

AN ACT concerning employment.

**Be it enacted by the People of the State of Illinois,  
represented in the General Assembly:**

Section 1. Short title. This Act may be cited as the Occupational Safety and Health Act.

Section 2. References to prior Acts. On and after the effective date of this Act, a reference to the Safety Inspection and Education Act or the Health and Safety Act in any other Act or in any rule contained in the Illinois Administrative Code shall be deemed to be a reference to this Act.

Section 5. Definitions. In this Act:

"Department" means the Department of Labor.

"Director" means the Director of Labor.

"Division" means the Division of Occupational Safety and Health within the Department of Labor.

"Employee" means a person in the service of any of the following entities, regardless of whether the service is by virtue of election, by appointment or contract, or by hire, and regardless of whether the relationship is express or implied or established orally or in writing:

(1) The State. For purposes of this paragraph (1), the

term includes a member of the General Assembly, a member of the Illinois Commerce Commission, a member of the Illinois Workers' Compensation Commission, and any person in the service of a public university or college in Illinois.

(2) An Illinois county. For purposes of this paragraph (2), the term includes a deputy sheriff and an assistant State's Attorney.

(3) An Illinois township.

(4) An Illinois city, village, incorporated town, school district, or other municipal corporation or body politic.

"Public employer" or "employer" means the State of Illinois or any political subdivision of the State.

Section 10. Administration of Act; Division of Occupational Safety and Health.

(a) The Department shall administer this Act. For the purpose of assisting in the administration of this Act, the Director may authorize his or her representatives in the Department to perform any necessary inspections or investigations under this Act.

(b) The Department shall maintain a division within the Department to be known as the Division of Occupational Safety and Health.

Section 15. Application of Act. This Act applies to every

public employer in this State and its employees. Nothing in this Act, however, applies to working conditions of employees with respect to which federal agencies, and State agencies acting under Section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021), exercise statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health. Any State regulations more strict than applicable federal standards shall, before being promulgated, be the subject of hearings as required by this Act.

Section 20. Duties of employers and employees.

(a) Every public employer must provide reasonable protection to the lives, health, and safety of its employees and must furnish to each of its employees employment and a workplace which are free from recognized hazards that cause or are likely to cause death or serious physical harm to its employees.

(b) Every public employer must comply with the occupational safety and health standards promulgated under this Act.

(c) Every public employer must keep its employees informed of their protections and obligations under this Act, including the provisions of applicable standards or rules adopted under this Act.

(d) Every public employer must furnish its employees with information regarding hazards in the workplace, including information about suitable precautions, relevant symptoms, and

emergency treatment.

(e) Every employee must comply with the rules that are promulgated from time to time by the Director under this Act and that are applicable to the employee's actions and conduct.

Section 25. Occupational safety and health standards.

(a) All federal occupational safety and health standards which the United States Secretary of Labor has promulgated or modified in accordance with the federal Occupational Safety and Health Act of 1970 and which are in effect on the effective date of this Act shall be and are hereby made rules of the Department unless the Director promulgates an alternate standard that is at least as effective in providing safe and healthful employment and places of employment as a federal standard. Before developing and adopting an alternate standard or modifying or revoking an existing standard, the Director must consider factual information that includes:

(1) Expert technical knowledge.

(2) Input from interested persons, including employers, employees, recognized standards-producing organizations, and the public.

(b) All federal occupational safety and health standards which the United States Secretary of Labor promulgates or modifies in accordance with the federal Occupational Safety and Health Act of 1970 on or after the effective date of this Act, unless revoked by the Secretary of Labor, shall become rules of

the Department within 6 months after their federal promulgation date, unless there has been in effect in this State at the time of the promulgation or modification of the federal standard an alternate State standard that is at least as effective in providing safe and healthful employment and places of employment as a federal standard. The alternate State standard shall not become effective, however, unless the Department, within 45 days after the federal promulgation date, files with the office of the Secretary of State in Springfield, Illinois, a certified copy of the rule as provided in the Illinois Administrative Procedure Act.

Section 30. Standards; required features.

(a) A standard promulgated under this Act shall prescribe the use of labels or other appropriate forms of warning as are necessary to ensure that employees are apprised of all hazards to which they are exposed, relevant symptoms and appropriate emergency treatment, and proper conditions and precautions of safe use or exposure.

(b) When appropriate, a standard shall also prescribe suitable protective equipment and control or technological procedures to be used in connection with such hazards and shall provide for monitoring or measuring employee exposure at locations and intervals and in a manner as necessary for the protection of employees.

(c) In addition, when appropriate, a standard shall

prescribe the type and frequency of medical examinations or other tests which shall be made available, by the employer or at the employer's cost, to employees exposed to such hazards in order to most effectively determine whether the health of the employees is adversely affected by the exposure. The results of the examinations or tests shall be furnished by the employer only to the Department or, at the direction of the Department, to authorized medical personnel and, at the request of the employee, to the employee's physician.

(d) The Director, in promulgating standards dealing with toxic materials or harmful physical agents under this Section, shall set the standard which most adequately ensures, to the extent feasible, on the basis of the best available evidence, that no employee will suffer material impairment of health or functional capacity even if the employee has regular exposure to the hazard dealt with by the standard for the period of the employee's working life.

(e) Development of standards under this Section shall be based on research, demonstrations, experiments, and other information as appropriate. In addition to the attainment of the highest degree of health and safety protection for the employee, other considerations shall be the latest available scientific data in the field, the feasibility of the standards, and experience gained under this and other health and safety laws. Whenever practicable, a standard shall be expressed in terms of objective criteria and of the performance desired.

Section 35. Emergency temporary standards.

(a) The Director may promulgate emergency temporary standards or rules, or both, to take effect immediately by filing the proposed standard with the Secretary of State, provided that the Director first expressly determines the following:

(1) Employees are exposed to grave danger from exposure to substances or agents determined to be toxic or physically harmful or from new hazards.

(2) The emergency temporary standard is necessary to protect the employees from the danger described in paragraph (1).

(b) The Director shall adopt emergency temporary standards promulgated by the federal Occupational Safety and Health Administration within 30 days of the federal notice of proposed emergency rulemaking. An emergency temporary standard shall be effective until superseded by a permanent standard but in no event for more than 6 months from the date of publication of the emergency temporary standard. The publication of emergency temporary standards shall be deemed to be a petition to the Director for the promulgation of a permanent standard and shall be deemed to be filed with the Director on the date of publication. The proceeding for promulgation of the permanent standard shall be pursued in accordance with this Act.

Section 40. Variance from standards. The Director may grant a temporary or permanent variance from a State occupational safety and health standard upon application by a public employer to the Director. The Director may grant a variance from a standard or portion of a standard if the Director determines that the variance is necessary to permit an employer to participate in an experiment approved by the Director designed to demonstrate or validate new and improved techniques to safeguard the health or safety of workers. A variance from a State occupational safety and health standard may only have future effect.

Section 45. Temporary variance.

(a) A public employer may apply to the Director for a temporary variance from an occupational safety and health standard promulgated under this Act. The Director shall issue a temporary variance only if the employer first files with the Director an application which meets the requirements of this Section.

(b) An application for a temporary variance under this Section shall contain all of the following:

(1) A specification of the standard or portion thereof from which the employer seeks a variance.

(2) A representation by the employer, supported by representations from qualified persons having first-hand knowledge of the facts represented, that the employer is



unable to comply with the standard or portion thereof, and a detailed statement of the reasons therefor.

(3) A statement of the steps the employer has taken and will take to protect employees against a hazard covered by the standard, including specific dates on which or by which the employer has taken or will take those steps.

(4) A statement specifying the date by which the employer expects to be able to comply with the standard.

(5) A certification that the employer has informed its employees of the application by giving a copy of the application to the employees' authorized representative, by posting a statement at the place or places where notices to employees are normally posted that summarizes the application and specifies where a copy may be examined, and by other appropriate means as determined by the employer. The information provided to employees shall also inform them of their right to petition the Director for a hearing on the application.

(c) An application for a temporary variance under this Section shall establish all of the following:

(1) The employer is unable to comply with a standard by its effective date because professional or technical personnel or materials and equipment needed to comply with the standard are unavailable or because necessary construction or alteration of facilities cannot be completed by the effective date of the standard.

(2) The employer is taking all available steps to safeguard its employees against the hazards covered by the standard.

(3) The employer has an effective program for complying with the standard as quickly as practicable.

(d) The Director may issue a temporary variance only after the Department provides notice to the employer's employees and an opportunity for a hearing. However, in a case involving only documentary evidence in support of the application for a temporary variance and in which no objection is made or hearing requested by the employees or their representative, the Director may issue a temporary variance in accordance with this Act without a hearing.

(e) If a hearing is requested on an application for a temporary variance, the application shall be heard and determined by the Director.

(f) A temporary variance issued under this Section shall prescribe the practices, means, methods, operations, and processes which the employer must adopt and use while the temporary variance is in effect and shall state in detail the employer's program for achieving compliance with the standard.

#### Section 50. Permanent variance.

(a) A public employer affected by an occupational safety and health standard promulgated under this Act may apply to the Director for a permanent variance from that standard. The form

and manner of the application shall be as provided in rules.

(b) Employees affected by a standard from which their employer has applied for a variance under this Section shall be given notice of the employer's application and an opportunity to participate in a hearing on the application.

