HOUSE . . . . . No. 4536

By Mr. Collaro of Worcester, petition of Andrew Collaro that insurance companies be prohibited from stopping certain payments under the workmen's compensation law without a hearing. Commerce and Labor.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Six.

AN ACT PROHIBITING INSURANCE COMPANIES FROM STOPPING CERTAIN PAYMENTS UNDER THE WORKMAN'S COMPENSATION LAW WITHOUT A HEARING.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 152 of the General Laws is hereby
2 amended by striking out section 8, as appearing in the 1984
3 Official Edition, and inserting in place thereof the following
4 section: —
5 Section 8. (1) An insurer who begins payments of benefits in
6 a timely fashion may make such payments for a period of sixty
7 (60) calendar days from the commencement of disability without
8 affecting its right to contest any issue arising under this chapter.
9 An insurer may not terminate or modify payments at any time
10 unless it gives the employee and the division of administration at
11 least seven days written notice of its intent to stop payments and
12 contest a claim should the employee file one. The notice shall
13 specify the grounds and factual basis for stopping payment of
14 benefits and intention to contest and shall explain that in order
15 to secure benefits the employee must file a claim with the
16 department within any time limits provided by this chapter.
17 Any grounds and basis for non-compensability specified by the
18 insurer shall be the sole basis of the insurer's defense on the issue
19 of compensability, unless based on newly discovered evidence.
20 The insurer remains at all times obligated to pay all benefits due
21 the employee under this chapter within fourteen days of
22 knowledge from any source that such benefits are due.

23 (2) An insurer may terminate payments for temporary total
24 disability pursuant to section thirty-four after such sixty day
25 period only if such action is based upon:
26 (a) return to actual employment; provided that, if due,
27 compensation shall be paid under section thirty-five; or
28 (b) a medical report from the treating physician indicating that
29 the employee is capable of return to the job held at the time of
30 injury, and a written report from the employer that such job is
31 open and has been made available to the employee; or
32 (c) an order of the board or reviewing board.
33 (3) An insurer may terminate or modify payments for partial
34 disability pursuant to section thirty-five after such sixty day period
35 only if such action is based upon:
36 (a) actual earnings of the employee during each week; or
37 (b) an order of the board or reviewing board.
38 (4) An insurer who begins payments under section 7 and pays
39 under this section for sixty days or more, without terminating
40 payments or contesting liability, may, no sooner than ninety (90)
41 days following filing a complaint for termination or reduction of
42 benefits under section 34, 34A or 35, if no order or decision has
43 issued within such ninety (90) day period, request the division of
44 dispute resolution to appoint an impartial physician to examine
45 the employee. The director of the division of dispute resolution
46 shall, within seven days of such request, appoint a physician from
47 the appropriate roster to conduct an examination of the employee
48 and make a report within fourteen days. If such report contains
49 evidence of increased capability to work the insurer may reduce
50 or terminate benefits in accordance with such report, pursuant to
51 the provisions of section thirty-fiveD. In such instances, if the
52 requirements of this subsection have been complied with, when
53 an order is issued on the insurer's complaint, if such order requires
54 that additional compensation be paid, back benefits and interest
55 of ten percent shall be paid the employee, but no penalty shall
56 be assessed upon the insurer.
57 (5) Except as specifically provided above, if the insurer
58 terminates, reduces, or fails to make any payments required under
59 this chapter, and additional compensation is later ordered, the
60 employee shall be paid by the insurer a penalty payment equal
61 to twenty per cent of the additional compensation due on the date

62 of such finding. No amount paid as a penalty under this section
63 shall be included in any formula utilized to establish premium
64 rates for workers' compensation insurance. No termination or
65 modification of benefits not based on actual earnings or an order
66 of the board shall be allowed without seven days written notice
67 to the employee and the department.