



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB1658

Introduced 2/9/2017, by Sen. Kyle McCarter

SYNOPSIS AS INTRODUCED:

820 ILCS 40/1	from Ch. 48, par. 2001
820 ILCS 55/3 new	
820 ILCS 105/3	from Ch. 48, par. 1003
820 ILCS 112/5	
820 ILCS 115/2	from Ch. 48, par. 39m-2
820 ILCS 140/1	from Ch. 48, par. 8a
820 ILCS 147/10	
820 ILCS 180/10	
820 ILCS 185/5	
820 ILCS 185/15	
820 ILCS 185/20	
820 ILCS 185/25	
820 ILCS 185/10 rep.	
820 ILCS 305/1	from Ch. 48, par. 138.1
820 ILCS 310/1	from Ch. 48, par. 172.36
820 ILCS 405/211.4	from Ch. 48, par. 321.4
820 ILCS 405/212	from Ch. 48, par. 322

Amends the Personnel Record Review Act, the Right to Privacy in the Workplace Act, the Minimum Wage Law, the Equal Pay Act of 2003, the Illinois Wage Payment and Collection Act, the One Day Rest In Seven Act, the School Visitation Rights Act, the Victims' Economic Security and Safety Act, the Employee Classification Act, the Workers' Compensation Act, and the Workers' Occupational Diseases Act. Provides that, for purposes of those Acts, one or both of the terms "employ" and "employee" have the meanings ascribed to those terms in the Fair Labor Standards Act of 1938. Amends the Unemployment Insurance Act to provide that the term "employment" during years in which the Bond Obligation under the Illinois Unemployment Insurance Trust Fund Act has been reduced to zero does not include services performed by an individual who has been proven in any proceeding where such issue is involved that his or her compensation is not subject to federal wage withholding. Makes other changes.

LRB100 06579 JLS 16620 b

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 Personnel Record Review Act is amended by
5 changing Section 1 as follows:

6 (820 ILCS 40/1) (from Ch. 48, par. 2001)

7 Sec. 1. Definitions. As used in this Act:

8 (a) "Employee" has the meaning ascribed to that term in the
9 Fair Labor Standards Act of 1938, 29 U.S.C. 203, and also
10 includes ~~means~~ a person currently employed or subject to recall
11 after layoff or leave of absence with a right to return at a
12 position with an employer or a former employee who has
13 terminated service within the preceding year.

14 (b) "Employer" means an individual, corporation,
15 partnership, labor organization, unincorporated association,
16 the State, an agency or a political subdivision of the State,
17 or any other legal, business, or commercial entity which has 5
18 employees or more than 5 employees exclusive of the employer's
19 parent, spouse or child or other members of his immediate
20 family and includes an agent of the employer.

21 (c) "Employ" has the meaning ascribed to that term in the
22 Fair Labor Standards Act of 1938, 29 U.S.C. 203.

23 (Source: P.A. 83-1339.)

1 Section 10. The Right to Privacy in the Workplace Act is
2 amended by adding Section 3 as follows:

3 (820 ILCS 55/3 new)

4 Sec. 3. Definitions. As used in this Act:

5 "Employee" has the meaning ascribed to that term in the
6 Fair Labor Standards Act of 1938, 29 U.S.C. 203.

7 "Employ" has the meaning ascribed to that term in the Fair
8 Labor Standards Act of 1938, 29 U.S.C. 203.

9 Section 15. The Minimum Wage Law is amended by changing
10 Section 3 as follows:

11 (820 ILCS 105/3) (from Ch. 48, par. 1003)

12 Sec. 3. As used in this Act:

13 (a) "Director" means the Director of the Department of
14 Labor, and "Department" means the Department of Labor.

15 (b) "Wages" means compensation due to an employee by reason
16 of his employment, including allowances determined by the
17 Director in accordance with the provisions of this Act for
18 gratuities and, when furnished by the employer, for meals and
19 lodging actually used by the employee.

20 (c) "Employer" includes any individual, partnership,
21 association, corporation, limited liability company, business
22 trust, governmental or quasi-governmental body, or any person

1 or group of persons acting directly or indirectly in the
2 interest of an employer in relation to an employee, for which
3 one or more persons are gainfully employed on some day within a
4 calendar year. An employer is subject to this Act in a calendar
5 year on and after the first day in such calendar year in which
6 he employs one or more persons, and for the following calendar
7 year.

8 (c-1) "Employ" has the meaning ascribed to that term in the
9 Fair Labor Standards Act of 1938, 29 U.S.C. 203.

10 (d) "Employee" has the meaning ascribed to that term in the
11 Fair Labor Standards Act of 1938, 29 U.S.C. 203 ~~includes any~~
12 ~~individual permitted to work by an employer in an occupation,~~
13 and includes, notwithstanding subdivision (1) of this
14 subsection (d), one or more domestic workers as defined in
15 Section 10 of the Domestic Workers' Bill of Rights Act, but
16 does not include any individual permitted to work:

17 (1) For an employer employing fewer than 4 employees
18 exclusive of the employer's parent, spouse or child or
19 other members of his immediate family.

20 (2) As an employee employed in agriculture or
21 aquaculture (A) if such employee is employed by an employer
22 who did not, during any calendar quarter during the
23 preceding calendar year, use more than 500 man-days of
24 agricultural or aquacultural labor, (B) if such employee is
25 the parent, spouse or child, or other member of the
26 employer's immediate family, (C) if such employee (i) is

1 employed as a hand harvest laborer and is paid on a piece
2 rate basis in an operation which has been, and is
3 customarily and generally recognized as having been, paid
4 on a piece rate basis in the region of employment, (ii)
5 commutes daily from his permanent residence to the farm on
6 which he is so employed, and (iii) has been employed in
7 agriculture less than 13 weeks during the preceding
8 calendar year, (D) if such employee (other than an employee
9 described in clause (C) of this subparagraph): (i) is 16
10 years of age or under and is employed as a hand harvest
11 laborer, is paid on a piece rate basis in an operation
12 which has been, and is customarily and generally recognized
13 as having been, paid on a piece rate basis in the region of
14 employment, (ii) is employed on the same farm as his parent
15 or person standing in the place of his parent, and (iii) is
16 paid at the same piece rate as employees over 16 are paid
17 on the same farm.

18 (3) (Blank).

19 (4) As an outside salesman.

20 (5) As a member of a religious corporation or
21 organization.

