE.

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

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