



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB5113

by Rep. Keith R. Wheeler

SYNOPSIS AS INTRODUCED:

820 ILCS 305/6

from Ch. 48, par. 138.6

Amends the Workers' Compensation Act. Provides that beginning January 1, 2019, employers must report injuries resulting in the loss of 3 or more calendar days of work to the Commission, the employee, and the employer's insurer. Imposes penalties for noncompliance. Requires the Commission to mail to the injured worker information on how to access the handbook on the rights and obligations of employees and employers. Effective immediately.

LRB100 19565 JLS 34833 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning employment.

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

4 Section 5. The Workers' Compensation Act is amended by
5 changing Section 6 as follows:

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

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

15 In addition thereto, the employer shall post in a
16 conspicuous place on the place of the employment a printed or
17 typewritten notice stating whether he is insured or whether he
18 has qualified and is operating as a self-insured employer. In
19 the event the employer is insured, the notice shall state the
20 name and address of his insurance carrier, the number of the
21 insurance policy, its effective date and the date of
22 termination. In the event of the termination of the policy for
23 any reason prior to the termination date stated, the posted

1 notice shall promptly be corrected accordingly. In the event
2 the employer is operating as a self-insured employer the notice
3 shall state the name and address of the company, if any,
4 servicing the compensation payments of the employer, and the
5 name and address of the person in charge of making compensation
6 payments.

7 (b) Every employer subject to this Act shall maintain
8 accurate records of work-related deaths, injuries and illness
9 other than minor injuries requiring only first aid treatment
10 and which do not involve medical treatment, loss of
11 consciousness, restriction of work or motion, or transfer to
12 another job and file with the Commission, in writing, a report
13 of all accidental deaths, injuries and illnesses arising out of
14 and in the course of the employment resulting in the loss of
15 more than 3 scheduled work days. In the case of death such
16 report shall be made no later than 2 working days following the
17 accidental death. In all other cases such report shall be made
18 between the 15th and 25th of each month unless required to be
19 made sooner by rule of the Commission. In case the injury
20 results in permanent disability, a further report shall be made
21 as soon as it is determined that such permanent disability has
22 resulted or will result from the injury. All reports shall
23 state the date of the injury, including the time of day or
24 night, the nature of the employer's business, the name,
25 address, age, sex, conjugal condition of the injured person,
26 the specific occupation of the injured person, the direct cause

1 of the injury and the nature of the accident, the character of
2 the injury, the length of disability, and in case of death the
3 length of disability before death, the wages of the injured
4 person, whether compensation has been paid to the injured
5 person, or to his or her legal representative or his heirs or
6 next of kin, the amount of compensation paid, the amount paid
7 for physicians', surgeons' and hospital bills, and by whom
8 paid, and the amount paid for funeral or burial expenses if
9 known. The reports shall be made on forms and in the manner as
10 prescribed by the Commission and shall contain such further
11 information as the Commission shall deem necessary and require.
12 The making of these reports releases the employer from making
13 such reports to any other officer of the State and shall
14 satisfy the reporting provisions as contained in the Safety
15 Inspection and Education Act, the Health and Safety Act, and
16 the Occupational Safety and Health Act. The reports filed with
17 the Commission pursuant to this Section shall be made available
18 by the Commission to the Director of Labor or his
19 representatives and to all other departments of the State of
20 Illinois which shall require such information for the proper
21 discharge of their official duties. Failure to file with the
22 Commission any of the reports required in this Section is a
23 petty offense.

24 Beginning January 1, 2019, an employer shall within 7
25 calendar days, excluding Sundays and legal holidays, after
26 receipt of notice of any injury alleged to have arisen out of

1 and in the course of employment resulting in the loss of 3 or
2 more calendar days of work, send notice of the injury to the
3 Commission, the employee, and the employer's insurer. The
4 notice shall be submitted on a form prescribed by the
5 Commission and shall contain the name and nature of the
6 business of the employer; the name, age, sex, and occupation of
7 the injured employee; the date, nature, circumstances, and
8 cause of the injury; and such additional information as the
9 Commission may prescribe. The notice shall be submitted to the
10 Commission by electronic means.

