

HB3557



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB3557

Introduced 2/22/2021, by Rep. Dan Ugaste

SYNOPSIS AS INTRODUCED:

820 ILCS 305/8

from Ch. 48, par. 138.8

Amends the Workers' Compensation Act. Provides that, for purposes of awarding compensation for injuries, an injury to the shoulder shall be considered an injury to a part of the arm and an injury to the hip shall be considered an injury to a part of the leg. Effective immediately.

LRB102 10875 JLS 16205 b

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 8 as follows:

6 (820 ILCS 305/8) (from Ch. 48, par. 138.8)

7 Sec. 8. The amount of compensation which shall be paid to
8 the employee for an accidental injury not resulting in death
9 is:

10 (a) The employer shall provide and pay the negotiated
11 rate, if applicable, or the lesser of the health care
12 provider's actual charges or according to a fee schedule,
13 subject to Section 8.2, in effect at the time the service was
14 rendered for all the necessary first aid, medical and surgical
15 services, and all necessary medical, surgical and hospital
16 services thereafter incurred, limited, however, to that which
17 is reasonably required to cure or relieve from the effects of
18 the accidental injury, even if a health care provider sells,
19 transfers, or otherwise assigns an account receivable for
20 procedures, treatments, or services covered under this Act. If
21 the employer does not dispute payment of first aid, medical,
22 surgical, and hospital services, the employer shall make such
23 payment to the provider on behalf of the employee. The

1 employer shall also pay for treatment, instruction and
2 training necessary for the physical, mental and vocational
3 rehabilitation of the employee, including all maintenance
4 costs and expenses incidental thereto. If as a result of the
5 injury the employee is unable to be self-sufficient the
6 employer shall further pay for such maintenance or
7 institutional care as shall be required.

8 The employee may at any time elect to secure his own
9 physician, surgeon and hospital services at the employer's
10 expense, or,

11 Upon agreement between the employer and the employees, or
12 the employees' exclusive representative, and subject to the
13 approval of the Illinois Workers' Compensation Commission, the
14 employer shall maintain a list of physicians, to be known as a
15 Panel of Physicians, who are accessible to the employees. The
16 employer shall post this list in a place or places easily
17 accessible to his employees. The employee shall have the right
18 to make an alternative choice of physician from such Panel if
19 he is not satisfied with the physician first selected. If, due
20 to the nature of the injury or its occurrence away from the
21 employer's place of business, the employee is unable to make a
22 selection from the Panel, the selection process from the Panel
23 shall not apply. The physician selected from the Panel may
24 arrange for any consultation, referral or other specialized
25 medical services outside the Panel at the employer's expense.
26 Provided that, in the event the Commission shall find that a

1 doctor selected by the employee is rendering improper or
2 inadequate care, the Commission may order the employee to
3 select another doctor certified or qualified in the medical
4 field for which treatment is required. If the employee refuses
5 to make such change the Commission may relieve the employer of
6 his obligation to pay the doctor's charges from the date of
7 refusal to the date of compliance.

8 Any vocational rehabilitation counselors who provide
9 service under this Act shall have appropriate certifications
10 which designate the counselor as qualified to render opinions
11 relating to vocational rehabilitation. Vocational
12 rehabilitation may include, but is not limited to, counseling
13 for job searches, supervising a job search program, and
14 vocational retraining including education at an accredited
15 learning institution. The employee or employer may petition to
16 the Commission to decide disputes relating to vocational
17 rehabilitation and the Commission shall resolve any such
18 dispute, including payment of the vocational rehabilitation
19 program by the employer.

20 The maintenance benefit shall not be less than the
21 temporary total disability rate determined for the employee.
22 In addition, maintenance shall include costs and expenses
23 incidental to the vocational rehabilitation program.

24 When the employee is working light duty on a part-time
25 basis or full-time basis and earns less than he or she would be
26 earning if employed in the full capacity of the job or jobs,

1 then the employee shall be entitled to temporary partial
2 disability benefits. Temporary partial disability benefits
3 shall be equal to two-thirds of the difference between the
4 average amount that the employee would be able to earn in the
5 full performance of his or her duties in the occupation in
6 which he or she was engaged at the time of accident and the
7 gross amount which he or she is earning in the modified job
8 provided to the employee by the employer or in any other job
9 that the employee is working.

