

**Initiative #93
Additional Remedies for an Unsafe Workplace**

1 **Amendment ? proposes amending the Colorado statutes to:**

- 2 ♦ require every private employer in Colorado with ten or more employees
3 to provide a safe and healthy workplace; and
- 4 ♦ allow an injured employee to seek damages in court in addition to
5 workers' compensation benefits, if the employer fails to provide a safe
6 and healthy workplace.

7 **Summary and Analysis**

8 Amendment ? specifies that it is both the policy of the state and a requirement for
9 private employers to provide safe workplaces for their employees. Currently,
10 companies may be fined if they do not meet state and federal workplace safety
11 standards and guidelines, such as using safety equipment and posting signs alerting
12 employees to hazards. Employees who are injured at work receive benefits through
13 workers' compensation.

14 ***What remedies are available to injured employees under workers'***
15 ***compensation?*** State law requires employers with one or more full- or part-time
16 employees to provide workers' compensation insurance that pays for on-the-job
17 injuries or work-related diseases, regardless of fault. Under workers' compensation,
18 an injured employee receives benefits without having to prove the employer was
19 responsible for the injury or going to court. An employee collecting benefits cannot
20 seek additional damages in court. Workers' compensation is designed to provide a
21 predictable cost for employers while addressing the needs of injured employees. In
22 2005, nearly XX,XXX claims were filed.

23 Under workers' compensation, an injured employee may receive:

- 24 ♦ payment for reasonable and necessary medical expenses;
- 25 ♦ wage replacement;
- 26 ♦ disability benefits that are determined according to the duration and
27 severity of the injury;
- 28 ♦ death benefits for surviving dependents; and
- 29 ♦ benefit payments for disfigurement.

30 ***What additional remedies are offered to injured employees under the***
31 ***measure?*** An injured employee is allowed to sue in court when an employer fails to
32 provide a safe and healthy workplace. However, an employee cannot receive
33 damages that he or she has already received under workers' compensation. Under
34 Amendment ?, an employee may sue for the following:

- 35 ♦ past and future monetary losses;

- 1 ♦ pain and suffering;
- 2 ♦ emotional distress;
- 3 ♦ inconvenience;
- 4 ♦ mental anguish;
- 5 ♦ loss of enjoyment of life; and
- 6 ♦ other non-monetary losses.

7 **Arguments For**

8 1) Injured employees deserve to be compensated for their injuries, and workers'
9 compensation does not always meet their needs. The current workers' compensation
10 system provides a strict framework for medically treating and compensating injured
11 employees, but this framework treats all employees the same even when their needs
12 may be very different. By allowing the courts to review individual cases, the measure
13 establishes another avenue for employees to seek compensation for injuries when the
14 current system fails.

15 2) The measure encourages an increased focus on workplace safety, and both
16 employers and employees benefit from safe and healthy workplaces. Safe
17 workplaces allow employees to be efficient and productive, saving employers money.
18 Maintaining a safe workplace reduces employees' concerns about their day-to-day
19 safety and the likelihood of injury.

20 **Arguments Against**

21 1) This measure is unnecessary because the current workers' compensation
22 system sufficiently encourages employers to maintain safe workplaces. Since workers'
23 compensation insurance premiums are set based on the number and severity of
24 accidents that occur in a workplace, employers with more accidents pay higher
25 premiums. Further, federal workplace safety oversight agencies have the power to
26 fine employers for safety violations.

27 2) Amendment ? creates financial instability and increases costs for employers.
28 Under the current workers' compensation system, employers pay set premiums for
29 no-fault coverage of workplace injuries. By allowing injured employees to sue for
30 damages beyond what is provided for in workers' compensation, the measure
31 dismantles the current system and exposes employers to additional liability.
32 Employers might increase prices for goods and services, lower wages, reduce
33 benefits, and eliminate jobs to offset the costs associated with the additional liability.

34 **Estimate of Fiscal Impact**