22 (6) At an accredited Illinois college or university
23 employed by the college or university at which he is a
24 student who is covered under the provisions of the Fair
25 Labor Standards Act of 1938, as heretofore or hereafter
26 amended.

1 (7) For a motor carrier and with respect to whom the
2 U.S. Secretary of Transportation has the power to establish
3 qualifications and maximum hours of service under the
4 provisions of Title 49 U.S.C. or the State of Illinois
5 under Section 18b-105 (Title 92 of the Illinois
6 Administrative Code, Part 395 - Hours of Service of
7 Drivers) of the Illinois Vehicle Code.

8 The above exclusions from the term "employee" may be
9 further defined by regulations of the Director.

10 (e) "Occupation" means an industry, trade, business or
11 class of work in which employees are gainfully employed.

12 (f) "Gratuities" means voluntary monetary contributions to
13 an employee from a guest, patron or customer in connection with
14 services rendered.

15 (g) "Outside salesman" means an employee regularly engaged
16 in making sales or obtaining orders or contracts for services
17 where a major portion of such duties are performed away from
18 his employer's place of business.

19 (h) "Day camp" means a seasonal recreation program in
20 operation for no more than 16 weeks intermittently throughout
21 the calendar year, accommodating for profit or under
22 philanthropic or charitable auspices, 5 or more children under
23 18 years of age, not including overnight programs. The term
24 "day camp" does not include a "day care agency", "child care
25 facility" or "foster family home" as licensed by the Illinois
26 Department of Children and Family Services.

1 (Source: P.A. 99-758, eff. 1-1-17.)

2 Section 20. The Equal Pay Act of 2003 is amended by
3 changing Section 5 as follows:

4 (820 ILCS 112/5)

5 Sec. 5. Definitions. As used in this Act:

6 "Director" means the Director of Labor.

7 "Department" means the Department of Labor.

8 "Employee" has the meaning ascribed to that term in the
9 Fair Labor Standards Act of 1938, 29 U.S.C. 203 ~~means any~~
10 ~~individual permitted to work by an employer.~~

11 "Employ" has the meaning ascribed to that term in the Fair
12 Labor Standards Act of 1938, 29 U.S.C. 203.

13 "Employer" means an individual, partnership, corporation,
14 association, business, trust, person, or entity for whom
15 employees are gainfully employed in Illinois and includes the
16 State of Illinois, any state officer, department, or agency,
17 any unit of local government, and any school district.

18 (Source: P.A. 99-418, eff. 1-1-16.)

19 Section 25. The Illinois Wage Payment and Collection Act is
20 amended by changing Section 2 as follows:

21 (820 ILCS 115/2) (from Ch. 48, par. 39m-2)

22 Sec. 2. For all employees, other than separated employees,

1 "wages" shall be defined as any compensation owed an employee
2 by an employer pursuant to an employment contract or agreement
3 between the 2 parties, whether the amount is determined on a
4 time, task, piece, or any other basis of calculation. Payments
5 to separated employees shall be termed "final compensation" and
6 shall be defined as wages, salaries, earned commissions, earned
7 bonuses, and the monetary equivalent of earned vacation and
8 earned holidays, and any other compensation owed the employee
9 by the employer pursuant to an employment contract or agreement
10 between the 2 parties. Where an employer is legally committed
11 through a collective bargaining agreement or otherwise to make
12 contributions to an employee benefit, trust or fund on the
13 basis of a certain amount per hour, day, week or other period
14 of time, the amount due from the employer to such employee
15 benefit, trust, or fund shall be defined as "wage supplements",
16 subject to the wage collection provisions of this Act.

17 As used in this Act, the term "employer" shall include any
18 individual, partnership, association, corporation, limited
19 liability company, business trust, employment and labor
20 placement agencies where wage payments are made directly or
21 indirectly by the agency or business for work undertaken by
22 employees under hire to a third party pursuant to a contract
23 between the business or agency with the third party, or any
24 person or group of persons acting directly or indirectly in the
25 interest of an employer in relation to an employee, for which
26 one or more persons is gainfully employed.

1 As used in this Act, the term "employee" has the meaning
2 ascribed to that term in the Fair Labor Standards Act of 1938,
3 29 U.S.C. 203. ~~shall include any individual permitted to work~~
4 ~~by an employer in an occupation, but shall not include any~~
5 ~~individual:~~

6 ~~(1) who has been and will continue to be free from~~
7 ~~control and direction over the performance of his work,~~
8 ~~both under his contract of service with his employer and in~~
9 ~~fact; and~~

10 ~~(2) who performs work which is either outside the usual~~
11 ~~course of business or is performed outside all of the~~
12 ~~places of business of the employer unless the employer is~~
13 ~~in the business of contracting with third parties for the~~
14 ~~placement of employees; and~~

15 ~~(3) who is in an independently established trade,~~
16 ~~occupation, profession or business.~~

17 As used in this Act, the term "employ" has the meaning
18 ascribed to that term in the Fair Labor Standards Act of 1938,
19 29 U.S.C. 203.

20 The following terms apply to an employer's use of payroll
21 cards to pay wages to an employee under the requirements of
22 this Act:

23 "Payroll card" means a card provided to an employee by an
24 employer or other payroll card issuer as a means of accessing
25 the employee's payroll card account.

26 "Payroll card account" means an account that is directly or

1 indirectly established through an employer and to which
2 deposits of a participating employee's wages are made.

3 "Payroll card issuer" means a bank, financial institution,
4 or other entity that issues a payroll card to an employee under
5 an employer payroll card program.

6 (Source: P.A. 98-862, eff. 1-1-15.)

7 Section 30. The One Day Rest In Seven Act is amended by
8 changing Section 1 as follows:

9 (820 ILCS 140/1) (from Ch. 48, par. 8a)

10 Sec. 1. The words and phrases mentioned in this section, as
11 used in this Act, and in proceedings pursuant hereto shall,
12 unless the same be inconsistent with the context, be construed
13 as follows:

14 "Employer" shall mean a person, partnership, joint stock
15 company or corporation, which employs any person to work, labor
16 or exercise skill in connection with the operation of any
17 business, industry, vocation or occupation.

18 "Employee" has the meaning ascribed to that term in the
19 Fair Labor Standards Act of 1938, 29 U.S.C. 203.

20 "Employ" has the meaning ascribed to that term in the Fair
21 Labor Standards Act of 1938, 29 U.S.C. 203.