(c) The Director shall issue a permanent variance if he or she determines on the record, after opportunity for an inspection where appropriate as determined by the Department and a hearing, that the employer has demonstrated by a preponderance of the evidence that the conditions, practices, means, methods, operations, or processes used or proposed to be used by the employer will provide employment and places of employment to its employees which are as safe and healthful as those which would prevail if the employer complied with the standard. The variance shall prescribe the conditions the employer must maintain, and the practices, means, methods, operations, and processes which the employer must adopt and utilize, to the extent they differ from the standard in question.

(d) A variance issued under this Section may be modified or revoked upon application by the employer, by the employees, or by the Director on his or her own motion, in the manner prescribed for the issuance of a variance under this Section at any time after 6 months from the issuance of the variance.

Section 55. Rules generally.

(a) The Director, from time to time, shall promulgate rules that clearly describe the persons to whom those rules apply and that clearly describe the conduct that is required of those persons. Each such rule shall, by its terms, be uniform and general in its application wherever the subject matter of the rule exists in any workplace having employees in the service of a public employer. The rules may include rules that, when applicable to products which are distributed or used in interstate commerce, are required by compelling local conditions and do not unduly burden interstate commerce.

(b) Any standards or rules promulgated by the Director under the Safety Inspection and Education Act or the Health and Safety Act that are in full force on the effective date of this Act shall become the rules of the Department under this Act. This Act does not affect the legality of any such rules in the Illinois Administrative Code.

(c) Any proposed standards or rules filed with the Secretary of State by the Director under the Safety Inspection and Education Act or the Health and Safety Act that are pending in the rulemaking process on the effective date of this Act shall be deemed to have been filed by the Director under this Act.

(d) As soon as practicable after the effective date of this Act, the Director shall revise and clarify the standards or rules described in subsections (b) and (c) as necessary to reflect the provisions of this Act.

Section 60. Employers' records.

(a) The Director shall adopt rules requiring public employers to maintain accurate records of, and to make reports on, work-related deaths, injuries, and illnesses, other than minor injuries requiring only first aid treatment which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job. The rules shall specifically include all of the reporting provisions of Section 6 of the Workers' Compensation Act and Section 6 of the Workers' Occupational Diseases Act. The records shall be available to any State agency requiring such information.

(b) The Director shall adopt rules requiring public employers to maintain accurate records of employee exposures to potentially toxic materials or harmful physical agents which are required to be monitored or measured under this Act. The rules shall provide employees or their authorized representative with an opportunity to observe the monitoring or measuring, and to have access to the records of the monitoring or measuring. The rules shall provide appropriate means by which each employee or former employee may have access to such records as will indicate his or her exposure to toxic materials or harmful physical agents.

(c) A public employer shall promptly notify any employee who has been or is being exposed to toxic materials or harmful physical agents in concentrations or at levels which exceed

those prescribed by an occupational safety and health standard and shall inform the employee who is being thus exposed of the action being taken by the employer to correct such exposure.

Section 65. Periodic inspection of workplaces.

(a) The Director shall enforce the occupational safety and health standards and rules promulgated under this Act and any occupational health and safety regulations relating to inspection of places of employment, and shall visit and inspect, as often as practicable, the places of employment covered by this Act.

(b) The Director or his or her authorized representative, upon presenting appropriate credentials to a public employer's agent in charge, has the right to enter and inspect all places of employment covered by this Act as follows:

(1) An inspector may enter without delay and at reasonable times any establishment, construction site, or other area, workplace, or environment where work is performed by an employee of a public employer in order to enforce the occupational safety and health standards adopted under this Act.

(2) If a public employer refuses entry to an inspector upon being presented with proper credentials or allows entry but then refuses to permit or hinders the inspection in any way, the inspector shall leave the premises and immediately report the refusal to authorized management

within the Division. Authorized management shall notify the Director to initiate the compulsory legal process to obtain entry or obtain a warrant for entry, or both.

(3) An inspector may inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any workplace described in paragraph (1) and all pertinent conditions, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately the employer or any agent or employee of the employer.

(4) The owner, operator, manager, or lessee of any workplace covered by this Act, and his or her agent or employee, and any employer affected by this Act shall, when requested by the Division of Occupational Safety and Health or any duly authorized agent of that Division: (i) furnish any information in his or her possession or under his or her control which the Department is authorized to require, (ii) answer truthfully all questions required to be put to him or her, and (iii) cooperate in the making of a proper inspection.

Section 70. Inspection of workplace upon complaint.

(a) An employee or representative of employees who believes that a violation of an occupational safety and health standard exists in a workplace covered by this Act or that an imminent

danger exists in such a place may request an inspection by submitting a written complaint to the Director or his or her authorized representative setting forth with reasonable particularity the grounds for the complaint. The complaint shall be signed by the employee or representative.

(b) If the Director or the Director's authorized representative determines there are no reasonable grounds to believe that a violation or imminent danger exists, he or she shall notify the employee or representative of employees of that determination in writing.

(c) If, upon receipt of the complaint, the Director or his or her authorized representative determines there are reasonable grounds to believe that a violation or imminent danger exists, he or she shall make a special inspection of the workplace in accordance with this Act, as soon as practicable, to determine whether a violation or imminent danger exists.

(d) A copy of the complaint shall be provided to the public employer or its agent by the Director or his or her authorized representative at the time of the inspection, except that, upon the request of the person making the complaint, that person's name and the names of individual employees referred to in the complaint shall not appear in the copy or on any record published, released, or made available by the Director or his or her authorized representative.

(e) Nonformal safety and health complaints shall be handled by an authorized representative of the Director. Based on the



severity and legitimacy of the complaint as determined by the Division, the Director's authorized representative shall either schedule an inspection of the workplace or issue a letter to the employer stating the allegations set forth in the complaint.

Section 75. Opportunity to accompany inspection. Subject to rules adopted by the Director, a representative of the employer and a representative authorized by the employer's employees shall be given an opportunity to accompany the Director or his or her authorized representative during the physical inspection of any workplace under this Act for the purpose of aiding the inspection. If there is no authorized employee representative, the Director or his or her authorized representative shall consult with a reasonable number of employees concerning matters of occupational safety and health in the workplace.

Section 80. Violation of Act or standard; citation.

(a) Upon inspection or investigation of a workplace, if the Director or his or her authorized representative believes that a public employer has violated a requirement of this Act or a standard, rule, or regulation promulgated under this Act, he or she shall with reasonable promptness issue a citation to the employer. A citation shall: (i) be in writing, (ii) describe with particularity the nature of the violation and include a

reference to the provision of the Act, standard, rule, or regulation alleged to have been violated, and (iii) fix a reasonable time for the abatement of the violation.

(b) Each citation issued under this Section, or a copy or copies thereof, shall be prominently posted at or near the place at which the violation occurred as prescribed in rules adopted by the Director.

(c) A citation shall be served on the employer or the employer's agent by delivering a copy to the person upon whom the service is to be had, or by leaving a copy at his or her usual place of business or abode, or by sending a copy by certified mail to his or her place of business.

(d) A citation may not be issued under this Section after the expiration of 6 months following the occurrence of any violation.

#### Section 85. Civil penalties.

(a) After an inspection of a workplace under this Act, if the Director issues a citation, he or she shall, within 5 days after issuing the citation, notify the employer by certified mail of any civil penalty proposed to be assessed for the violation set forth in the citation.

(b) If the Director has reason to believe that an employer has failed to correct a violation for which a citation has been issued within the period permitted for its correction, the Director shall notify the employer by certified mail of that

failure and of the civil penalty proposed to be assessed for that failure.

(c) Civil penalties authorized under this Section are as follows:

(1) A public employer that repeatedly violates this Act, the Safety Inspection and Education Act, or the Health and Safety Act, or any combination of those Acts, or any standard, rule, regulation, or order under any of those Acts, may be assessed a civil penalty of not more than \$10,000 per violation.

(2) A public employer that intentionally violates this Act, the Safety Inspection and Education Act, or the Health and Safety Act, or any standard, rule, regulation, or order under any of those Acts, or who demonstrates plain indifference to any provision of any of those Acts or any such standard, rule, regulation, or order, may be assessed a civil penalty of not more than \$10,000.

(3) A public employer that has received a citation for a serious violation of this Act, the Safety Inspection and Education Act, or the Health and Safety Act, or any standard, rule, regulation, or order under any of those Acts, may be assessed a civil penalty up to \$1,000 for each such violation.

(4) A public employer that has received a citation for a violation of this Act, the Safety Inspection and Education Act, or the Health and Safety Act, or any

standard, rule, regulation, or order under any of those Acts, which is not a serious violation, may be assessed a civil penalty of up to \$1,000 for each such violation.

(5) A public employer that violates a posting requirement is subject to the following citations and proposed penalty structure:

(A) Job Safety and Health Poster: an other than serious citation and a proposed penalty of \$1,000.

(B) Annual Summary of Work-Related Injuries and Illnesses (OSHA Form 300A): an other than serious citation and a proposed penalty of \$1,000, even if there are no recordable injuries or illnesses.

(C) Citation: an other than serious citation and a proposed penalty of \$1,000.

(6) A public employer that fails to correct a violation for which a citation has been issued within the period permitted may be assessed a civil penalty of up to \$1,000 for each day the violation continues.

(d) For purposes of this Section, a "serious violation" shall be deemed to exist in a workplace if there is a substantial probability that death or serious physical harm could result from (i) a condition which exists or (ii) one or more practices, means, methods, operations, or processes which have been adopted or are in use in the workplace, unless the employer did not know and could not, with the exercise of reasonable diligence, have known of the presence of the

violation.

