

Olin Testimony before the Illinois Senate Special Committee for Workers Compensation Reform 12/8/10

Good morning.

My name is Michael Roark and I am the Director of Safety, Security, Health and Environment for the Olin Corporation Winchester Division. My responsibilities include administration of Winchester's self-insured Workers' Compensation Program.

Olin Winchester is headquartered in East Alton, Illinois where our primary manufacturing operation has resided since 1892. At our East Alton facility we employ approximately 1700 salaried and hourly employees.

Winchester manufactures ammunition and components for commercial and industrial customers as well as for law enforcement and the military.

We appreciate the opportunity to appear before this committee to express our concerns with the Illinois Workers Compensation system. I will give you examples of claims we have experienced that indicate opportunities exist to improve the Work Comp system to make it fair and equitable for workers and employers alike.

Workers' Compensation is a major cost of doing business for Olin. Since 2004, through capital expenditure improvements to eliminate hazards and safety awareness programs, we have cut our OSHA recordable work-related injuries and illnesses in half. Despite these safety improvements, our incurred workers' compensation costs have escalated at an alarming rate from \$4MM in 2004 to nearly \$8MM this year.

As you may be aware, on November 3rd of this year Olin made the decision to relocate its Centerfire operations from East Alton to Oxford, Mississippi, impacting approximately 1000 jobs over the next 4-5 years. This decision was made as a result of increasing costs, primarily related to wages that made it difficult to compete in the highly competitive ammunition industry. However, other factors also contributed to our overall high cost structure and one of those factors is our workers compensation costs.

Based on experience with our current operations in Mississippi, we expect our Workers' Compensation costs to be one tenth of what we have occurred in Illinois. These lower costs are comparable to what our competitors experience in other states including New York.

We are encouraged that the Illinois General Assembly recognizes that the existing workers' compensation system may be overly burdensome and costly and is willing to hear testimony and suggestions as to how it might be improved.

One of the major problems with the Illinois Workers' Compensation system is that the workplace needs to merely contribute to an injury or to aggravate a prior injury. The existence of such a low burden of proof encourages employees to take advantage of the system. Illinois should follow the reform as adopted by other states like Missouri and require the workplace to be the principle cause of an injury.

Let me now give you just one of numerous examples of how the current low burden of proof can be taken advantage of by a worker.

An Olin worker with a birth date of 1956 and a hire date of 1990 has filed 10 workers' compensation claims since 1997. Six of the 10 claims have been filed since 2007. The majority of claims are for minor complaints of soreness, strains or sprains allegedly brought about by performing normal job activities. Eight of the 10 claims are indemnity with 3 of the 10 claims still open. Despite medical opinion that non-work related medical conditions are the primary cause of these complaints, the employee is still able to successfully collect wage and disability benefits under the Workers Compensation program. In fact, this employee now claims they are unable to work and is pursuing a total disability settlement. We have incurred \$300,000 for these claims to date with no end in sight.

Olin is self-insured for accident and sickness benefits. Medical costs, subject to reasonable co-pay and deductibles, are available for all employees including the one just mentioned. Under our short term disability program a portion of lost wages is also available. Again, the current low burden of proof for causation allows the employee to apply for and receive benefits under the more lucrative Illinois Workers' Compensation program.

The Illinois Workers' Compensation Act needs reform to require partial permanent and total disability claims to be certified by a physician and defined by objective measurements using the current edition of the AMA "Guides to the Evaluation of Permanent Impairment" in determining level of disability.

We have numerous claims where an employee has undergone successful carpal tunnel and/or cubital tunnel surgery. With very few exceptions, employees return to full duty with no complications, pain, or loss of use of the body part. Employees often tell us they have strength and range of motion after surgery that is noticeably better than prior to surgery. Employees acknowledge that all medical costs, lost wages and other expenses have been compensated by the company. The treating surgeon concurs that the employee has reached maximum medical improvement and has returned them to full duty with no restrictions.

Despite the medical provider and claimant's testimony, the Illinois Work Comp Commission Arbitrator routinely awards 20% loss of use disability for these claims. This equates to 40+ weeks of compensation per hand or elbow. At Olin's pay scale this results in the employee receiving a tax-free payment of \$50,000 or more for a loss of use that does not exist.

Another element of any reform package should be an effort to address the need to limit the amount of indemnity payable to an injured worker. Existing law does not limit indemnity payable to a person classified as permanently partially disabled. For example a cap could be set to limit potential payout to a retirement age of 65 as opposed to the existing payout for life that can easily cost upwards of \$500,000 per claim.

Olin often experiences employees who file workers' compensation claims a few months before or shortly after retiring. They allege injury to shoulders, elbows, knees and back due to general duties and work activity while employed. Usually these conditions are naturally occurring as we age and unrelated to any specific work activity. In fact, being active physically has been shown to delay the onset of age-related degradation.

Even though the company contests these claims, with the low causation burden of proof alluded to previously, these cases almost always are decided for the plaintiff. In addition to payment of medicals costs, the award likely will result in payment of disability payments for life.

Once again Olin appreciates the opportunity to express our concerns with the Illinois Workers Compensation system and encourages you to expeditiously pursue reform of the legislation.

Thank you.