10 Every hospital, physician, surgeon or other person
11 rendering treatment or services in accordance with the
12 provisions of this Section shall upon written request furnish
13 full and complete reports thereof to, and permit their records
14 to be copied by, the employer, the employee or his dependents,
15 as the case may be, or any other party to any proceeding for
16 compensation before the Commission, or their attorneys.

17 Notwithstanding the foregoing, the employer's liability to
18 pay for such medical services selected by the employee shall
19 be limited to:

20 (1) all first aid and emergency treatment; plus

21 (2) all medical, surgical and hospital services
22 provided by the physician, surgeon or hospital initially
23 chosen by the employee or by any other physician,
24 consultant, expert, institution or other provider of
25 services recommended by said initial service provider or
26 any subsequent provider of medical services in the chain

1 of referrals from said initial service provider; plus

2 (3) all medical, surgical and hospital services
3 provided by any second physician, surgeon or hospital
4 subsequently chosen by the employee or by any other
5 physician, consultant, expert, institution or other
6 provider of services recommended by said second service
7 provider or any subsequent provider of medical services in
8 the chain of referrals from said second service provider.
9 Thereafter the employer shall select and pay for all
10 necessary medical, surgical and hospital treatment and the
11 employee may not select a provider of medical services at
12 the employer's expense unless the employer agrees to such
13 selection. At any time the employee may obtain any medical
14 treatment he desires at his own expense. This paragraph
15 shall not affect the duty to pay for rehabilitation
16 referred to above.

17 (4) The following shall apply for injuries occurring
18 on or after June 28, 2011 (the effective date of Public Act
19 97-18) and only when an employer has an approved preferred
20 provider program pursuant to Section 8.1a on the date the
21 employee sustained his or her accidental injuries:

22 (A) The employer shall, in writing, on a form
23 promulgated by the Commission, inform the employee of
24 the preferred provider program;

25 (B) Subsequent to the report of an injury by an
26 employee, the employee may choose in writing at any

1 time to decline the preferred provider program, in
2 which case that would constitute one of the two
3 choices of medical providers to which the employee is
4 entitled under subsection (a)(2) or (a)(3); and

5 (C) Prior to the report of an injury by an
6 employee, when an employee chooses non-emergency
7 treatment from a provider not within the preferred
8 provider program, that would constitute the employee's
9 one choice of medical providers to which the employee
10 is entitled under subsection (a)(2) or (a)(3).

11 When an employer and employee so agree in writing, nothing
12 in this Act prevents an employee whose injury or disability
13 has been established under this Act, from relying in good
14 faith, on treatment by prayer or spiritual means alone, in
15 accordance with the tenets and practice of a recognized church
16 or religious denomination, by a duly accredited practitioner
17 thereof, and having nursing services appropriate therewith,
18 without suffering loss or diminution of the compensation
19 benefits under this Act. However, the employee shall submit to
20 all physical examinations required by this Act. The cost of
21 such treatment and nursing care shall be paid by the employee
22 unless the employer agrees to make such payment.

23 Where the accidental injury results in the amputation of
24 an arm, hand, leg or foot, or the enucleation of an eye, or the
25 loss of any of the natural teeth, the employer shall furnish an
26 artificial of any such members lost or damaged in accidental

1 injury arising out of and in the course of employment, and
2 shall also furnish the necessary braces in all proper and
3 necessary cases. In cases of the loss of a member or members by
4 amputation, the employer shall, whenever necessary, maintain
5 in good repair, refit or replace the artificial limbs during
6 the lifetime of the employee. Where the accidental injury
7 accompanied by physical injury results in damage to a denture,
8 eye glasses or contact eye lenses, or where the accidental
9 injury results in damage to an artificial member, the employer
10 shall replace or repair such denture, glasses, lenses, or
11 artificial member.

12 The furnishing by the employer of any such services or
13 appliances is not an admission of liability on the part of the
14 employer to pay compensation.

15 The furnishing of any such services or appliances or the
16 servicing thereof by the employer is not the payment of
17 compensation.