(e) The Director may assess civil penalties as provided in this Section, giving due consideration to the appropriateness of the penalty. A penalty may be reduced by the Director or the Director's authorized representative based on the public employer's good faith, size of business, and history of previous violations.

(f) The Attorney General may bring an action in the circuit court to enforce the collection of any civil penalty assessed under this Act.

(g) All civil penalties collected under this Act shall be deposited into the General Revenue Fund of the State of Illinois.

Section 90. Informal review.

(a) A public employer may submit in writing data relating to the abatement of a hazard to be considered by an authorized representative of the Director. The authorized representative shall notify the interested parties if such data will be used to modify an abatement order.

(b) Within 15 working days after receiving a citation, proposed assessment of a civil penalty, or notice of failure to correct a violation, a public employer or the employer's agent may request that an authorized representative of the Director review abatement dates, reclassify violations (such as willful to serious, serious to other than serious), or modify or

withdraw a penalty, a citation, or a citation item, or any combination of those, if the employer presents evidence during the informal conference which convinces the authorized representative that the changes are justified.

Section 95. Request for hearing.

(a) Within 15 working days after receiving a citation, proposed assessment of a civil penalty, or notice of failure to correct a violation, a public employer or the employer's agent, manager, or superintendent may request in writing a hearing before the Director to contest the citation, assessment of a civil penalty, or notice of failure to correct a violation.

(b) If, within 15 working days after receiving a citation and notice of penalty or notice of failure to correct a violation issued by the Director, the employer fails to notify the Director that it intends to contest the citation, assessment of a civil penalty, or notice of failure to correct a violation, and if no notice requesting a hearing is filed by an employee or employee representative under subsection (c) within that time, the citation, assessment of a civil penalty, or notice of failure to correct a violation shall be deemed a final order and not subject to review by any court or agency.

(c) Within 15 working days after the issuance of a citation under Section 80, an employee or representative of an employee may file a request in writing for a hearing before the Director to contest the citation on the ground that the period of time

fixed in the citation for the abatement of the violation identified in the citation is unreasonable.

Section 100. Hearing.

(a) If a public employer or the employer's representative notifies the Director that the employer intends to contest a citation and notice of penalty or if, within 15 working days after the issuance of the citation, an employee or representative of employees files a notice with the Director alleging that the period of time fixed in the citation for the abatement of the violation is unreasonable, the Director shall afford an opportunity for a hearing before an Administrative Law Judge designated by the Director.

(b) At the hearing, the employer or employee shall state his or her objections to the citation and provide evidence why the citation should not stand as issued. The Director or his or her representative shall be given the opportunity to state his or her reasons for issuing the citation. Affected employees shall be provided an opportunity to participate as parties to hearings under the rules of procedure prescribed by the Director (56 Ill. Admin. Code, Part 120).

(c) The Director, or the Administrative Law Judge on behalf of the Director, has the power to do the following:

(1) Issue subpoenas for and compel the attendance of witnesses.

(2) Hear testimony and receive evidence.

(3) Order testimony of a witness residing within or without this State to be taken by deposition in the manner prescribed by law for depositions in civil cases in the circuit court in any proceeding pending before him or her at any stage of such proceeding.

(d) Subpoenas and commissions to take testimony shall be under seal of the Director. Service of subpoenas may be made by a sheriff or any other person.

(e) The circuit court for the county where any hearing is pending may compel the attendance of witnesses, the production of pertinent books, papers, records, or documents, and the giving of testimony before the Director or an Administrative Law Judge by an attachment proceeding, as for contempt, in the same manner as the production of evidence may be compelled before the court.

(f) The Administrative Law Judge on behalf of the Director, after considering the evidence presented at the formal hearing, in accordance with the Director's rules, shall enter a final decision and order within a reasonable time affirming, modifying, or vacating the citation or proposed assessment of a civil penalty, or directing other appropriate relief.

Section 105. Judicial review.

(a) Any party adversely affected by a final order or determination of the Administrative Law Judge on behalf of the Director may obtain judicial review of that order or



determination by filing a complaint for review within 35 days after the entry of the order or other final action complained of, pursuant to the Administrative Review Law. If no appeal is taken within 35 days after the order or determination is issued, the order shall become final.

(b) A request for judicial review filed under this Section shall be heard expeditiously.

Section 110. Discrimination against employee prohibited.

(a) A person may not discharge or in any way discriminate against an employee because the employee has: (i) filed a complaint or instituted or caused to be instituted any proceeding under this Act, (ii) testified or is about to testify in any such proceeding, or (iii) exercised, on his or her own behalf or on behalf of another person, any right afforded by this Act.

(b) An employee who believes that he or she has been discharged or otherwise discriminated against by an employer in violation of this Section may, within 30 calendar days after the violation occurs, file a complaint with the Director alleging the discrimination.

(c) Upon receipt of the complaint, the Director shall cause an investigation to be made as the Director deems appropriate. After the investigation, if the Director determines that the employer has violated this Section, the Director shall bring an action in the circuit court for appropriate relief, including

rehiring or reinstatement of the employee to his or her former position with back pay, after taking into account any interim earnings of the employee.

Section 115. Abatement of imminent danger.

(a) Whenever the Director determines that an imminent danger exists in the working conditions of any public employee in this State, and that the danger may reasonably be expected to cause death or serious physical harm immediately or before the imminence of the danger can be eliminated through the enforcement procedures otherwise provided by this Act, the Director may file a complaint in the circuit court for appropriate relief, including an order that may require steps to be taken as necessary to abate, avoid, correct, or remove the imminent danger and prohibit the employment or presence of any individual in locations or under conditions where the imminent danger exists, except those individuals whose presence is necessary to abate, avoid, correct, or remove the imminent danger or to maintain the capacity of a continuous process operation to assume normal operations without a complete cessation of operations, or, if a cessation of operations is necessary, to permit the cessation to be accomplished in a safe and orderly manner.

(b) If an inspector concludes that an imminent danger exists in any workplace, the inspector shall promptly inform the affected employees or their authorized representative and

the employer of the danger and that the inspector will recommend to the Director that relief be sought as provided in subsection (a).

(c) If the Director arbitrarily or capriciously fails to seek relief under subsection (a) after receiving an inspector's recommendation under subsection (b), an employee who is injured by reason of such failure, or the representative of the employee, may bring an action against the Director in the circuit court for the county in which the imminent danger is alleged to exist or in which the employer has his or her principal office for relief by mandamus to compel the Director to seek relief under subsection (a) and for such further relief as may be appropriate.

Section 120. Criminal penalties.

(a) Willful violation. A public employer that willfully violates any provision of this Act or any standard, rule, regulation, or order under this Act commits a Class 4 felony if that violation causes the death of any employee.

(b) Advance notice of inspection. A person who gives advance notice to a public employer of any inspection to be conducted under this Act, without authority from the Director or the Director's authorized representative, commits a Class B misdemeanor.

(c) False statement. A person who knowingly makes a false statement, representation, or certification in any

application, record, report, plan, or other document required under this Act, or any standard, rule, regulation, or order adopted or issued under this Act, commits a Class 4 felony.

Section 125. Confidentiality of trade secrets.

(a) All information reported to or otherwise obtained by the Director or the Director's authorized representative in connection with any inspection or proceeding under this Act or any standard, rule, regulation, or order adopted or issued under this Act which contains or might reveal a trade secret shall be considered confidential, except that such information may be disclosed confidentially to other officers or employees concerned with carrying out this Act or when relevant to any proceeding under this Act. In any such proceeding, the Director or the court shall issue such orders as may be appropriate, including an order for the impoundment of files or portions of files, to protect the confidentiality of trade secrets.

(b) A person who discloses a trade secret in violation of this Section commits a Class B misdemeanor.

Section 130. Prosecution by Attorney General or State's Attorney. The Attorney General or a State's Attorney, upon request of the Department, shall prosecute any violation of this Act or a standard, rule, regulation, or order adopted or issued under this Act.

Section 135. Safety education and other programs.

(a) The Department shall encourage public employers as well as organizations and groups of employees to institute and maintain safety education programs for employees and promote the observation of safety practices.

(b) The Department shall provide and conduct educational programs specifically designed to meet the regulatory requirements set forth in the occupational safety and health standards and to meet the needs of public employers.

(c) The Department shall conduct regular public information programs to inform public employers of changes or updates to the standards and rules adopted under this Act as necessary.

(d) The Department shall provide support services for any public employer that needs assistance with the public employer's self-inspection programs.

Section 140. Director's reports.

(a) In the annual report to the Governor required by the Civil Administrative Code of Illinois, the Director shall report the result of inspections and investigations made of establishments under this Act, together with such other information and recommendations as he or she deems proper.

(b) The Director shall make an annual report of his or her work under this Act to the Governor on or before the first day of February of each year. The Director shall make a biennial

report to the General Assembly on or before the first day of February of each odd-numbered year.

Section 145. Transition provisions. This Act does not affect any act done, ratified, or canceled, or any right occurring or established, or any action or proceeding had or commenced in an administrative, civil, or criminal cause, under the Safety Inspection and Education Act or the Health and Safety Act, or any standard or rule adopted under either of those Acts, before the effective date of this Act. An employee or public employer may enforce any such right under this Act. The Department, or the Attorney General or a State's Attorney, may prosecute or continue any such action or proceeding under this Act.