22 (Source: P.A. 78-917.)

23 Section 35. The School Visitation Rights Act is amended by

1 changing Section 10 as follows:

2 (820 ILCS 147/10)

3 Sec. 10. Definitions. As used in this Act:

4 (a) "Employee" has the meaning ascribed to that term in the
5 Fair Labor Standards Act of 1938, 29 U.S.C. 203, and also
6 includes ~~means~~ a person who performs services for hire for an
7 employer for:

8 (1) at least 6 consecutive months immediately
9 preceding a request for leave under this Act; and

10 (2) an average number of hours per week equal to at
11 least one-half the full-time equivalent position in the
12 employer's job classification, as defined by the
13 employer's personnel policies or practices or in
14 accordance with a collective bargaining agreement, during
15 those 6 months.

16 "Employee" includes all individuals meeting the above
17 criteria but does not include an independent contractor.

18 (a-1) "Employ" has the meaning ascribed to that term in the
19 Fair Labor Standards Act of 1938, 29 U.S.C. 203.

20 (b) "Employer" means any of the following: a State agency,
21 officer, or department, a unit of local government, a school
22 district, an individual, a corporation, a partnership, an
23 association, or a nonprofit organization.

24 (c) "Child" means a biological, adopted or foster child, a
25 stepchild or a legal ward of an employee and who is enrolled in

1 a primary or secondary public or private school in this State
2 or a state which shares a common boundary with Illinois.

3 (d) "School" means any public or private primary or
4 secondary school or educational facility located in this State
5 or a state which shares a common boundary with Illinois.

6 (e) "School administrator" means the principal or similar
7 administrator who is responsible for the operations of the
8 school.

9 (Source: P.A. 87-1240.)

10 Section 40. The Victims' Economic Security and Safety Act
11 is amended by changing Section 10 as follows:

12 (820 ILCS 180/10)

13 Sec. 10. Definitions. In this Act, except as otherwise
14 expressly provided:

15 (1) "Commerce" includes trade, traffic, commerce,
16 transportation, or communication; and "industry or
17 activity affecting commerce" means any activity, business,
18 or industry in commerce or in which a labor dispute would
19 hinder or obstruct commerce or the free flow of commerce,
20 and includes "commerce" and any "industry affecting
21 commerce".

22 (2) "Course of conduct" means a course of repeatedly
23 maintaining a visual or physical proximity to a person or
24 conveying oral or written threats, including threats

1 conveyed through electronic communications, or threats
2 implied by conduct.

3 (3) "Department" means the Department of Labor.

4 (4) "Director" means the Director of Labor.

5 (5) "Domestic or sexual violence" means domestic
6 violence, sexual assault, or stalking.

7 (6) "Domestic violence" means abuse, as defined in
8 Section 103 of the Illinois Domestic Violence Act of 1986,
9 by a family or household member, as defined in Section 103
10 of the Illinois Domestic Violence Act of 1986.

11 (7) "Electronic communications" includes
12 communications via telephone, mobile phone, computer,
13 e-mail, video recorder, fax machine, telex, or pager, or
14 any other electronic communication, as defined in Section
15 12-7.5 of the Criminal Code of 2012.

16 (8) "Employ" has the meaning ascribed to that term in
17 the Fair Labor Standards Act of 1938, 29 U.S.C. 203
18 ~~includes to suffer or permit to work.~~

19 (9) Employee.

20 (A) In general. "Employee" has the meaning
21 ascribed to that term in the Fair Labor Standards Act
22 of 1938, 29 U.S.C. 203 ~~means any person employed by an~~
23 ~~employer.~~

24 (B) Basis. "Employee" includes a person employed
25 as described in subparagraph (A) on a full or part-time
26 basis, or as a participant in a work assignment as a

1 condition of receipt of federal or State income-based
2 public assistance.

3 (10) "Employer" means any of the following: (A) the
4 State or any agency of the State; (B) any unit of local
5 government or school district; or (C) any person that
6 employs at least one employee.

7 (11) "Employment benefits" means all benefits provided
8 or made available to employees by an employer, including
9 group life insurance, health insurance, disability
10 insurance, sick leave, annual leave, educational benefits,
11 pensions, and profit-sharing, regardless of whether such
12 benefits are provided by a practice or written policy of an
13 employer or through an "employee benefit plan". "Employee
14 benefit plan" or "plan" means an employee welfare benefit
15 plan or an employee pension benefit plan or a plan which is
16 both an employee welfare benefit plan and an employee
17 pension benefit plan.

18 (12) "Family or household member", for employees with a
19 family or household member who is a victim of domestic or
20 sexual violence, means a spouse, parent, son, daughter,
21 other person related by blood or by present or prior
22 marriage, other person who shares a relationship through a
23 son or daughter, and persons jointly residing in the same
24 household.

25 (13) "Parent" means the biological parent of an
26 employee or an individual who stood in loco parentis to an

1 employee when the employee was a son or daughter. "Son or
2 daughter" means a biological, adopted, or foster child, a
3 stepchild, a legal ward, or a child of a person standing in
4 loco parentis, who is under 18 years of age, or is 18 years
5 of age or older and incapable of self-care because of a
6 mental or physical disability.

7 (14) "Perpetrator" means an individual who commits or
8 is alleged to have committed any act or threat of domestic
9 or sexual violence.

10 (15) "Person" means an individual, partnership,
11 association, corporation, business trust, legal
12 representative, or any organized group of persons.

13 (16) "Public agency" means the Government of the State
14 or political subdivision thereof; any agency of the State,
15 or of a political subdivision of the State; or any
16 governmental agency.

17 (17) "Public assistance" includes cash, food stamps,
18 medical assistance, housing assistance, and other benefits
19 provided on the basis of income by a public agency or
20 public employer.

21 (18) "Reduced work schedule" means a work schedule that
22 reduces the usual number of hours per workweek, or hours
23 per workday, of an employee.

24 (19) "Repeatedly" means on 2 or more occasions.

25 (20) "Sexual assault" means any conduct proscribed by
26 the Criminal Code of 1961 or the Criminal Code of 2012 in

1 Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60,
2 12-13, 12-14, 12-14.1, 12-15, and 12-16.

3 (21) "Stalking" means any conduct proscribed by the
4 Criminal Code of 1961 or the Criminal Code of 2012 in
5 Sections 12-7.3, 12-7.4, and 12-7.5.