18 (b) If the period of temporary total incapacity for work
19 lasts more than 3 working days, weekly compensation as
20 hereinafter provided shall be paid beginning on the 4th day of
21 such temporary total incapacity and continuing as long as the
22 total temporary incapacity lasts. In cases where the temporary
23 total incapacity for work continues for a period of 14 days or
24 more from the day of the accident compensation shall commence
25 on the day after the accident.

26 1. The compensation rate for temporary total

1 incapacity under this paragraph (b) of this Section shall
2 be equal to 66 2/3% of the employee's average weekly wage
3 computed in accordance with Section 10, provided that it
4 shall be not less than 66 2/3% of the sum of the Federal
5 minimum wage under the Fair Labor Standards Act, or the
6 Illinois minimum wage under the Minimum Wage Law,
7 whichever is more, multiplied by 40 hours. This percentage
8 rate shall be increased by 10% for each spouse and child,
9 not to exceed 100% of the total minimum wage calculation,
10 nor exceed the employee's average weekly wage computed in
11 accordance with the provisions of Section 10, whichever is
12 less.

13 2. The compensation rate in all cases other than for
14 temporary total disability under this paragraph (b), and
15 other than for serious and permanent disfigurement under
16 paragraph (c) and other than for permanent partial
17 disability under subparagraph (2) of paragraph (d) or
18 under paragraph (e), of this Section shall be equal to 66
19 2/3% of the employee's average weekly wage computed in
20 accordance with the provisions of Section 10, provided
21 that it shall be not less than 66 2/3% of the sum of the
22 Federal minimum wage under the Fair Labor Standards Act,
23 or the Illinois minimum wage under the Minimum Wage Law,
24 whichever is more, multiplied by 40 hours. This percentage
25 rate shall be increased by 10% for each spouse and child,
26 not to exceed 100% of the total minimum wage calculation,

1 nor exceed the employee's average weekly wage computed in
2 accordance with the provisions of Section 10, whichever is
3 less.

4 2.1. The compensation rate in all cases of serious and
5 permanent disfigurement under paragraph (c) and of
6 permanent partial disability under subparagraph (2) of
7 paragraph (d) or under paragraph (e) of this Section shall
8 be equal to 60% of the employee's average weekly wage
9 computed in accordance with the provisions of Section 10,
10 provided that it shall be not less than 66 2/3% of the sum
11 of the Federal minimum wage under the Fair Labor Standards
12 Act, or the Illinois minimum wage under the Minimum Wage
13 Law, whichever is more, multiplied by 40 hours. This
14 percentage rate shall be increased by 10% for each spouse
15 and child, not to exceed 100% of the total minimum wage
16 calculation, nor exceed the employee's average weekly wage
17 computed in accordance with the provisions of Section 10,
18 whichever is less.

19 3. As used in this Section the term "child" means a
20 child of the employee including any child legally adopted
21 before the accident or whom at the time of the accident the
22 employee was under legal obligation to support or to whom
23 the employee stood in loco parentis, and who at the time of
24 the accident was under 18 years of age and not
25 emancipated. The term "children" means the plural of
26 "child".

1 4. All weekly compensation rates provided under
2 subparagraphs 1, 2 and 2.1 of this paragraph (b) of this
3 Section shall be subject to the following limitations:

4 The maximum weekly compensation rate from July 1,
5 1975, except as hereinafter provided, shall be 100% of the
6 State's average weekly wage in covered industries under
7 the Unemployment Insurance Act, that being the wage that
8 most closely approximates the State's average weekly wage.

9 The maximum weekly compensation rate, for the period
10 July 1, 1984, through June 30, 1987, except as hereinafter
11 provided, shall be \$293.61. Effective July 1, 1987 and on
12 July 1 of each year thereafter the maximum weekly
13 compensation rate, except as hereinafter provided, shall
14 be determined as follows: if during the preceding 12 month
15 period there shall have been an increase in the State's
16 average weekly wage in covered industries under the
17 Unemployment Insurance Act, the weekly compensation rate
18 shall be proportionately increased by the same percentage
19 as the percentage of increase in the State's average
20 weekly wage in covered industries under the Unemployment
21 Insurance Act during such period.