Section 900. The Civil Administrative Code of Illinois is amended by changing Sections 5-145 and 5-365 as follows:

(20 ILCS 5/5-145) (was 20 ILCS 5/5.03)

Sec. 5-145. In the Department of Labor. Assistant Director of Labor; Chief Safety ~~Factory~~ Inspector; and Superintendent of Occupational Safety and Health ~~Inspection and Education~~.

(Source: P.A. 91-239, eff. 1-1-00.)

(20 ILCS 5/5-365) (was 20 ILCS 5/9.03)

Sec. 5-365. In the Department of Labor. The Director of

Labor shall receive an annual salary as set by the Compensation Review Board.

The Assistant Director of Labor shall receive an annual salary as set by the Compensation Review Board.

The Chief Safety ~~Factory~~ Inspector shall receive \$24,700 from the third Monday in January, 1979 to the third Monday in January, 1980, and \$25,000 thereafter, or as set by the Compensation Review Board, whichever is greater.

The Superintendent of Occupational Safety and Health ~~Inspection and Education~~ shall receive \$27,500, or as set by the Compensation Review Board, whichever is greater.

The Superintendent of Women's and Children's Employment shall receive \$22,000 from the third Monday in January, 1979 to the third Monday in January, 1980, and \$22,500 thereafter, or as set by the Compensation Review Board, whichever is greater.

(Source: P.A. 96-800, eff. 10-30-09.)

(820 ILCS 220/Act rep.)

Section 910. The Safety Inspection and Education Act is repealed.

(820 ILCS 225/Act rep.)

Section 915. The Health and Safety Act is repealed.

Section 920. The Workers' Compensation Act is amended by changing Sections 6 and 19 as follows:

(820 ILCS 305/6) (from Ch. 48, par. 138.6)

Sec. 6. (a) Every employer within the provisions of this Act, shall, under the rules and regulations prescribed by the Commission, post printed notices in their respective places of employment in such number and at such places as may be determined by the Commission, containing such information relative to this Act as in the judgment of the Commission may be necessary to aid employees to safeguard their rights under this Act in event of injury.

In addition thereto, the employer shall post in a conspicuous place on the place of the employment a printed or typewritten notice stating whether he is insured or whether he has qualified and is operating as a self-insured employer. In the event the employer is insured, the notice shall state the name and address of his insurance carrier, the number of the insurance policy, its effective date and the date of termination. In the event of the termination of the policy for any reason prior to the termination date stated, the posted notice shall promptly be corrected accordingly. In the event the employer is operating as a self-insured employer the notice shall state the name and address of the company, if any, servicing the compensation payments of the employer, and the name and address of the person in charge of making compensation payments.

(b) Every employer subject to this Act shall maintain



accurate records of work-related deaths, injuries and illness other than minor injuries requiring only first aid treatment and which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job and file with the Commission, in writing, a report of all accidental deaths, injuries and illnesses arising out of and in the course of the employment resulting in the loss of more than 3 scheduled work days. In the case of death such report shall be made no later than 2 working days following the accidental death. In all other cases such report shall be made between the 15th and 25th of each month unless required to be made sooner by rule of the Commission. In case the injury results in permanent disability, a further report shall be made as soon as it is determined that such permanent disability has resulted or will result from the injury. All reports shall state the date of the injury, including the time of day or night, the nature of the employer's business, the name, address, age, sex, conjugal condition of the injured person, the specific occupation of the injured person, the direct cause of the injury and the nature of the accident, the character of the injury, the length of disability, and in case of death the length of disability before death, the wages of the injured person, whether compensation has been paid to the injured person, or to his or her legal representative or his heirs or next of kin, the amount of compensation paid, the amount paid for physicians', surgeons' and hospital bills, and by whom

paid, and the amount paid for funeral or burial expenses if known. The reports shall be made on forms and in the manner as prescribed by the Commission and shall contain such further information as the Commission shall deem necessary and require. The making of these reports releases the employer from making such reports to any other officer of the State and shall satisfy the reporting provisions as contained in the Safety Inspection and Education Act, the "Health and Safety Act," and the Occupational Safety and Health Act ~~"An Act in relation to safety inspections and education in industrial and commercial establishments and to repeal an Act therein named"~~, approved July 18, 1955, as now or hereafter amended. The reports filed with the Commission pursuant to this Section shall be made available by the Commission to the Director of Labor or his representatives and to all other departments of the State of Illinois which shall require such information for the proper discharge of their official duties. Failure to file with the Commission any of the reports required in this Section is a petty offense.

Except as provided in this paragraph, all reports filed hereunder shall be confidential and any person having access to such records filed with the Illinois Workers' Compensation Commission as herein required, who shall release any information therein contained including the names or otherwise identify any persons sustaining injuries or disabilities, or give access to such information to any unauthorized person,

shall be subject to discipline or discharge, and in addition shall be guilty of a Class B misdemeanor. The Commission shall compile and distribute to interested persons aggregate statistics, taken from the reports filed hereunder. The aggregate statistics shall not give the names or otherwise identify persons sustaining injuries or disabilities or the employer of any injured or disabled person.

(c) Notice of the accident shall be given to the employer as soon as practicable, but not later than 45 days after the accident. Provided:

(1) In case of the legal disability of the employee or any dependent of a deceased employee who may be entitled to compensation under the provisions of this Act, the limitations of time by this Act provided do not begin to run against such person under legal disability until a guardian has been appointed.

(2) In cases of injuries sustained by exposure to radiological materials or equipment, notice shall be given to the employer within 90 days subsequent to the time that the employee knows or suspects that he has received an excessive dose of radiation.

No defect or inaccuracy of such notice shall be a bar to the maintenance of proceedings on arbitration or otherwise by the employee unless the employer proves that he is unduly prejudiced in such proceedings by such defect or inaccuracy.

Notice of the accident shall give the approximate date and

place of the accident, if known, and may be given orally or in writing.

(d) Every employer shall notify each injured employee who has been granted compensation under the provisions of Section 8 of this Act of his rights to rehabilitation services and advise him of the locations of available public rehabilitation centers and any other such services of which the employer has knowledge.

In any case, other than one where the injury was caused by exposure to radiological materials or equipment or asbestos unless the application for compensation is filed with the Commission within 3 years after the date of the accident, where no compensation has been paid, or within 2 years after the date of the last payment of compensation, where any has been paid, whichever shall be later, the right to file such application shall be barred.

In any case of injury caused by exposure to radiological materials or equipment or asbestos, unless application for compensation is filed with the Commission within 25 years after the last day that the employee was employed in an environment of hazardous radiological activity or asbestos, the right to file such application shall be barred.

If in any case except one where the injury was caused by exposure to radiological materials or equipment or asbestos, the accidental injury results in death application for compensation for death may be filed with the Commission within

3 years after the date of death where no compensation has been paid or within 2 years after the date of the last payment of compensation where any has been paid, whichever shall be later, but not thereafter.

If an accidental injury caused by exposure to radiological material or equipment or asbestos results in death within 25 years after the last day that the employee was so exposed application for compensation for death may be filed with the Commission within 3 years after the date of death, where no compensation has been paid, or within 2 years after the date of the last payment of compensation where any has been paid, whichever shall be later, but not thereafter.

(e) Any contract or agreement made by any employer or his agent or attorney with any employee or any other beneficiary of any claim under the provisions of this Act within 7 days after the injury shall be presumed to be fraudulent.

(f) Any condition or impairment of health of an employee employed as a firefighter, emergency medical technician (EMT), or paramedic which results directly or indirectly from any bloodborne pathogen, lung or respiratory disease or condition, heart or vascular disease or condition, hypertension, tuberculosis, or cancer resulting in any disability (temporary, permanent, total, or partial) to the employee shall be rebuttably presumed to arise out of and in the course of the employee's firefighting, EMT, or paramedic employment and, further, shall be rebuttably presumed to be causally connected

to the hazards or exposures of the employment. This presumption shall also apply to any hernia or hearing loss suffered by an employee employed as a firefighter, EMT, or paramedic. However, this presumption shall not apply to any employee who has been employed as a firefighter, EMT, or paramedic for less than 5 years at the time he or she files an Application for Adjustment of Claim concerning this condition or impairment with the Illinois Workers' Compensation Commission. The rebuttable presumption established under this subsection, however, does not apply to an emergency medical technician (EMT) or paramedic employed by a private employer if the employee spends the preponderance of his or her work time for that employer engaged in medical transfers between medical care facilities or non-emergency medical transfers to or from medical care facilities. The changes made to this subsection by this amendatory Act of the 98th General Assembly shall be narrowly construed. The Finding and Decision of the Illinois Workers' Compensation Commission under only the rebuttable presumption provision of this subsection shall not be admissible or be deemed res judicata in any disability claim under the Illinois Pension Code arising out of the same medical condition; however, this sentence makes no change to the law set forth in *Krohe v. City of Bloomington*, 204 Ill.2d 392.

(Source: P.A. 98-291, eff. 1-1-14.)

Sec. 19. Any disputed questions of law or fact shall be determined as herein provided.

(a) It shall be the duty of the Commission upon notification that the parties have failed to reach an agreement, to designate an Arbitrator.

1. Whenever any claimant misconceives his remedy and files an application for adjustment of claim under this Act and it is subsequently discovered, at any time before final disposition of such cause, that the claim for disability or death which was the basis for such application should properly have been made under the Workers' Occupational Diseases Act, then the provisions of Section 19, paragraph (a-1) of the Workers' Occupational Diseases Act having reference to such application shall apply.