6 (22) "Victim" or "survivor" means an individual who has
7 been subjected to domestic or sexual violence.

8 (23) "Victim services organization" means a nonprofit,
9 nongovernmental organization that provides assistance to
10 victims of domestic or sexual violence or to advocates for
11 such victims, including a rape crisis center, an
12 organization carrying out a domestic violence program, an
13 organization operating a shelter or providing counseling
14 services, or a legal services organization or other
15 organization providing assistance through the legal
16 process.

17 (Source: P.A. 99-765, eff. 1-1-17.)

18 Section 45. The Employee Classification Act is amended by
19 changing Sections 5, 15, 20, and 25 as follows:

20 (820 ILCS 185/5)

21 Sec. 5. Definitions. As used in this Act:

22 "Construction" means any constructing, altering,
23 reconstructing, repairing, rehabilitating, refinishing,
24 refurbishing, remodeling, remediating, renovating, custom

1 fabricating, maintenance, landscaping, improving, wrecking,
2 painting, decorating, demolishing, and adding to or
3 subtracting from any building, structure, highway, roadway,
4 street, bridge, alley, sewer, ditch, sewage disposal plant,
5 water works, parking facility, railroad, excavation or other
6 structure, project, development, real property or improvement,
7 or to do any part thereof, whether or not the performance of
8 the work herein described involves the addition to, or
9 fabrication into, any structure, project, development, real
10 property or improvement herein described of any material or
11 article of merchandise. Construction shall also include moving
12 construction related materials on the job site to or from the
13 job site.

14 "Contractor" means any individual, sole proprietor,
15 partnership, firm, corporation, limited liability company,
16 association or other legal entity permitted by law to do
17 business within the State of Illinois who engages in
18 construction as defined in this Act.

19 "Contractor" includes a general contractor and a
20 subcontractor.

21 "Department" means the Department of Labor.

22 "Director" means the Director of the Department of Labor.

23 "Employee" has the meaning ascribed to that term in the
24 Fair Labor Standards Act of 1938, 29 U.S.C. 203.

25 "Employer" means any contractor that employs individuals
26 deemed employees under ~~Section 10~~ of this Act; however,

1 "employer" does not include (i) the State of Illinois or its
2 officers, agencies, or political subdivisions or (ii) the
3 federal government.

4 "Entity" means any contractor for which an individual is
5 performing services and is not classified as an employee ~~under~~
6 ~~Section 10 of this Act~~; however, "entity" does not include (i)
7 the State of Illinois or its officers, agencies, or political
8 subdivisions or (ii) the federal government.

9 "Interested party" means a person with an interest in
10 compliance with this Act.

11 "Performing services" means the performance of any
12 constructing, altering, reconstructing, repairing,
13 rehabilitating, refinishing, refurbishing, remodeling,
14 remediating, renovating, custom fabricating, maintenance,
15 landscaping, improving, wrecking, painting, decorating,
16 demolishing, and adding to or subtracting from any building,
17 structure, highway, roadway, street, bridge, alley, sewer,
18 ditch, sewage disposal plant, water works, parking facility,
19 railroad, excavation or other structure, project, development,
20 real property or improvement, or to do any part thereof,
21 whether or not the performance of the work herein described
22 involves the addition to, or fabrication into, any structure,
23 project, development, real property or improvement herein
24 described of any material or article of merchandise.
25 Construction shall also include moving construction related
26 materials on the job site to or from the job site.

1 (Source: P.A. 98-106, eff. 1-1-14.)

2 (820 ILCS 185/15)

3 Sec. 15. Notice.

4 (a) The Department shall post a summary of the requirements
5 of this Act in English, Spanish, and Polish on its official web
6 site and on bulletin boards in each of its offices.

7 (b) An entity for whom one or more individuals perform
8 services who are not classified as employees under ~~Section 10~~
9 ~~of~~ this Act shall post and keep posted, in a conspicuous place
10 on each job site where those individuals perform services and
11 in each of its offices, a notice in English, Spanish, and
12 Polish, prepared by the Department, summarizing the
13 requirements of this Act. The Department shall furnish copies
14 of summaries without charge to entities upon request.

15 (Source: P.A. 95-26, eff. 1-1-08.)

16 (820 ILCS 185/20)

17 Sec. 20. Failure to properly designate or classify
18 individuals performing services as employees. It is a violation
19 of this Act for an employer or entity not to designate an
20 individual as an employee under ~~Section 10 of~~ this Act unless
21 the employer or entity satisfies the provisions of Section 10
22 of this Act.

23 (Source: P.A. 95-26, eff. 1-1-08.)

1 (820 ILCS 185/25)

2 Sec. 25. Enforcement.

3 (a) Any interested party may file a complaint with the
4 Department against an entity or employer covered under this Act
5 if there is a reasonable belief that the entity or employer is
6 in violation of this Act. It shall be the duty of the
7 Department to enforce the provisions of this Act. The
8 Department shall have the power to conduct investigations in
9 connection with the administration and enforcement of this Act
10 and any investigator with the Department shall be authorized to
11 visit and inspect, at all reasonable times, any places covered
12 by this Act and shall be authorized to inspect, at all
13 reasonable times, documents related to the determination of
14 whether an individual is an employee under ~~Section 10~~ of this
15 Act. The Director of Labor or his or her representative may
16 compel, by subpoena, the attendance and testimony of witnesses
17 and the production of books, payrolls, records, papers, and
18 other evidence in any investigation and may administer oaths to
19 witnesses. Within 120 days of the filing of a complaint, the
20 Department shall notify the employer in writing of the filing
21 of a complaint and provide the employer the location and
22 approximate date of the project or projects, affected
23 contractors, and the nature of the allegations being
24 investigated.

25 (b) Whenever the Department believes upon investigation
26 that there has been a violation of any of the provisions of

1 this Act or any rules or regulations promulgated under this
2 Act, the Department may: (i) issue and cause to be served on
3 any party an order to cease and desist from further violation
4 of the Act, (ii) take affirmative or other action as deemed
5 reasonable to eliminate the effect of the violation, (iii)
6 collect the amount of any wages, salary, employment benefits,
7 or other compensation denied or lost to the individual, and
8 (iv) assess any civil penalty allowed by this Act.