22 The maximum weekly compensation rate, for the period
23 January 1, 1981 through December 31, 1983, except as
24 hereinafter provided, shall be 100% of the State's average
25 weekly wage in covered industries under the Unemployment
26 Insurance Act in effect on January 1, 1981. Effective

1 January 1, 1984 and on January 1, of each year thereafter
2 the maximum weekly compensation rate, except as
3 hereinafter provided, shall be determined as follows: if
4 during the preceding 12 month period there shall have been
5 an increase in the State's average weekly wage in covered
6 industries under the Unemployment Insurance Act, the
7 weekly compensation rate shall be proportionately
8 increased by the same percentage as the percentage of
9 increase in the State's average weekly wage in covered
10 industries under the Unemployment Insurance Act during
11 such period.

12 From July 1, 1977 and thereafter such maximum weekly
13 compensation rate in death cases under Section 7, and
14 permanent total disability cases under paragraph (f) or
15 subparagraph 18 of paragraph (3) of this Section and for
16 temporary total disability under paragraph (b) of this
17 Section and for amputation of a member or enucleation of
18 an eye under paragraph (e) of this Section shall be
19 increased to 133-1/3% of the State's average weekly wage
20 in covered industries under the Unemployment Insurance
21 Act.

22 For injuries occurring on or after February 1, 2006,
23 the maximum weekly benefit under paragraph (d)1 of this
24 Section shall be 100% of the State's average weekly wage
25 in covered industries under the Unemployment Insurance
26 Act.

1 4.1. Any provision herein to the contrary
2 notwithstanding, the weekly compensation rate for
3 compensation payments under subparagraph 18 of paragraph
4 (e) of this Section and under paragraph (f) of this
5 Section and under paragraph (a) of Section 7 and for
6 amputation of a member or enucleation of an eye under
7 paragraph (e) of this Section, shall in no event be less
8 than 50% of the State's average weekly wage in covered
9 industries under the Unemployment Insurance Act.

10 4.2. Any provision to the contrary notwithstanding,
11 the total compensation payable under Section 7 shall not
12 exceed the greater of \$500,000 or 25 years.

13 5. For the purpose of this Section this State's
14 average weekly wage in covered industries under the
15 Unemployment Insurance Act on July 1, 1975 is hereby fixed
16 at \$228.16 per week and the computation of compensation
17 rates shall be based on the aforesaid average weekly wage
18 until modified as hereinafter provided.

19 6. The Department of Employment Security of the State
20 shall on or before the first day of December, 1977, and on
21 or before the first day of June, 1978, and on the first day
22 of each December and June of each year thereafter, publish
23 the State's average weekly wage in covered industries
24 under the Unemployment Insurance Act and the Illinois
25 Workers' Compensation Commission shall on the 15th day of
26 January, 1978 and on the 15th day of July, 1978 and on the

1 15th day of each January and July of each year thereafter,
2 post and publish the State's average weekly wage in
3 covered industries under the Unemployment Insurance Act as
4 last determined and published by the Department of
5 Employment Security. The amount when so posted and
6 published shall be conclusive and shall be applicable as
7 the basis of computation of compensation rates until the
8 next posting and publication as aforesaid.

9 7. The payment of compensation by an employer or his
10 insurance carrier to an injured employee shall not
11 constitute an admission of the employer's liability to pay
12 compensation.

13 (c) For any serious and permanent disfigurement to the
14 hand, head, face, neck, arm, leg below the knee or the chest
15 above the axillary line, the employee is entitled to
16 compensation for such disfigurement, the amount determined by
17 agreement at any time or by arbitration under this Act, at a
18 hearing not less than 6 months after the date of the accidental
19 injury, which amount shall not exceed 150 weeks (if the
20 accidental injury occurs on or after the effective date of
21 this amendatory Act of the 94th General Assembly but before
22 February 1, 2006) or 162 weeks (if the accidental injury
23 occurs on or after February 1, 2006) at the applicable rate
24 provided in subparagraph 2.1 of paragraph (b) of this Section.

25 No compensation is payable under this paragraph where
26 compensation is payable under paragraphs (d), (e) or (f) of

1 this Section.

2 A duly appointed member of a fire department in a city, the
3 population of which exceeds 500,000 according to the last
4 federal or State census, is eligible for compensation under
5 this paragraph only where such serious and permanent
6 disfigurement results from burns.