2. Whenever any claimant misconceives his remedy and files an application for adjustment of claim under the Workers' Occupational Diseases Act and it is subsequently discovered, at any time before final disposition of such cause that the claim for injury or death which was the basis for such application should properly have been made under this Act, then the application so filed under the Workers' Occupational Diseases Act may be amended in form, substance or both to assert claim for such disability or death under this Act and it shall be deemed to have been so filed as amended on the date of the original filing thereof, and such compensation may be awarded as is

warranted by the whole evidence pursuant to this Act. When such amendment is submitted, further or additional evidence may be heard by the Arbitrator or Commission when deemed necessary. Nothing in this Section contained shall be construed to be or permit a waiver of any provisions of this Act with reference to notice but notice if given shall be deemed to be a notice under the provisions of this Act if given within the time required herein.

(b) The Arbitrator shall make such inquiries and investigations as he or they shall deem necessary and may examine and inspect all books, papers, records, places, or premises relating to the questions in dispute and hear such proper evidence as the parties may submit.

The hearings before the Arbitrator shall be held in the vicinity where the injury occurred after 10 days' notice of the time and place of such hearing shall have been given to each of the parties or their attorneys of record.

The Arbitrator may find that the disabling condition is temporary and has not yet reached a permanent condition and may order the payment of compensation up to the date of the hearing, which award shall be reviewable and enforceable in the same manner as other awards, and in no instance be a bar to a further hearing and determination of a further amount of temporary total compensation or of compensation for permanent disability, but shall be conclusive as to all other questions except the nature and extent of said disability.



The decision of the Arbitrator shall be filed with the Commission which Commission shall immediately send to each party or his attorney a copy of such decision, together with a notification of the time when it was filed. As of the effective date of this amendatory Act of the 94th General Assembly, all decisions of the Arbitrator shall set forth in writing findings of fact and conclusions of law, separately stated, if requested by either party. Unless a petition for review is filed by either party within 30 days after the receipt by such party of the copy of the decision and notification of time when filed, and unless such party petitioning for a review shall within 35 days after the receipt by him of the copy of the decision, file with the Commission either an agreed statement of the facts appearing upon the hearing before the Arbitrator, or if such party shall so elect a correct transcript of evidence of the proceedings at such hearings, then the decision shall become the decision of the Commission and in the absence of fraud shall be conclusive. The Petition for Review shall contain a statement of the petitioning party's specific exceptions to the decision of the arbitrator. The jurisdiction of the Commission to review the decision of the arbitrator shall not be limited to the exceptions stated in the Petition for Review. The Commission, or any member thereof, may grant further time not exceeding 30 days, in which to file such agreed statement or transcript of evidence. Such agreed statement of facts or correct transcript of evidence, as the case may be, shall be

authenticated by the signatures of the parties or their attorneys, and in the event they do not agree as to the correctness of the transcript of evidence it shall be authenticated by the signature of the Arbitrator designated by the Commission.

Whether the employee is working or not, if the employee is not receiving or has not received medical, surgical, or hospital services or other services or compensation as provided in paragraph (a) of Section 8, or compensation as provided in paragraph (b) of Section 8, the employee may at any time petition for an expedited hearing by an Arbitrator on the issue of whether or not he or she is entitled to receive payment of the services or compensation. Provided the employer continues to pay compensation pursuant to paragraph (b) of Section 8, the employer may at any time petition for an expedited hearing on the issue of whether or not the employee is entitled to receive medical, surgical, or hospital services or other services or compensation as provided in paragraph (a) of Section 8, or compensation as provided in paragraph (b) of Section 8. When an employer has petitioned for an expedited hearing, the employer shall continue to pay compensation as provided in paragraph (b) of Section 8 unless the arbitrator renders a decision that the employee is not entitled to the benefits that are the subject of the expedited hearing or unless the employee's treating physician has released the employee to return to work at his or her regular job with the employer or the employee actually

returns to work at any other job. If the arbitrator renders a decision that the employee is not entitled to the benefits that are the subject of the expedited hearing, a petition for review filed by the employee shall receive the same priority as if the employee had filed a petition for an expedited hearing by an Arbitrator. Neither party shall be entitled to an expedited hearing when the employee has returned to work and the sole issue in dispute amounts to less than 12 weeks of unpaid compensation pursuant to paragraph (b) of Section 8.

Expedited hearings shall have priority over all other petitions and shall be heard by the Arbitrator and Commission with all convenient speed. Any party requesting an expedited hearing shall give notice of a request for an expedited hearing under this paragraph. A copy of the Application for Adjustment of Claim shall be attached to the notice. The Commission shall adopt rules and procedures under which the final decision of the Commission under this paragraph is filed not later than 180 days from the date that the Petition for Review is filed with the Commission.

Where 2 or more insurance carriers, private self-insureds, or a group workers' compensation pool under Article V 3/4 of the Illinois Insurance Code dispute coverage for the same injury, any such insurance carrier, private self-insured, or group workers' compensation pool may request an expedited hearing pursuant to this paragraph to determine the issue of coverage, provided coverage is the only issue in dispute and

all other issues are stipulated and agreed to and further provided that all compensation benefits including medical benefits pursuant to Section 8(a) continue to be paid to or on behalf of petitioner. Any insurance carrier, private self-insured, or group workers' compensation pool that is determined to be liable for coverage for the injury in issue shall reimburse any insurance carrier, private self-insured, or group workers' compensation pool that has paid benefits to or on behalf of petitioner for the injury.

(b-1) If the employee is not receiving medical, surgical or hospital services as provided in paragraph (a) of Section 8 or compensation as provided in paragraph (b) of Section 8, the employee, in accordance with Commission Rules, may file a petition for an emergency hearing by an Arbitrator on the issue of whether or not he is entitled to receive payment of such compensation or services as provided therein. Such petition shall have priority over all other petitions and shall be heard by the Arbitrator and Commission with all convenient speed.

Such petition shall contain the following information and shall be served on the employer at least 15 days before it is filed:

- (i) the date and approximate time of accident;
- (ii) the approximate location of the accident;
- (iii) a description of the accident;
- (iv) the nature of the injury incurred by the employee;
- (v) the identity of the person, if known, to whom the

accident was reported and the date on which it was reported;

(vi) the name and title of the person, if known, representing the employer with whom the employee conferred in any effort to obtain compensation pursuant to paragraph (b) of Section 8 of this Act or medical, surgical or hospital services pursuant to paragraph (a) of Section 8 of this Act and the date of such conference;

(vii) a statement that the employer has refused to pay compensation pursuant to paragraph (b) of Section 8 of this Act or for medical, surgical or hospital services pursuant to paragraph (a) of Section 8 of this Act;

(viii) the name and address, if known, of each witness to the accident and of each other person upon whom the employee will rely to support his allegations;

(ix) the dates of treatment related to the accident by medical practitioners, and the names and addresses of such practitioners, including the dates of treatment related to the accident at any hospitals and the names and addresses of such hospitals, and a signed authorization permitting the employer to examine all medical records of all practitioners and hospitals named pursuant to this paragraph;

(x) a copy of a signed report by a medical practitioner, relating to the employee's current inability to return to work because of the injuries incurred as a

result of the accident or such other documents or affidavits which show that the employee is entitled to receive compensation pursuant to paragraph (b) of Section 8 of this Act or medical, surgical or hospital services pursuant to paragraph (a) of Section 8 of this Act. Such reports, documents or affidavits shall state, if possible, the history of the accident given by the employee, and describe the injury and medical diagnosis, the medical services for such injury which the employee has received and is receiving, the physical activities which the employee cannot currently perform as a result of any impairment or disability due to such injury, and the prognosis for recovery;

(xi) complete copies of any reports, records, documents and affidavits in the possession of the employee on which the employee will rely to support his allegations, provided that the employer shall pay the reasonable cost of reproduction thereof;

(xii) a list of any reports, records, documents and affidavits which the employee has demanded by subpoena and on which he intends to rely to support his allegations;

(xiii) a certification signed by the employee or his representative that the employer has received the petition with the required information 15 days before filing.

Fifteen days after receipt by the employer of the petition with the required information the employee may file said

petition and required information and shall serve notice of the filing upon the employer. The employer may file a motion addressed to the sufficiency of the petition. If an objection has been filed to the sufficiency of the petition, the arbitrator shall rule on the objection within 2 working days. If such an objection is filed, the time for filing the final decision of the Commission as provided in this paragraph shall be tolled until the arbitrator has determined that the petition is sufficient.

The employer shall, within 15 days after receipt of the notice that such petition is filed, file with the Commission and serve on the employee or his representative a written response to each claim set forth in the petition, including the legal and factual basis for each disputed allegation and the following information: (i) complete copies of any reports, records, documents and affidavits in the possession of the employer on which the employer intends to rely in support of his response, (ii) a list of any reports, records, documents and affidavits which the employer has demanded by subpoena and on which the employer intends to rely in support of his response, (iii) the name and address of each witness on whom the employer will rely to support his response, and (iv) the names and addresses of any medical practitioners selected by the employer pursuant to Section 12 of this Act and the time and place of any examination scheduled to be made pursuant to such Section.

Any employer who does not timely file and serve a written response without good cause may not introduce any evidence to dispute any claim of the employee but may cross examine the employee or any witness brought by the employee and otherwise be heard.