11 An employer who violates this subsection 3 or more times in
12 any year shall be subject to a penalty of \$100 for each such
13 violation. Each failure to pay the penalty within 30 days of
14 receipt of notice of the penalty from the Commission shall be
15 considered a separate violation.

16 Except as provided in this paragraph, all reports filed
17 hereunder shall be confidential and any person having access to
18 such records filed with the Illinois Workers' Compensation
19 Commission as herein required, who shall release any
20 information therein contained including the names or otherwise
21 identify any persons sustaining injuries or disabilities, or
22 give access to such information to any unauthorized person,
23 shall be subject to discipline or discharge, and in addition
24 shall be guilty of a Class B misdemeanor. The Commission shall
25 compile ~~and distribute to interested persons~~ aggregate
26 statistics, taken from the notices ~~reports~~ filed with the

1 Commission pursuant to this subsection and publish the
2 statistics on its Internet website hereunder. The aggregate
3 statistics shall not give the names or otherwise identify
4 persons sustaining injuries or disabilities or the employer of
5 any injured person or person with a disability.

6 Upon receipt of notice of injury from an employer, the
7 Commission shall mail to the injured worker information on how
8 to access the handbook on the rights and obligations of
9 employees and employers described in Section 15a of this Act.

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

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

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

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

1 prejudiced in such proceedings by such defect or inaccuracy.

2 Notice of the accident shall give the approximate date and
3 place of the accident, if known, and may be given orally or in
4 writing.

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

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

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

25 If in any case except one where the injury was caused by
26 exposure to radiological materials or equipment or asbestos,

1 the accidental injury results in death application for
2 compensation for death may be filed with the Commission within
3 3 years after the date of death where no compensation has been
4 paid or within 2 years after the date of the last payment of
5 compensation where any has been paid, whichever shall be later,
6 but not thereafter.

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

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

19 (f) Any condition or impairment of health of an employee
20 employed as a firefighter, emergency medical technician (EMT),
21 emergency medical technician-intermediate (EMT-I), advanced
22 emergency medical technician (A-EMT), or paramedic which
23 results directly or indirectly from any bloodborne pathogen,
24 lung or respiratory disease or condition, heart or vascular
25 disease or condition, hypertension, tuberculosis, or cancer
26 resulting in any disability (temporary, permanent, total, or

1 partial) to the employee shall be rebuttably presumed to arise
2 out of and in the course of the employee's firefighting, EMT,
3 or paramedic employment and, further, shall be rebuttably
4 presumed to be causally connected to the hazards or exposures
5 of the employment. This presumption shall also apply to any
6 hernia or hearing loss suffered by an employee employed as a
7 firefighter, EMT, EMT-I, A-EMT, or paramedic. However, this
8 presumption shall not apply to any employee who has been
9 employed as a firefighter, EMT, or paramedic for less than 5
10 years at the time he or she files an Application for Adjustment
11 of Claim concerning this condition or impairment with the
12 Illinois Workers' Compensation Commission. The rebuttable
13 presumption established under this subsection, however, does
14 not apply to an emergency medical technician (EMT), emergency
15 medical technician-intermediate (EMT-I), advanced emergency
16 medical technician (A-EMT), or paramedic employed by a private
17 employer if the employee spends the preponderance of his or her
18 work time for that employer engaged in medical transfers
19 between medical care facilities or non-emergency medical
20 transfers to or from medical care facilities. The changes made
21 to this subsection by Public Act 98-291 shall be narrowly
22 construed. The Finding and Decision of the Illinois Workers'
23 Compensation Commission under only the rebuttable presumption
24 provision of this subsection shall not be admissible or be
25 deemed res judicata in any disability claim under the Illinois
26 Pension Code arising out of the same medical condition;

1 however, this sentence makes no change to the law set forth in
2 Krohe v. City of Bloomington, 204 Ill.2d 392.

3 (Source: P.A. 98-291, eff. 1-1-14; 98-874, eff. 1-1-15; 98-973,
4 eff. 8-15-14; 99-78, eff. 7-20-15; 99-143, eff. 7-27-15.)

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.