7 (d) 1. If, after the accidental injury has been sustained,
8 the employee as a result thereof becomes partially
9 incapacitated from pursuing his usual and customary line of
10 employment, he shall, except in cases compensated under the
11 specific schedule set forth in paragraph (e) of this Section,
12 receive compensation for the duration of his disability,
13 subject to the limitations as to maximum amounts fixed in
14 paragraph (b) of this Section, equal to 66-2/3% of the
15 difference between the average amount which he would be able
16 to earn in the full performance of his duties in the occupation
17 in which he was engaged at the time of the accident and the
18 average amount which he is earning or is able to earn in some
19 suitable employment or business after the accident. For
20 accidental injuries that occur on or after September 1, 2011,
21 an award for wage differential under this subsection shall be
22 effective only until the employee reaches the age of 67 or 5
23 years from the date the award becomes final, whichever is
24 later.

25 2. If, as a result of the accident, the employee sustains
26 serious and permanent injuries not covered by paragraphs (c)

1 and (e) of this Section or having sustained injuries covered
2 by the aforesaid paragraphs (c) and (e), he shall have
3 sustained in addition thereto other injuries which injuries do
4 not incapacitate him from pursuing the duties of his
5 employment but which would disable him from pursuing other
6 suitable occupations, or which have otherwise resulted in
7 physical impairment; or if such injuries partially
8 incapacitate him from pursuing the duties of his usual and
9 customary line of employment but do not result in an
10 impairment of earning capacity, or having resulted in an
11 impairment of earning capacity, the employee elects to waive
12 his right to recover under the foregoing subparagraph 1 of
13 paragraph (d) of this Section then in any of the foregoing
14 events, he shall receive in addition to compensation for
15 temporary total disability under paragraph (b) of this
16 Section, compensation at the rate provided in subparagraph 2.1
17 of paragraph (b) of this Section for that percentage of 500
18 weeks that the partial disability resulting from the injuries
19 covered by this paragraph bears to total disability. If the
20 employee shall have sustained a fracture of one or more
21 vertebra or fracture of the skull, the amount of compensation
22 allowed under this Section shall be not less than 6 weeks for a
23 fractured skull and 6 weeks for each fractured vertebra, and
24 in the event the employee shall have sustained a fracture of
25 any of the following facial bones: nasal, lachrymal, vomer,
26 zygoma, maxilla, palatine or mandible, the amount of

1 compensation allowed under this Section shall be not less than
2 2 weeks for each such fractured bone, and for a fracture of
3 each transverse process not less than 3 weeks. In the event
4 such injuries shall result in the loss of a kidney, spleen or
5 lung, the amount of compensation allowed under this Section
6 shall be not less than 10 weeks for each such organ.
7 Compensation awarded under this subparagraph 2 shall not take
8 into consideration injuries covered under paragraphs (c) and
9 (e) of this Section and the compensation provided in this
10 paragraph shall not affect the employee's right to
11 compensation payable under paragraphs (b), (c) and (e) of this
12 Section for the disabilities therein covered.

13 (e) For accidental injuries in the following schedule, the
14 employee shall receive compensation for the period of
15 temporary total incapacity for work resulting from such
16 accidental injury, under subparagraph 1 of paragraph (b) of
17 this Section, and shall receive in addition thereto
18 compensation for a further period for the specific loss herein
19 mentioned, but shall not receive any compensation under any
20 other provisions of this Act. The following listed amounts
21 apply to either the loss of or the permanent and complete loss
22 of use of the member specified, such compensation for the
23 length of time as follows:

24 1. Thumb-

25 70 weeks if the accidental injury occurs on or
26 after the effective date of this amendatory Act of the

1 94th General Assembly but before February 1, 2006.

2 76 weeks if the accidental injury occurs on or
3 after February 1, 2006.

4 2. First, or index finger-

5 40 weeks if the accidental injury occurs on or
6 after the effective date of this amendatory Act of the
7 94th General Assembly but before February 1, 2006.

8 43 weeks if the accidental injury occurs on or
9 after February 1, 2006.

10 3. Second, or middle finger-

11 35 weeks if the accidental injury occurs on or
12 after the effective date of this amendatory Act of the
13 94th General Assembly but before February 1, 2006.

14 38 weeks if the accidental injury occurs on or
15 after February 1, 2006.