9 (c) If, upon investigation, the Department finds cause to
10 believe that Section 20 or Section 55 of this Act has been
11 violated, the Department shall notify the employer, in writing,
12 of its finding and any proposed relief due and penalties
13 assessed and that the matter will be referred to an
14 Administrative Law Judge to schedule a formal hearing in
15 accordance with the Illinois Administrative Procedure Act.

16 (d) The employer has 28 calendar days from the date of the
17 Department's findings to answer the allegations contained in
18 the Department's findings. If an employer fails to answer all
19 allegations contained in the Department's findings, any
20 unanswered allegations or findings shall be deemed admitted to
21 be true and shall be found true in the final decision issued by
22 the Administrative Law Judge. If, within 30 calendar days of
23 the final decision issued by the Administrative Law Judge, the
24 employer files a motion to vacate the Administrative Law
25 Judge's final decision and demonstrates good cause for failing
26 to answer the Department's allegations, and the Administrative

1 Law Judge grants the motion, the employer shall be afforded an
2 opportunity to answer and the matter shall proceed as if an
3 original answer to the Department's findings had been filed.

4 (e) A final decision of an Administrative Law Judge issued
5 pursuant to this Section is subject to the provisions of the
6 Administrative Review Law and shall be enforceable in an action
7 brought in the name of the people of the State of Illinois by
8 the Attorney General.

9 (Source: P.A. 98-106, eff. 1-1-14.)

10 (820 ILCS 185/10 rep.)

11 Section 50. The Employee Classification Act is amended by
12 repealing Section 10.

13 Section 55. The Workers' Compensation Act is amended by
14 changing Section 1 as follows:

15 (820 ILCS 305/1) (from Ch. 48, par. 138.1)

16 Sec. 1. This Act may be cited as the Workers' Compensation
17 Act.

18 (a) The term "employer" as used in this Act means:

19 1. The State and each county, city, town, township,
20 incorporated village, school district, body politic, or
21 municipal corporation therein.

22 2. Every person, firm, public or private corporation,
23 including hospitals, public service, eleemosynary, religious

1 or charitable corporations or associations who has any person
2 in service or under any contract for hire, express or implied,
3 oral or written, and who is engaged in any of the enterprises
4 or businesses enumerated in Section 3 of this Act, or who at or
5 prior to the time of the accident to the employee for which
6 compensation under this Act may be claimed, has in the manner
7 provided in this Act elected to become subject to the
8 provisions of this Act, and who has not, prior to such
9 accident, effected a withdrawal of such election in the manner
10 provided in this Act.

11 3. Any one engaging in any business or enterprise referred
12 to in subsections 1 and 2 of Section 3 of this Act who
13 undertakes to do any work enumerated therein, is liable to pay
14 compensation to his own immediate employees in accordance with
15 the provisions of this Act, and in addition thereto if he
16 directly or indirectly engages any contractor whether
17 principal or sub-contractor to do any such work, he is liable
18 to pay compensation to the employees of any such contractor or
19 sub-contractor unless such contractor or sub-contractor has
20 insured, in any company or association authorized under the
21 laws of this State to insure the liability to pay compensation
22 under this Act, or guaranteed his liability to pay such
23 compensation. With respect to any time limitation on the filing
24 of claims provided by this Act, the timely filing of a claim
25 against a contractor or subcontractor, as the case may be,
26 shall be deemed to be a timely filing with respect to all

1 persons upon whom liability is imposed by this paragraph.

2 In the event any such person pays compensation under this
3 subsection he may recover the amount thereof from the
4 contractor or sub-contractor, if any, and in the event the
5 contractor pays compensation under this subsection he may
6 recover the amount thereof from the sub-contractor, if any.

7 This subsection does not apply in any case where the
8 accident occurs elsewhere than on, in or about the immediate
9 premises on which the principal has contracted that the work be
10 done.

11 4. Where an employer operating under and subject to the
12 provisions of this Act loans an employee to another such
13 employer and such loaned employee sustains a compensable
14 accidental injury in the employment of such borrowing employer
15 and where such borrowing employer does not provide or pay the
16 benefits or payments due such injured employee, such loaning
17 employer is liable to provide or pay all benefits or payments
18 due such employee under this Act and as to such employee the
19 liability of such loaning and borrowing employers is joint and
20 several, provided that such loaning employer is in the absence
21 of agreement to the contrary entitled to receive from such
22 borrowing employer full reimbursement for all sums paid or
23 incurred pursuant to this paragraph together with reasonable
24 attorneys' fees and expenses in any hearings before the
25 Illinois Workers' Compensation Commission or in any action to
26 secure such reimbursement. Where any benefit is provided or

1 paid by such loaning employer the employee has the duty of
2 rendering reasonable cooperation in any hearings, trials or
3 proceedings in the case, including such proceedings for
4 reimbursement.

5 Where an employee files an Application for Adjustment of
6 Claim with the Illinois Workers' Compensation Commission
7 alleging that his claim is covered by the provisions of the
8 preceding paragraph, and joining both the alleged loaning and
9 borrowing employers, they and each of them, upon written demand
10 by the employee and within 7 days after receipt of such demand,
11 shall have the duty of filing with the Illinois Workers'
12 Compensation Commission a written admission or denial of the
13 allegation that the claim is covered by the provisions of the
14 preceding paragraph and in default of such filing or if any
15 such denial be ultimately determined not to have been bona fide
16 then the provisions of Paragraph K of Section 19 of this Act
17 shall apply.

18 An employer whose business or enterprise or a substantial
19 part thereof consists of hiring, procuring or furnishing
20 employees to or for other employers operating under and subject
21 to the provisions of this Act for the performance of the work
22 of such other employers and who pays such employees their
23 salary or wages notwithstanding that they are doing the work of
24 such other employers shall be deemed a loaning employer within
25 the meaning and provisions of this Section.

26 (a-1) The term "employ" as used in this Act has the meaning

1 ascribed to that term in the Fair Labor Standards Act of 1938,
2 29 U.S.C. 203.

