

SB168_L.001

SENATE COMMITTEE OF REFERENCE REPORT

Chairman of Committee_____
DateCommittee on Business, Labor and Technology.

After consideration on the merits, the Committee recommends the following:

SB09-168 be amended as follows:

1 Amend printed bill, page 2, after line 1, insert the following:

2 "SECTION 1. 8-42-107.2 (3), Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

4 **8-42-107.2. Selection of independent medical examiner -**
5 **procedure - time - applicability.** (3) (d) THE IME SHALL NEITHER
6 CONTACT ANY OF THE AUTHORIZED TREATING PHYSICIANS NOR ANY
7 EXAMINING OR REVIEWING PHYSICIAN, NOR REQUEST A CLAIMANT TO
8 UNDERGO REPEAT TESTING WHEN THE TESTING RESULTS WERE VALID AND
9 THE IME HAS RESOLVED ANY DISPARITY IN TESTING RESULTS.

10 SECTION 2. 8-42-113.5 (1), Colorado Revised Statutes, is
11 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

12 **8-42-113.5. Recovery of overpayments - notice required.**
13 (1) If a claimant has received an award for the payment of disability
14 benefits or a death benefit under articles 40 to 47 of this title and also
15 receives any payment, award, or entitlement to benefits under the federal
16 old-age, survivors, and disability insurance act, an employer-paid
17 retirement benefit plan, or any other plan, program, or source for which the
18 original disability benefits or death benefit is required to be reduced
19 pursuant to said articles, but which were not reflected in the calculation of
20 such disability benefits or death benefit:

21 (b.5) AFTER THE FILING OF A FINAL ADMISSION OF LIABILITY,
22 EXCEPT IN CASES OF FRAUD, ANY ATTEMPT TO RECOVER AN OVERPAYMENT



1 SHALL BE ASSERTED WITHIN ONE YEAR AFTER THE TIME THE REQUESTOR
2 KNEW OF THE EXISTENCE OF THE OVERPAYMENT.

3 SECTION 3. 8-43-201, Colorado Revised Statutes, is amended to
4 read:

5 8-43-201. Disputes arising under "Workers' Compensation
6 Act of Colorado". The director and administrative law judges employed
7 by the office of administrative courts in the department of personnel shall
8 have original jurisdiction to hear and decide all matters arising under
9 articles 40 to 47 of this title; except that the following principles shall
10 apply: A claimant in a workers' compensation claim shall have the burden
11 of proving entitlement to benefits by a preponderance of the evidence; the
12 facts in a workers' compensation case shall not be interpreted liberally in
13 favor of either the rights of the injured worker or the rights of the
14 employer; and a workers' compensation case shall be decided on its merits;
15 AND A PARTY SEEKING TO MODIFY AN ISSUE DETERMINED BY A GENERAL
16 OR FINAL ADMISSION, A SUMMARY ORDER, OR A FULL ORDER, SHALL BEAR
17 THE BURDEN OF PROOF FOR ANY SUCH MODIFICATION."

18 Renumber succeeding sections accordingly.

19 Page 3, strike lines 15 through 27 and substitute the following:

20 "SECTION 5. 8-43-404 (2), Colorado Revised Statutes, is
21 amended to read:

22 8-43-404. Examination - refusal - personal responsibility -
23 physicians to testify and furnish results - definitions. (2) The
24 employee shall be entitled to have a physician, provided and paid for by the
25 employee, present at any such examination. If an employee is examined by
26 a chiropractor at the request of the employer, the employee shall be
27 entitled to have a chiropractor provided and paid for by the employee
28 present at any such examination. AFTER ANY EXAMINATION CONDUCTED
29 UNDER THIS SECTION, THE EXAMINER SHALL PREPARE A WRITTEN REPORT
30 GIVING A DESCRIPTION OF THE EXAMINATION PERFORMED, THE WRITTEN
31 DOCUMENTS OR ANY OTHER MATERIALS REVIEWED, AND ALL FINDINGS OR
32 CONCLUSIONS OF THE EXAMINER. The employee shall also be entitled to
33 receive from the examining physician or chiropractor a copy of any report
34 which said THAT THE physician or chiropractor makes to the employer,
35 insurer, or division upon said THE examination, said AND THE copy to
36 SHALL be furnished to the employee at the same time it is furnished to the
37 employer, insurer, or division. The employee shall also be entitled to
38 receive reports from any physician selected by the employer to treat said
39 THE employee upon the same terms and conditions and at the same time the

1 reports are furnished by the physician to the employer. ALL SUCH
2 EXAMINATIONS SHALL BE RECORDED IN AUDIO IN THEIR ENTIRETY AND
3 RETAINED BY THE EXAMINING PHYSICIAN UNTIL REQUESTED BY ANY PARTY.
4 IF REQUESTED, AN EXACT COPY OF THE RECORDING SHALL BE PROVIDED TO
5 THE PARTIES. NOTHING IN THIS SUBSECTION (2) SHALL BE CONSTRUED TO
6 PREVENT ANY PARTY TO THE CLAIM FROM MAKING AN AUDIO RECORDING
7 OF THE EXAMINATION. The employer shall be entitled to receive reports
8 from any physician or chiropractor selected by the employee to treat or
9 examine said THE employee in connection with such injury upon the same
10 terms and at the same time the reports are furnished by the physician or
11 chiropractor to the employee."

12 Page 4, strike lines 1 through 12.

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