16 4. Third, or ring finger-

17 25 weeks if the accidental injury occurs on or
18 after the effective date of this amendatory Act of the
19 94th General Assembly but before February 1, 2006.

20 27 weeks if the accidental injury occurs on or
21 after February 1, 2006.

22 5. Fourth, or little finger-

23 20 weeks if the accidental injury occurs on or
24 after the effective date of this amendatory Act of the
25 94th General Assembly but before February 1, 2006.

26 22 weeks if the accidental injury occurs on or

1 after February 1, 2006.

2 6. Great toe-

3 35 weeks if the accidental injury occurs on or
4 after the effective date of this amendatory Act of the
5 94th General Assembly but before February 1, 2006.

6 38 weeks if the accidental injury occurs on or
7 after February 1, 2006.

8 7. Each toe other than great toe-

9 12 weeks if the accidental injury occurs on or
10 after the effective date of this amendatory Act of the
11 94th General Assembly but before February 1, 2006.

12 13 weeks if the accidental injury occurs on or
13 after February 1, 2006.

14 8. The loss of the first or distal phalanx of the thumb
15 or of any finger or toe shall be considered to be equal to
16 the loss of one-half of such thumb, finger or toe and the
17 compensation payable shall be one-half of the amount above
18 specified. The loss of more than one phalanx shall be
19 considered as the loss of the entire thumb, finger or toe.
20 In no case shall the amount received for more than one
21 finger exceed the amount provided in this schedule for the
22 loss of a hand.

23 9. Hand-

24 190 weeks if the accidental injury occurs on or
25 after the effective date of this amendatory Act of the
26 94th General Assembly but before February 1, 2006.

1 205 weeks if the accidental injury occurs on or
2 after February 1, 2006.

3 190 weeks if the accidental injury occurs on or
4 after June 28, 2011 (the effective date of Public Act
5 97-18) and if the accidental injury involves carpal
6 tunnel syndrome due to repetitive or cumulative
7 trauma, in which case the permanent partial disability
8 shall not exceed 15% loss of use of the hand, except
9 for cause shown by clear and convincing evidence and
10 in which case the award shall not exceed 30% loss of
11 use of the hand.

12 The loss of 2 or more digits, or one or more phalanges
13 of 2 or more digits, of a hand may be compensated on the
14 basis of partial loss of use of a hand, provided, further,
15 that the loss of 4 digits, or the loss of use of 4 digits,
16 in the same hand shall constitute the complete loss of a
17 hand.

18 10. Arm-

19 235 weeks if the accidental injury occurs on or
20 after the effective date of this amendatory Act of the
21 94th General Assembly but before February 1, 2006.

22 253 weeks if the accidental injury occurs on or
23 after February 1, 2006.

24 Where an accidental injury results in the amputation
25 of an arm below the elbow, such injury shall be
26 compensated as a loss of an arm. Where an accidental

1 injury results in the amputation of an arm above the
2 elbow, compensation for an additional 15 weeks (if the
3 accidental injury occurs on or after the effective date of
4 this amendatory Act of the 94th General Assembly but
5 before February 1, 2006) or an additional 17 weeks (if the
6 accidental injury occurs on or after February 1, 2006)
7 shall be paid, except where the accidental injury results
8 in the amputation of an arm at the shoulder joint, or so
9 close to shoulder joint that an artificial arm cannot be
10 used, or results in the disarticulation of an arm at the
11 shoulder joint, in which case compensation for an
12 additional 65 weeks (if the accidental injury occurs on or
13 after the effective date of this amendatory Act of the
14 94th General Assembly but before February 1, 2006) or an
15 additional 70 weeks (if the accidental injury occurs on or
16 after February 1, 2006) shall be paid.

17 For purposes of awards under this subdivision (e),
18 injuries to the shoulder shall be considered injuries to part
19 of the arm. The change made by this amendatory Act of the 102nd
20 General Assembly to this subdivision (e)10 is declarative of
21 existing law and is not a new enactment.

22 11. Foot-

23 155 weeks if the accidental injury occurs on or
24 after the effective date of this amendatory Act of the
25 94th General Assembly but before February 1, 2006.

26 167 weeks if the accidental injury occurs on or

1 after February 1, 2006.

