

CHAMBER OF COMMERCE  
OF THE  
UNITED STATES OF AMERICA

GLENN SPENCER  
SENIOR VICE PRESIDENT  
EMPLOYMENT POLICY DIVISION

1615 H STREET, N.W.  
WASHINGTON, D.C. 20062  
202/463-5769

June 6, 2020

**Re: SB216, the “Workers’ Compensation Act of Colorado”**

TO THE MEMBERS OF THE COLORADO LEGISLATURE:

The U.S. Chamber of Commerce appreciates your continued efforts to address the many policy issues surrounding the ongoing coronavirus pandemic, and in particular its impact on individuals who remain at work in industries deemed essential. The use of workers’ compensation programs to compensate employees who become ill has emerged as a policy consideration, reflected in the recently introduced SB216, the “Workers’ Compensation Act of Colorado.” The Chamber opposes this legislation, and respectfully offers the following observations potential unintended consequences on affected individuals’ benefits.

As currently drafted, SB216 would create a presumption that infections of the coronavirus contracted by “essential” employees, including *but not limited to* an exceptionally wide array of workers in the health care, public safety, airline, grocery, and construction industries, are work-related for the purpose of workers’ compensation benefits provided for work-related injuries and illnesses. No other state has expanded workers’ compensation coverage so broadly, and in any event, workers’ compensation already covers demonstrable claims related to coronavirus infection, making this bill unnecessary.

It is also important to note that workers who are home ill with the coronavirus are eligible for federal Pandemic Unemployment Assistance (PUA), which includes an extra \$600 per week supplement through July 31. Because the PUA program is federally funded, the compensation it provides will avoid placing unnecessary strain on the workers’ compensation program, and there is no need for the state to bear the cost of providing affected employees’ compensation. Moreover, for the affected employee, the U.S. Department of Labor has indicated that per existing regulations workers’ compensation benefits such an employee receives would likely be considered deductible income offsetting their PUA benefits. In other words, workers’ compensation and PUA benefits are mutually exclusive, so there is likely to be no advantage to utilizing the workers’ compensation program as an income supplement as contemplated by SB216. In fact, it may make workers worse off.

In addition, the duration of the presumption under SB216 would extend for two years—presumably well beyond the expiration of the state of emergency or other “stay at home” requirements currently in place. When the day comes that businesses are fully free to resume operations and individuals are free to socialize and operate more or less as usual, the risk of exposure to the coronavirus will still be present, but it will be essentially impossible to determine whether a future exposure is truly occupational. Yet, the bill eliminates the requirement that a

worker prove that his or her injury arose out of and in the course of employment and instead places the burden on an employer to prove that it did not, which would be nearly impossible. SB216 would transform workers' compensation in such a way that it no longer would require a *causal* connection between the conditions under which work is performed and a coronavirus infection, which will place enormous stress on the entire system at a time when most employers are only just beginning to recover from the nationwide shut-down of our economy.

The Chamber recognizes the need to assist those facing employment challenges due to it, while at the same time we encourage adopting the policies best suited to do so. With that in mind, we urge you not to pass SB216. Thank you for the opportunity to provide some thoughts on the use of workers' compensation to address the impact of the unprecedented coronavirus pandemic.

Sincerely,

A handwritten signature in black ink, appearing to read "Glenn Spencer", with a long horizontal flourish extending to the right.

Glenn Spencer  
Senior Vice President  
Employment Policy Division