No document or other evidence not previously identified by either party with the petition or written response, or by any other means before the hearing, may be introduced into evidence without good cause. If, at the hearing, material information is discovered which was not previously disclosed, the Arbitrator may extend the time for closing proof on the motion of a party for a reasonable period of time which may be more than 30 days. No evidence may be introduced pursuant to this paragraph as to permanent disability. No award may be entered for permanent disability pursuant to this paragraph. Either party may introduce into evidence the testimony taken by deposition of any medical practitioner.

The Commission shall adopt rules, regulations and procedures whereby the final decision of the Commission is filed not later than 90 days from the date the petition for review is filed but in no event later than 180 days from the date the petition for an emergency hearing is filed with the Illinois Workers' Compensation Commission.

All service required pursuant to this paragraph (b-1) must be by personal service or by certified mail and with evidence of receipt. In addition for the purposes of this paragraph, all



service on the employer must be at the premises where the accident occurred if the premises are owned or operated by the employer. Otherwise service must be at the employee's principal place of employment by the employer. If service on the employer is not possible at either of the above, then service shall be at the employer's principal place of business. After initial service in each case, service shall be made on the employer's attorney or designated representative.

(c) (1) At a reasonable time in advance of and in connection with the hearing under Section 19(e) or 19(h), the Commission may on its own motion order an impartial physical or mental examination of a petitioner whose mental or physical condition is in issue, when in the Commission's discretion it appears that such an examination will materially aid in the just determination of the case. The examination shall be made by a member or members of a panel of physicians chosen for their special qualifications by the Illinois State Medical Society. The Commission shall establish procedures by which a physician shall be selected from such list.

(2) Should the Commission at any time during the hearing find that compelling considerations make it advisable to have an examination and report at that time, the commission may in its discretion so order.

(3) A copy of the report of examination shall be given to the Commission and to the attorneys for the parties.

(4) Either party or the Commission may call the examining

physician or physicians to testify. Any physician so called shall be subject to cross-examination.

(5) The examination shall be made, and the physician or physicians, if called, shall testify, without cost to the parties. The Commission shall determine the compensation and the pay of the physician or physicians. The compensation for this service shall not exceed the usual and customary amount for such service.

(6) The fees and payment thereof of all attorneys and physicians for services authorized by the Commission under this Act shall, upon request of either the employer or the employee or the beneficiary affected, be subject to the review and decision of the Commission.

(d) If any employee shall persist in insanitary or injurious practices which tend to either imperil or retard his recovery or shall refuse to submit to such medical, surgical, or hospital treatment as is reasonably essential to promote his recovery, the Commission may, in its discretion, reduce or suspend the compensation of any such injured employee. However, when an employer and employee so agree in writing, the foregoing provision shall not be construed to authorize the reduction or suspension of compensation of an employee who is relying in good faith, on treatment by prayer or spiritual means alone, in accordance with the tenets and practice of a recognized church or religious denomination, by a duly accredited practitioner thereof.

(e) This paragraph shall apply to all hearings before the Commission. Such hearings may be held in its office or elsewhere as the Commission may deem advisable. The taking of testimony on such hearings may be had before any member of the Commission. If a petition for review and agreed statement of facts or transcript of evidence is filed, as provided herein, the Commission shall promptly review the decision of the Arbitrator and all questions of law or fact which appear from the statement of facts or transcript of evidence.

In all cases in which the hearing before the arbitrator is held after December 18, 1989, no additional evidence shall be introduced by the parties before the Commission on review of the decision of the Arbitrator. In reviewing decisions of an arbitrator the Commission shall award such temporary compensation, permanent compensation and other payments as are due under this Act. The Commission shall file in its office its decision thereon, and shall immediately send to each party or his attorney a copy of such decision and a notification of the time when it was filed. Decisions shall be filed within 60 days after the Statement of Exceptions and Supporting Brief and Response thereto are required to be filed or oral argument whichever is later.

In the event either party requests oral argument, such argument shall be had before a panel of 3 members of the Commission (or before all available members pursuant to the determination of 7 members of the Commission that such argument

be held before all available members of the Commission) pursuant to the rules and regulations of the Commission. A panel of 3 members, which shall be comprised of not more than one representative citizen of the employing class and not more than one representative citizen of the employee class, shall hear the argument; provided that if all the issues in dispute are solely the nature and extent of the permanent partial disability, if any, a majority of the panel may deny the request for such argument and such argument shall not be held; and provided further that 7 members of the Commission may determine that the argument be held before all available members of the Commission. A decision of the Commission shall be approved by a majority of Commissioners present at such hearing if any; provided, if no such hearing is held, a decision of the Commission shall be approved by a majority of a panel of 3 members of the Commission as described in this Section. The Commission shall give 10 days' notice to the parties or their attorneys of the time and place of such taking of testimony and of such argument.

In any case the Commission in its decision may find specially upon any question or questions of law or fact which shall be submitted in writing by either party whether ultimate or otherwise; provided that on issues other than nature and extent of the disability, if any, the Commission in its decision shall find specially upon any question or questions of law or fact, whether ultimate or otherwise, which are submitted

in writing by either party; provided further that not more than 5 such questions may be submitted by either party. Any party may, within 20 days after receipt of notice of the Commission's decision, or within such further time, not exceeding 30 days, as the Commission may grant, file with the Commission either an agreed statement of the facts appearing upon the hearing, or, if such party shall so elect, a correct transcript of evidence of the additional proceedings presented before the Commission, in which report the party may embody a correct statement of such other proceedings in the case as such party may desire to have reviewed, such statement of facts or transcript of evidence to be authenticated by the signature of the parties or their attorneys, and in the event that they do not agree, then the authentication of such transcript of evidence shall be by the signature of any member of the Commission.

If a reporter does not for any reason furnish a transcript of the proceedings before the Arbitrator in any case for use on a hearing for review before the Commission, within the limitations of time as fixed in this Section, the Commission may, in its discretion, order a trial de novo before the Commission in such case upon application of either party. The applications for adjustment of claim and other documents in the nature of pleadings filed by either party, together with the decisions of the Arbitrator and of the Commission and the statement of facts or transcript of evidence hereinbefore provided for in paragraphs (b) and (c) shall be the record of

the proceedings of the Commission, and shall be subject to review as hereinafter provided.

At the request of either party or on its own motion, the Commission shall set forth in writing the reasons for the decision, including findings of fact and conclusions of law separately stated. The Commission shall by rule adopt a format for written decisions for the Commission and arbitrators. The written decisions shall be concise and shall succinctly state the facts and reasons for the decision. The Commission may adopt in whole or in part, the decision of the arbitrator as the decision of the Commission. When the Commission does so adopt the decision of the arbitrator, it shall do so by order. Whenever the Commission adopts part of the arbitrator's decision, but not all, it shall include in the order the reasons for not adopting all of the arbitrator's decision. When a majority of a panel, after deliberation, has arrived at its decision, the decision shall be filed as provided in this Section without unnecessary delay, and without regard to the fact that a member of the panel has expressed an intention to dissent. Any member of the panel may file a dissent. Any dissent shall be filed no later than 10 days after the decision of the majority has been filed.

Decisions rendered by the Commission and dissents, if any, shall be published together by the Commission. The conclusions of law set out in such decisions shall be regarded as precedents by arbitrators for the purpose of achieving a more

uniform administration of this Act.

(f) The decision of the Commission acting within its powers, according to the provisions of paragraph (e) of this Section shall, in the absence of fraud, be conclusive unless reviewed as in this paragraph hereinafter provided. However, the Arbitrator or the Commission may on his or its own motion, or on the motion of either party, correct any clerical error or errors in computation within 15 days after the date of receipt of any award by such Arbitrator or any decision on review of the Commission and shall have the power to recall the original award on arbitration or decision on review, and issue in lieu thereof such corrected award or decision. Where such correction is made the time for review herein specified shall begin to run from the date of the receipt of the corrected award or decision.

(1) Except in cases of claims against the State of Illinois other than those claims under Section 18.1, in which case the decision of the Commission shall not be subject to judicial review, the Circuit Court of the county where any of the parties defendant may be found, or if none of the parties defendant can be found in this State then the Circuit Court of the county where the accident occurred, shall by summons to the Commission have power to review all questions of law and fact presented by such record.

A proceeding for review shall be commenced within 20

days of the receipt of notice of the decision of the Commission. The summons shall be issued by the clerk of such court upon written request returnable on a designated return day, not less than 10 or more than 60 days from the date of issuance thereof, and the written request shall contain the last known address of other parties in interest and their attorneys of record who are to be served by summons. Service upon any member of the Commission or the Secretary or the Assistant Secretary thereof shall be service upon the Commission, and service upon other parties in interest and their attorneys of record shall be by summons, and such service shall be made upon the Commission and other parties in interest by mailing notices of the commencement of the proceedings and the return day of the summons to the office of the Commission and to the last known place of residence of other parties in interest or their attorney or attorneys of record. The clerk of the court issuing the summons shall on the day of issue mail notice of the commencement of the proceedings which shall be done by mailing a copy of the summons to the office of the Commission, and a copy of the summons to the other parties in interest or their attorney or attorneys of record and the clerk of the court shall make certificate that he has so sent said notices in pursuance of this Section, which shall be evidence of service on the Commission and other parties in interest.



The Commission shall not be required to certify the record of their proceedings to the Circuit Court, unless the party commencing the proceedings for review in the Circuit Court as above provided, shall file with the Commission notice of intent to file for review in Circuit Court. It shall be the duty of the Commission upon such filing of notice of intent to file for review in the Circuit Court to prepare a true and correct copy of such testimony and a true and correct copy of all other matters contained in such record and certified to by the Secretary or Assistant Secretary thereof. The changes made to this subdivision (f)(1) by this amendatory Act of the 98th General Assembly apply to any Commission decision entered after the effective date of this amendatory Act of the 98th General Assembly.