3 (b) The term "employee" as used in this Act has the meaning
4 ascribed to that term in the Fair Labor Standards Act of 1938,
5 29 U.S.C. 203, and also includes means:

6 1. Every person in the service of the State, including
7 members of the General Assembly, members of the Commerce
8 Commission, members of the Illinois Workers' Compensation
9 Commission, and all persons in the service of the University of
10 Illinois, county, including deputy sheriffs and assistant
11 state's attorneys, city, town, township, incorporated village
12 or school district, body politic, or municipal corporation
13 therein, whether by election, under appointment or contract of
14 hire, express or implied, oral or written, including all
15 members of the Illinois National Guard while on active duty in
16 the service of the State, and all probation personnel of the
17 Juvenile Court appointed pursuant to Article VI of the Juvenile
18 Court Act of 1987, and including any official of the State, any
19 county, city, town, township, incorporated village, school
20 district, body politic or municipal corporation therein except
21 any duly appointed member of a police department in any city
22 whose population exceeds 500,000 according to the last Federal
23 or State census, and except any member of a fire insurance
24 patrol maintained by a board of underwriters in this State. A
25 duly appointed member of a fire department in any city, the
26 population of which exceeds 500,000 according to the last

1 federal or State census, is an employee under this Act only
2 with respect to claims brought under paragraph (c) of Section
3 8.

4 One employed by a contractor who has contracted with the
5 State, or a county, city, town, township, incorporated village,
6 school district, body politic or municipal corporation
7 therein, through its representatives, is not considered as an
8 employee of the State, county, city, town, township,
9 incorporated village, school district, body politic or
10 municipal corporation which made the contract.

11 2. Every person in the service of another under any
12 contract of hire, express or implied, oral or written,
13 including persons whose employment is outside of the State of
14 Illinois where the contract of hire is made within the State of
15 Illinois, persons whose employment results in fatal or
16 non-fatal injuries within the State of Illinois where the
17 contract of hire is made outside of the State of Illinois, and
18 persons whose employment is principally localized within the
19 State of Illinois, regardless of the place of the accident or
20 the place where the contract of hire was made, and including
21 aliens, and minors who, for the purpose of this Act are
22 considered the same and have the same power to contract,
23 receive payments and give quittances therefor, as adult
24 employees.

25 3. Every sole proprietor and every partner of a business
26 may elect to be covered by this Act.

1 An employee or his dependents under this Act who shall have
2 a cause of action by reason of any injury, disablement or death
3 arising out of and in the course of his employment may elect to
4 pursue his remedy in the State where injured or disabled, or in
5 the State where the contract of hire is made, or in the State
6 where the employment is principally localized.

7 However, any employer may elect to provide and pay
8 compensation to any employee other than those engaged in the
9 usual course of the trade, business, profession or occupation
10 of the employer by complying with Sections 2 and 4 of this Act.
11 Employees are not included within the provisions of this Act
12 when excluded by the laws of the United States relating to
13 liability of employers to their employees for personal injuries
14 where such laws are held to be exclusive.

15 The term "employee" does not include persons performing
16 services as real estate broker, broker-salesman, or salesman
17 when such persons are paid by commission only.

18 (c) "Commission" means the Industrial Commission created
19 by Section 5 of "The Civil Administrative Code of Illinois",
20 approved March 7, 1917, as amended, or the Illinois Workers'
21 Compensation Commission created by Section 13 of this Act.

22 (d) To obtain compensation under this Act, an employee
23 bears the burden of showing, by a preponderance of the
24 evidence, that he or she has sustained accidental injuries
25 arising out of and in the course of the employment.

26 (Source: P.A. 97-18, eff. 6-28-11; 97-268, eff. 8-8-11; 97-813,

1 eff. 7-13-12.)

2 Section 60. The Workers' Occupational Diseases Act is
3 amended by changing Section 1 as follows:

4 (820 ILCS 310/1) (from Ch. 48, par. 172.36)

5 Sec. 1. This Act shall be known and may be cited as the
6 "Workers' Occupational Diseases Act".

7 (a) The term "employer" as used in this Act shall be
8 construed to be:

9 1. The State and each county, city, town, township,
10 incorporated village, school district, body politic, or
11 municipal corporation therein.

12 2. Every person, firm, public or private corporation,
13 including hospitals, public service, eleemosynary,
14 religious or charitable corporations or associations, who
15 has any person in service or under any contract for hire,
16 express or implied, oral or written.

17 3. Where an employer operating under and subject to the
18 provisions of this Act loans an employee to another such
19 employer and such loaned employee sustains a compensable
20 occupational disease in the employment of such borrowing
21 employer and where such borrowing employer does not provide
22 or pay the benefits or payments due such employee, such
23 loaning employer shall be liable to provide or pay all
24 benefits or payments due such employee under this Act and

1 as to such employee the liability of such loaning and
2 borrowing employers shall be joint and several, provided
3 that such loaning employer shall in the absence of
4 agreement to the contrary be entitled to receive from such
5 borrowing employer full reimbursement for all sums paid or
6 incurred pursuant to this paragraph together with
7 reasonable attorneys' fees and expenses in any hearings
8 before the Illinois Workers' Compensation Commission or in
9 any action to secure such reimbursement. Where any benefit
10 is provided or paid by such loaning employer, the employee
11 shall have the duty of rendering reasonable co-operation in
12 any hearings, trials or proceedings in the case, including
13 such proceedings for reimbursement.

14 Where an employee files an Application for Adjustment
15 of Claim with the Illinois Workers' Compensation
16 Commission alleging that his or her claim is covered by the
17 provisions of the preceding paragraph, and joining both the
18 alleged loaning and borrowing employers, they and each of
19 them, upon written demand by the employee and within 7 days
20 after receipt of such demand, shall have the duty of filing
21 with the Illinois Workers' Compensation Commission a
22 written admission or denial of the allegation that the
23 claim is covered by the provisions of the preceding
24 paragraph and in default of such filing or if any such
25 denial be ultimately determined not to have been bona fide
26 then the provisions of Paragraph K of Section 19 of this

1 Act shall apply.

2 An employer whose business or enterprise or a
3 substantial part thereof consists of hiring, procuring or
4 furnishing employees to or for other employers operating
5 under and subject to the provisions of this Act for the
6 performance of the work of such other employers and who
7 pays such employees their salary or wage notwithstanding
8 that they are doing the work of such other employers shall
9 be deemed a loaning employer within the meaning and
10 provisions of this Section.

11 (a-1) The term "employ" as used in this Act has the meaning
12 ascribed to that term in the Fair Labor Standards Act of 1938,
13 29 U.S.C. 203.

14 (b) The term "employee" as used in this Act has the meaning
15 ascribed to that term in the Fair Labor Standards Act of 1938,
16 29 U.S.C. 203, and also includes, shall be construed to mean:

17 1. Every person in the service of the State, county,
18 city, town, township, incorporated village or school
19 district, body politic or municipal corporation therein,
20 whether by election, appointment or contract of hire,
21 express or implied, oral or written, including any official
22 of the State, or of any county, city, town, township,
23 incorporated village, school district, body politic or
24 municipal corporation therein and except any duly
25 appointed member of the fire department in any city whose
26 population exceeds 500,000 according to the last Federal or

1 State census, and except any member of a fire insurance
2 patrol maintained by a board of underwriters in this State.
3 One employed by a contractor who has contracted with the
4 State, or a county, city, town, township, incorporated
5 village, school district, body politic or municipal
6 corporation therein, through its representatives, shall
7 not be considered as an employee of the State, county,
8 city, town, township, incorporated village, school
9 district, body politic or municipal corporation which made
10 the contract.

11 2. Every person in the service of another under any
12 contract of hire, express or implied, oral or written, who
13 contracts an occupational disease while working in the
14 State of Illinois, or who contracts an occupational disease
15 while working outside of the State of Illinois but where
16 the contract of hire is made within the State of Illinois,
17 and any person whose employment is principally localized
18 within the State of Illinois, regardless of the place where
19 the disease was contracted or place where the contract of
20 hire was made, including aliens, and minors who, for the
21 purpose of this Act, except Section 3 hereof, shall be
22 considered the same and have the same power to contract,
23 receive payments and give quittances therefor, as adult
24 employees. An employee or his or her dependents under this
25 Act who shall have a cause of action by reason of an
26 occupational disease, disablement or death arising out of

1 and in the course of his or her employment may elect or
2 pursue his or her remedy in the State where the disease was
3 contracted, or in the State where the contract of hire is
4 made, or in the State where the employment is principally
5 localized.

6 (c) "Commission" means the Illinois Workers' Compensation
7 Commission created by the Workers' Compensation Act, approved
8 July 9, 1951, as amended.

9 (d) In this Act the term "Occupational Disease" means a
10 disease arising out of and in the course of the employment or
11 which has become aggravated and rendered disabling as a result
12 of the exposure of the employment. Such aggravation shall arise
13 out of a risk peculiar to or increased by the employment and
14 not common to the general public.

15 A disease shall be deemed to arise out of the employment if
16 there is apparent to the rational mind, upon consideration of
17 all the circumstances, a causal connection between the
18 conditions under which the work is performed and the
19 occupational disease. The disease need not to have been
20 foreseen or expected but after its contraction it must appear
21 to have had its origin or aggravation in a risk connected with
22 the employment and to have flowed from that source as a
23 rational consequence.

24 An employee shall be conclusively deemed to have been
25 exposed to the hazards of an occupational disease when, for any
26 length of time however short, he or she is employed in an

1 occupation or process in which the hazard of the disease
2 exists; provided however, that in a claim of exposure to atomic
3 radiation, the fact of such exposure must be verified by the
4 records of the central registry of radiation exposure
5 maintained by the Department of Public Health or by some other
6 recognized governmental agency maintaining records of such
7 exposures whenever and to the extent that the records are on
8 file with the Department of Public Health or the agency.

9 Any injury to or disease or death of an employee arising
10 from the administration of a vaccine, including without
11 limitation smallpox vaccine, to prepare for, or as a response
12 to, a threatened or potential bioterrorist incident to the
13 employee as part of a voluntary inoculation program in
14 connection with the person's employment or in connection with
15 any governmental program or recommendation for the inoculation
16 of workers in the employee's occupation, geographical area, or
17 other category that includes the employee is deemed to arise
18 out of and in the course of the employment for all purposes
19 under this Act. This paragraph added by Public Act 93-829 is
20 declarative of existing law and is not a new enactment.

21 The employer liable for the compensation in this Act
22 provided shall be the employer in whose employment the employee
23 was last exposed to the hazard of the occupational disease
24 claimed upon regardless of the length of time of such last
25 exposure, except, in cases of silicosis or asbestosis, the only
26 employer liable shall be the last employer in whose employment

1 the employee was last exposed during a period of 60 days or
2 more after the effective date of this Act, to the hazard of
3 such occupational disease, and, in such cases, an exposure
4 during a period of less than 60 days, after the effective date
5 of this Act, shall not be deemed a last exposure. If a miner
6 who is suffering or suffered from pneumoconiosis was employed
7 for 10 years or more in one or more coal mines there shall,
8 effective July 1, 1973 be a rebuttable presumption that his or
9 her pneumoconiosis arose out of such employment.

10 If a deceased miner was employed for 10 years or more in
11 one or more coal mines and died from a respirable disease there
12 shall, effective July 1, 1973, be a rebuttable presumption that
13 his or her death was due to pneumoconiosis.

14 Any condition or impairment of health of an employee
15 employed as a firefighter, emergency medical technician (EMT),
16 emergency medical technician-intermediate (EMT-I), advanced
17 emergency medical technician (A-EMT), or paramedic which
18 results directly or indirectly from any bloodborne pathogen,
19 lung or respiratory disease or condition, heart or vascular
20 disease or condition, hypertension, tuberculosis, or cancer
21 resulting in any disability (temporary, permanent, total, or
22 partial) to the employee shall be rebuttably presumed to arise
23 out of and in the course of the employee's firefighting, EMT,
24 EMT-I, A-EMT, or paramedic employment and, further, shall be
25 rebuttably presumed to be causally connected to the hazards or
26 exposures of the employment. This presumption shall also apply

1 to any hernia or hearing loss suffered by an employee employed
2 as a firefighter, EMT, EMT-I, A-EMT, or paramedic. However,
3 this presumption shall not apply to any employee who has been
4 employed as a firefighter, EMT, EMT-I, A-EMT, or paramedic for
5 less than 5 years at the time he or she files an Application
6 for Adjustment of Claim concerning this condition or impairment
7 with the Illinois Workers' Compensation Commission. The
8 rebuttable presumption established under this subsection,
9 however, does not apply to an emergency medical technician
10 (EMT), emergency medical technician-intermediate (EMT-I),
11 advanced emergency medical technician (A-EMT), or paramedic
12 employed by a private employer if the employee spends the
13 preponderance of his or her work time for that employer engaged
14 in medical transfers between medical care facilities or
15 non-emergency medical transfers to or from medical care
16 facilities. The changes made to this subsection by this
17 amendatory Act of the 98th General Assembly shall be narrowly
18 construed. The Finding and Decision of the Illinois Workers'
19 Compensation Commission under only the rebuttable presumption
20 provision of this paragraph shall not be admissible or be
21 deemed res judicata in any disability claim under the Illinois
22 Pension Code arising out of the same medical condition;
23 however, this sentence makes no change to the law set forth in
24 *Krohe v. City of Bloomington*, 204 Ill.2d 392.