No request for a summons may be filed and no summons shall issue unless the party seeking to review the decision of the Commission shall exhibit to the clerk of the Circuit Court proof of filing with the Commission of the notice of the intent to file for review in the Circuit Court or an affidavit of the attorney setting forth that notice of intent to file for review in the Circuit Court has been given in writing to the Secretary or Assistant Secretary of the Commission.

(2) No such summons shall issue unless the one against whom the Commission shall have rendered an award for the

payment of money shall upon the filing of his written request for such summons file with the clerk of the court a bond conditioned that if he shall not successfully prosecute the review, he will pay the award and the costs of the proceedings in the courts. The amount of the bond shall be fixed by any member of the Commission and the surety or sureties of the bond shall be approved by the clerk of the court. The acceptance of the bond by the clerk of the court shall constitute evidence of his approval of the bond.

Every county, city, town, township, incorporated village, school district, body politic or municipal corporation against whom the Commission shall have rendered an award for the payment of money shall not be required to file a bond to secure the payment of the award and the costs of the proceedings in the court to authorize the court to issue such summons.

The court may confirm or set aside the decision of the Commission. If the decision is set aside and the facts found in the proceedings before the Commission are sufficient, the court may enter such decision as is justified by law, or may remand the cause to the Commission for further proceedings and may state the questions requiring further hearing, and give such other instructions as may be proper. Appeals shall be taken to the Appellate Court in accordance with Supreme Court Rules

22(g) and 303. Appeals shall be taken from the Appellate Court to the Supreme Court in accordance with Supreme Court Rule 315.

It shall be the duty of the clerk of any court rendering a decision affecting or affirming an award of the Commission to promptly furnish the Commission with a copy of such decision, without charge.

The decision of a majority of the members of the panel of the Commission, shall be considered the decision of the Commission.

(g) Except in the case of a claim against the State of Illinois, either party may present a certified copy of the award of the Arbitrator, or a certified copy of the decision of the Commission when the same has become final, when no proceedings for review are pending, providing for the payment of compensation according to this Act, to the Circuit Court of the county in which such accident occurred or either of the parties are residents, whereupon the court shall enter a judgment in accordance therewith. In a case where the employer refuses to pay compensation according to such final award or such final decision upon which such judgment is entered the court shall in entering judgment thereon, tax as costs against him the reasonable costs and attorney fees in the arbitration proceedings and in the court entering the judgment for the person in whose favor the judgment is entered, which judgment and costs taxed as therein provided shall, until and unless set

aside, have the same effect as though duly entered in an action duly tried and determined by the court, and shall with like effect, be entered and docketed. The Circuit Court shall have power at any time upon application to make any such judgment conform to any modification required by any subsequent decision of the Supreme Court upon appeal, or as the result of any subsequent proceedings for review, as provided in this Act.

Judgment shall not be entered until 15 days' notice of the time and place of the application for the entry of judgment shall be served upon the employer by filing such notice with the Commission, which Commission shall, in case it has on file the address of the employer or the name and address of its agent upon whom notices may be served, immediately send a copy of the notice to the employer or such designated agent.

(h) An agreement or award under this Act providing for compensation in installments, may at any time within 18 months after such agreement or award be reviewed by the Commission at the request of either the employer or the employee, on the ground that the disability of the employee has subsequently recurred, increased, diminished or ended.

However, as to accidents occurring subsequent to July 1, 1955, which are covered by any agreement or award under this Act providing for compensation in installments made as a result of such accident, such agreement or award may at any time within 30 months, or 60 months in the case of an award under Section 8(d)1, after such agreement or award be reviewed by the

Commission at the request of either the employer or the employee on the ground that the disability of the employee has subsequently recurred, increased, diminished or ended.

On such review, compensation payments may be re-established, increased, diminished or ended. The Commission shall give 15 days' notice to the parties of the hearing for review. Any employee, upon any petition for such review being filed by the employer, shall be entitled to one day's notice for each 100 miles necessary to be traveled by him in attending the hearing of the Commission upon the petition, and 3 days in addition thereto. Such employee shall, at the discretion of the Commission, also be entitled to 5 cents per mile necessarily traveled by him within the State of Illinois in attending such hearing, not to exceed a distance of 300 miles, to be taxed by the Commission as costs and deposited with the petition of the employer.

When compensation which is payable in accordance with an award or settlement contract approved by the Commission, is ordered paid in a lump sum by the Commission, no review shall be had as in this paragraph mentioned.

(i) Each party, upon taking any proceedings or steps whatsoever before any Arbitrator, Commission or court, shall file with the Commission his address, or the name and address of any agent upon whom all notices to be given to such party shall be served, either personally or by registered mail, addressed to such party or agent at the last address so filed

with the Commission. In the event such party has not filed his address, or the name and address of an agent as above provided, service of any notice may be had by filing such notice with the Commission.

(j) Whenever in any proceeding testimony has been taken or a final decision has been rendered and after the taking of such testimony or after such decision has become final, the injured employee dies, then in any subsequent proceedings brought by the personal representative or beneficiaries of the deceased employee, such testimony in the former proceeding may be introduced with the same force and effect as though the witness having so testified were present in person in such subsequent proceedings and such final decision, if any, shall be taken as final adjudication of any of the issues which are the same in both proceedings.

(k) In case where there has been any unreasonable or vexatious delay of payment or intentional underpayment of compensation, or proceedings have been instituted or carried on by the one liable to pay the compensation, which do not present a real controversy, but are merely frivolous or for delay, then the Commission may award compensation additional to that otherwise payable under this Act equal to 50% of the amount payable at the time of such award. Failure to pay compensation in accordance with the provisions of Section 8, paragraph (b) of this Act, shall be considered unreasonable delay.

When determining whether this subsection (k) shall apply,

the Commission shall consider whether an Arbitrator has determined that the claim is not compensable or whether the employer has made payments under Section 8(j).

(l) If the employee has made written demand for payment of benefits under Section 8(a) or Section 8(b), the employer shall have 14 days after receipt of the demand to set forth in writing the reason for the delay. In the case of demand for payment of medical benefits under Section 8(a), the time for the employer to respond shall not commence until the expiration of the allotted 30 days specified under Section 8.2(d). In case the employer or his or her insurance carrier shall without good and just cause fail, neglect, refuse, or unreasonably delay the payment of benefits under Section 8(a) or Section 8(b), the Arbitrator or the Commission shall allow to the employee additional compensation in the sum of \$30 per day for each day that the benefits under Section 8(a) or Section 8(b) have been so withheld or refused, not to exceed \$10,000. A delay in payment of 14 days or more shall create a rebuttable presumption of unreasonable delay.

(m) If the commission finds that an accidental injury was directly and proximately caused by the employer's wilful violation of a health and safety standard under the Health and Safety Act or the Occupational Safety and Health Act in force at the time of the accident, the arbitrator or the Commission shall allow to the injured employee or his dependents, as the case may be, additional compensation equal to 25% of the amount

which otherwise would be payable under the provisions of this Act exclusive of this paragraph. The additional compensation herein provided shall be allowed by an appropriate increase in the applicable weekly compensation rate.

(n) After June 30, 1984, decisions of the Illinois Workers' Compensation Commission reviewing an award of an arbitrator of the Commission shall draw interest at a rate equal to the yield on indebtedness issued by the United States Government with a 26-week maturity next previously auctioned on the day on which the decision is filed. Said rate of interest shall be set forth in the Arbitrator's Decision. Interest shall be drawn from the date of the arbitrator's award on all accrued compensation due the employee through the day prior to the date of payments. However, when an employee appeals an award of an Arbitrator or the Commission, and the appeal results in no change or a decrease in the award, interest shall not further accrue from the date of such appeal.

The employer or his insurance carrier may tender the payments due under the award to stop the further accrual of interest on such award notwithstanding the prosecution by either party of review, certiorari, appeal to the Supreme Court or other steps to reverse, vacate or modify the award.

(o) By the 15th day of each month each insurer providing coverage for losses under this Act shall notify each insured employer of any compensable claim incurred during the preceding month and the amounts paid or reserved on the claim including a



summary of the claim and a brief statement of the reasons for compensability. A cumulative report of all claims incurred during a calendar year or continued from the previous year shall be furnished to the insured employer by the insurer within 30 days after the end of that calendar year.

The insured employer may challenge, in proceeding before the Commission, payments made by the insurer without arbitration and payments made after a case is determined to be noncompensable. If the Commission finds that the case was not compensable, the insurer shall purge its records as to that employer of any loss or expense associated with the claim, reimburse the employer for attorneys' fees arising from the challenge and for any payment required of the employer to the Rate Adjustment Fund or the Second Injury Fund, and may not reflect the loss or expense for rate making purposes. The employee shall not be required to refund the challenged payment. The decision of the Commission may be reviewed in the same manner as in arbitrated cases. No challenge may be initiated under this paragraph more than 3 years after the payment is made. An employer may waive the right of challenge under this paragraph on a case by case basis.