25 The insurance carrier liable shall be the carrier whose
26 policy was in effect covering the employer liable on the last

1 day of the exposure rendering such employer liable in
2 accordance with the provisions of this Act.

3 (e) "Disablement" means an impairment or partial
4 impairment, temporary or permanent, in the function of the body
5 or any of the members of the body, or the event of becoming
6 disabled from earning full wages at the work in which the
7 employee was engaged when last exposed to the hazards of the
8 occupational disease by the employer from whom he or she claims
9 compensation, or equal wages in other suitable employment; and
10 "disability" means the state of being so incapacitated.

11 (f) No compensation shall be payable for or on account of
12 any occupational disease unless disablement, as herein
13 defined, occurs within two years after the last day of the last
14 exposure to the hazards of the disease, except in cases of
15 occupational disease caused by berylliosis or by the inhalation
16 of silica dust or asbestos dust and, in such cases, within 3
17 years after the last day of the last exposure to the hazards of
18 such disease and except in the case of occupational disease
19 caused by exposure to radiological materials or equipment, and
20 in such case, within 25 years after the last day of last
21 exposure to the hazards of such disease.

22 (Source: P.A. 98-291, eff. 1-1-14; 98-973, eff. 8-15-14.)

23 Section 65. The Unemployment Insurance Act is amended by
24 changing Sections 211.4 and 212 as follows:

1 (820 ILCS 405/211.4) (from Ch. 48, par. 321.4)

2 Sec. 211.4. A. Notwithstanding any other provision of this
3 Act, the term "employment" shall include service performed
4 after December 31, 1977, by an individual in agricultural labor
5 as defined in Section 214 when:

6 1. Such service is performed for an employing unit
7 which (a) paid cash wages of \$20,000 or more during any
8 calendar quarter in either the current or preceding
9 calendar year to an individual or individuals employed in
10 agricultural labor (not taking into account service in
11 agricultural labor performed before January 1, 1980, by an
12 alien referred to in paragraph 2); or (b) employed in
13 agricultural labor (not taking into account service in
14 agricultural labor performed before January 1, 1980, by an
15 alien referred to in paragraph 2) 10 or more individuals
16 within each of 20 or more calendar weeks (but not
17 necessarily simultaneously and irrespective of whether the
18 same individuals are or were employed in each such week),
19 whether or not such weeks are or were consecutive, within
20 either the current or preceding calendar year.

21 2. Such service is not performed in agricultural labor
22 if performed before January 1, 1980 or on or after the
23 effective date of this amendatory Act of the 96th General
24 Assembly, by an individual who is an alien admitted to the
25 United States to perform service in agricultural labor
26 pursuant to Sections 214(c) and 101(a)(15)(H) of the

1 Immigration and Nationality Act.

2 B. For the purposes of this Section, any individual who is
3 a member of a crew furnished by a crew leader to perform
4 service in agricultural labor for any other employing unit
5 shall be treated as performing service in the employ of such
6 crew leader if (1) the leader holds a valid certificate of
7 registration under the Farm Labor Contractor Registration Act
8 of 1963, or substantially all the members of such crew operate
9 or maintain tractors, mechanized harvesting or crop dusting
10 equipment, or any other mechanized equipment, which is provided
11 by the crew leader; and (2) the service of such individual is
12 not in employment for such other employing unit within the
13 meaning of ~~subsections A and C of~~ Section 212, and of Section
14 213.

15 C. For the purposes of this Section, any individual who is
16 furnished by a crew leader to perform service in agricultural
17 labor for any other employing unit, and who is not treated as
18 performing service in the employ of such crew leader under
19 subsection B, shall be treated as performing service in the
20 employ of such other employing unit, and such employing unit
21 shall be treated as having paid cash wages to such individual
22 in an amount equal to the amount of cash wages paid to the
23 individual by the crew leader (either on his own behalf or on
24 behalf of such other employing unit) for the service in
25 agricultural labor performed for such other employing unit.

26 D. For the purposes of this Section, the term "crew leader"

1 means an individual who (1) furnishes individuals to perform
2 service in agricultural labor for any other employing unit; (2)
3 pays (either on his own behalf or on behalf of such other
4 employing unit) the individuals so furnished by him for the
5 service in agricultural labor performed by them; and (3) has
6 not entered into a written agreement with such other employing
7 unit under which an individual so furnished by him is
8 designated as performing services in the employ of such other
9 employing unit.

10 (Source: P.A. 96-1208, eff. 1-1-11.)

11 (820 ILCS 405/212) (from Ch. 48, par. 322)

12 Sec. 212. The term "employment" does not include services
13 performed by an individual who has been proven in any
14 proceeding where such issue is involved that his or her
15 compensation is not subject to federal wage withholding. This
16 Section shall become operative on January 1 following any year
17 in which the Bond Obligation under the Illinois Unemployment
18 Insurance Trust Fund Financing Act has been reduced to zero.
19 Any Credit Agreement or Revenue Bond issued or refinanced under
20 the Illinois Unemployment Insurance Trust Fund Financing Act
21 after the effective date of this amendatory Act of the 100th
22 General Assembly shall be negotiated as if this Section is
23 currently in effect.

24 ~~Service performed by an individual for an employing unit,~~
25 ~~whether or not such individual employs others in connection~~

1 ~~with the performance of such services, shall be deemed to be~~
2 ~~employment unless and until it is proven in any proceeding~~
3 ~~where such issue is involved that--~~

4 ~~A. Such individual has been and will continue to be free~~
5 ~~from control or direction over the performance of such~~
6 ~~services, both under his contract of service and in fact; and~~

7 ~~B. Such service is either outside the usual course of the~~
8 ~~business for which such service is performed or that such~~
9 ~~service is performed outside of all the places of business of~~
10 ~~the enterprise for which such service is performed; and~~

11 ~~C. Such individual is engaged in an independently~~
12 ~~established trade, occupation, profession, or business.~~

13 (Source: Laws 1951, p. 32.)