(p) After filing an application for adjustment of claim but prior to the hearing on arbitration the parties may voluntarily agree to submit such application for adjustment of claim for decision by an arbitrator under this subsection (p) where such application for adjustment of claim raises only a dispute over

temporary total disability, permanent partial disability or medical expenses. Such agreement shall be in writing in such form as provided by the Commission. Applications for adjustment of claim submitted for decision by an arbitrator under this subsection (p) shall proceed according to rule as established by the Commission. The Commission shall promulgate rules including, but not limited to, rules to ensure that the parties are adequately informed of their rights under this subsection (p) and of the voluntary nature of proceedings under this subsection (p). The findings of fact made by an arbitrator acting within his or her powers under this subsection (p) in the absence of fraud shall be conclusive. However, the arbitrator may on his own motion, or the motion of either party, correct any clerical errors or errors in computation within 15 days after the date of receipt of such award of the arbitrator and shall have the power to recall the original award on arbitration, and issue in lieu thereof such corrected award. The decision of the arbitrator under this subsection (p) shall be considered the decision of the Commission and proceedings for review of questions of law arising from the decision may be commenced by either party pursuant to subsection (f) of Section 19. The Advisory Board established under Section 13.1 shall compile a list of certified Commission arbitrators, each of whom shall be approved by at least 7 members of the Advisory Board. The chairman shall select 5 persons from such list to serve as arbitrators under this

subsection (p). By agreement, the parties shall select one arbitrator from among the 5 persons selected by the chairman except that if the parties do not agree on an arbitrator from among the 5 persons, the parties may, by agreement, select an arbitrator of the American Arbitration Association, whose fee shall be paid by the State in accordance with rules promulgated by the Commission. Arbitration under this subsection (p) shall be voluntary.

(Source: P.A. 97-18, eff. 6-28-11; 98-40, eff. 6-28-13.)

Section 925. The Workers' Occupational Diseases Act is amended by changing Sections 3 and 6 as follows:

(820 ILCS 310/3) (from Ch. 48, par. 172.38)

Sec. 3. Where an employee in this State sustains injury to health or death by reason of a disease contracted or sustained in the course of the employment and proximately caused by the negligence of the employer, unless such employer shall be subject to this Act under the provisions of paragraph (a) of Section 2 of this Act or shall have elected to provide and pay compensation as provided in Section 2 of this Act, a right of action shall accrue to the employee whose health has been so injured for any damages sustained thereby; and in case of death, a right of action shall accrue to the widow or widower of such deceased person, his or her lineal heirs or adopted children, or to any person or persons who were, before such

loss of life, dependent for support upon such deceased person, for a like recovery of damages for the injury sustained by reason of such death not to exceed the sum of \$10,000. Violation by any employer of any effective rule or rules made ~~by the Illinois Workers' Compensation Commission~~ pursuant to the "Health and Safety Act or the Occupational Safety and Health Act", ~~approved March 16, 1936, as amended,~~ or violation by the employer of any statute of this State, intended for the protection of the health of employees shall be and constitute negligence of the employer within the meaning of this Section. Every such action for damage for injury to the health shall be commenced within 3 years after the last day of the last exposure to the hazards of the disease and every such action for damages in case of death shall be commenced within one year after the death of such employee and within 5 years after the last day of the last exposure to the hazards of the disease except where the disease is caused by atomic radiation, in which case, every action for damages for injury to health shall be commenced within 15 years after the last day of last exposure to the hazard of such disease and every action for damages in case of death shall be commenced within one year after the death of such employee and within 15 years after last exposure to the hazards of the disease. In any action to recover damages under this Section, it shall not be a defense that the employee either expressly or impliedly assumed the risk of the employment, or that the contraction or sustaining

of the disease or death was caused in whole or in part by the negligence of a fellow servant or fellow servants, or that the contraction or sustaining of the disease or death resulting was caused in whole or in part by the contributory negligence of the employee, where such contributory negligence was not wilful.

(Source: P.A. 93-721, eff. 1-1-05.)

(820 ILCS 310/6) (from Ch. 48, par. 172.41)

Sec. 6. (a) Every employer operating under the compensation provisions of this Act, shall post printed notices in their respective places of employment in conspicuous places and in such number and at such places as may be determined by the Commission, containing such information relative to this Act as in the judgment of the Commission may be necessary to aid employees to safeguard their rights under this Act.

In addition thereto, the employer shall post in a conspicuous place on the premises of the employment a printed or typewritten notice stating whether he is insured or whether he has qualified and is operating as a self-insured employer. In the event the employer is insured, the notice shall state the name and address of his or her insurance carrier, the number of the insurance policy, its effective date and the date of termination. In the event of the termination of the policy for any reason prior to the termination date stated, the posted notice shall promptly be corrected accordingly. In the event

the employer is operating as a self-insured employer the notice shall state the name and address of the company, if any, servicing the compensation payments of the employer, and the name and address of the person in charge of making compensation payments.

(b) Every employer subject to this Act shall maintain accurate records of work-related deaths, injuries and illnesses other than minor injuries requiring only first aid treatment and which do not involve medical treatment, loss of consciousness, restriction of work or motion or transfer to another job and file with the Illinois Workers' Compensation Commission, in writing, a report of all occupational diseases arising out of and in the course of the employment and resulting in death, or disablement or illness resulting in the loss of more than 3 scheduled work days. In the case of death such report shall be made no later than 2 working days following the occupational death. In all other cases such report shall be made between the 15th and 25th of each month unless required to be made sooner by rule of the Illinois Workers' Compensation Commission. In case the occupational disease results in permanent disability, a further report shall be made as soon as it is determined that such permanent disability has resulted or will result therefrom. All reports shall state the date of the disablement, the nature of the employer's business, the name, address, the age, sex, conjugal condition of the disabled person, the specific occupation of

the person, the nature and character of the occupational disease, the length of disability, and, in case of death, the length of disability before death, the wages of the employee, whether compensation has been paid to the employee, or to his legal representative or his heirs or next of kin, the amount of compensation paid, the amount paid for physicians', surgeons' and hospital bills, and by whom paid, and the amount paid for funeral or burial expenses, if known. The reports shall be made on forms and in the manner as prescribed by the Illinois Workers' Compensation Commission and shall contain such further information as the Commission shall deem necessary and require. The making of such reports releases the employer from making such reports to any other officer of the State and shall satisfy the reporting provisions as contained in the Safety Inspection and Education Act, the "Health And Safety Act," and the Occupational Safety and Health Act ~~"An Act in relation to safety inspections and education in industrial and commercial establishments and to repeal an Act therein named"~~, approved ~~July 18, 1955, as amended~~. The report filed with the Illinois Workers' Compensation Commission pursuant to the provisions of this Section shall be made available by the Illinois Workers' Compensation Commission to the Director of Labor or his representatives, to the Department of Public Health pursuant to the Illinois Health and Hazardous Substances Registry Act, and to all other departments of the State of Illinois which shall require such information for the proper discharge of their

official duties. Failure to file with the Commission any of the reports required in this Section is a petty offense.

Except as provided in this paragraph, all reports filed hereunder shall be confidential and any person having access to such records filed with the Illinois Workers' Compensation Commission as herein required, who shall release the names or otherwise identify any persons sustaining injuries or disabilities, or gives access to such information to any unauthorized person, shall be subject to discipline or discharge, and in addition shall be guilty of a Class B misdemeanor. The Commission shall compile and distribute to interested persons aggregate statistics, taken from the reports filed hereunder. The aggregate statistics shall not give the names or otherwise identify persons sustaining injuries or disabilities or the employer of any injured or disabled person.

(c) There shall be given notice to the employer of disablement arising from an occupational disease as soon as practicable after the date of the disablement. If the Commission shall find that the failure to give such notice substantially prejudices the rights of the employer the Commission in its discretion may order that the right of the employee to proceed under this Act shall be barred.

In case of legal disability of the employee or any dependent of a deceased employee who may be entitled to compensation, under the provisions of this Act, the limitations



of time in this Section of this Act provided shall not begin to run against such person who is under legal disability until a conservator or guardian has been appointed. No defect or inaccuracy of such notice shall be a bar to the maintenance of proceedings on arbitration or otherwise by the employee unless the employer proves that he or she is unduly prejudiced in such proceedings by such defect or inaccuracy. Notice of the disabling disease may be given orally or in writing. In any case, other than injury or death caused by exposure to radiological materials or equipment or asbestos, unless application for compensation is filed with the Commission within 3 years after the date of the disablement, where no compensation has been paid, or within 2 years after the date of the last payment of compensation, where any has been paid, whichever shall be later, the right to file such application shall be barred. If the occupational disease results in death, application for compensation for death may be filed with the Commission within 3 years after the date of death where no compensation has been paid, or within 3 years after the last payment of compensation, where any has been paid, whichever is later, but not thereafter.

Effective July 1, 1973 in cases of disability caused by coal miners pneumoconiosis unless application for compensation is filed with the Commission within 5 years after the employee was last exposed where no compensation has been paid, or within 5 years after the last payment of compensation where any has

been paid, the right to file such application shall be barred.

In cases of disability caused by exposure to radiological materials or equipment or asbestos, unless application for compensation is filed with the Commission within 25 years after the employee was so exposed, the right to file such application shall be barred.

In cases of death occurring within 25 years from the last exposure to radiological material or equipment or asbestos, application for compensation must be filed within 3 years of death where no compensation has been paid, or within 3 years, after the date of the last payment where any has been paid, but not thereafter.

(d) Any contract or agreement made by any employer or his agent or attorney with any employee or any other beneficiary of any claim under the provisions of this Act within 7 days after the disablement shall be presumed to be fraudulent.

(Source: P.A. 93-721, eff. 1-1-05.)