2 12. Leg-

3 200 weeks if the accidental injury occurs on or
4 after the effective date of this amendatory Act of the
5 94th General Assembly but before February 1, 2006.

6 215 weeks if the accidental injury occurs on or
7 after February 1, 2006.

8 Where an accidental injury results in the amputation
9 of a leg below the knee, such injury shall be compensated
10 as loss of a leg. Where an accidental injury results in the
11 amputation of a leg above the knee, compensation for an
12 additional 25 weeks (if the accidental injury occurs on or
13 after the effective date of this amendatory Act of the
14 94th General Assembly but before February 1, 2006) or an
15 additional 27 weeks (if the accidental injury occurs on or
16 after February 1, 2006) shall be paid, except where the
17 accidental injury results in the amputation of a leg at
18 the hip joint, or so close to the hip joint that an
19 artificial leg cannot be used, or results in the
20 disarticulation of a leg at the hip joint, in which case
21 compensation for an additional 75 weeks (if the accidental
22 injury occurs on or after the effective date of this
23 amendatory Act of the 94th General Assembly but before
24 February 1, 2006) or an additional 81 weeks (if the
25 accidental injury occurs on or after February 1, 2006)
26 shall be paid.

1 For purposes of awards under this subdivision (e),
2 injuries to the hip shall be considered injuries to part of the
3 leg. The change made by this amendatory Act of the 102nd
4 General Assembly to this subdivision (e) (12) is declarative of
5 existing law and it not a new enactment.

6 13. Eye-

7 150 weeks if the accidental injury occurs on or
8 after the effective date of this amendatory Act of the
9 94th General Assembly but before February 1, 2006.

10 162 weeks if the accidental injury occurs on or
11 after February 1, 2006.

12 Where an accidental injury results in the enucleation
13 of an eye, compensation for an additional 10 weeks (if the
14 accidental injury occurs on or after the effective date of
15 this amendatory Act of the 94th General Assembly but
16 before February 1, 2006) or an additional 11 weeks (if the
17 accidental injury occurs on or after February 1, 2006)
18 shall be paid.

19 14. Loss of hearing of one ear-

20 50 weeks if the accidental injury occurs on or
21 after the effective date of this amendatory Act of the
22 94th General Assembly but before February 1, 2006.

23 54 weeks if the accidental injury occurs on or
24 after February 1, 2006.

25 Total and permanent loss of hearing of both ears-

26 200 weeks if the accidental injury occurs on or

1 after the effective date of this amendatory Act of the
2 94th General Assembly but before February 1, 2006.

3 215 weeks if the accidental injury occurs on or
4 after February 1, 2006.

5 15. Testicle-

6 50 weeks if the accidental injury occurs on or
7 after the effective date of this amendatory Act of the
8 94th General Assembly but before February 1, 2006.

9 54 weeks if the accidental injury occurs on or
10 after February 1, 2006.

11 Both testicles-

12 150 weeks if the accidental injury occurs on or
13 after the effective date of this amendatory Act of the
14 94th General Assembly but before February 1, 2006.

15 162 weeks if the accidental injury occurs on or
16 after February 1, 2006.

17 16. For the permanent partial loss of use of a member
18 or sight of an eye, or hearing of an ear, compensation
19 during that proportion of the number of weeks in the
20 foregoing schedule provided for the loss of such member or
21 sight of an eye, or hearing of an ear, which the partial
22 loss of use thereof bears to the total loss of use of such
23 member, or sight of eye, or hearing of an ear.

24 (a) Loss of hearing for compensation purposes
25 shall be confined to the frequencies of 1,000, 2,000
26 and 3,000 cycles per second. Loss of hearing ability

1 for frequency tones above 3,000 cycles per second are
2 not to be considered as constituting disability for
3 hearing.

4 (b) The percent of hearing loss, for purposes of
5 the determination of compensation claims for
6 occupational deafness, shall be calculated as the
7 average in decibels for the thresholds of hearing for
8 the frequencies of 1,000, 2,000 and 3,000 cycles per
9 second. Pure tone air conduction audiometric
10 instruments, approved by nationally recognized
11 authorities in this field, shall be used for measuring
12 hearing loss. If the losses of hearing average 30
13 decibels or less in the 3 frequencies, such losses of
14 hearing shall not then constitute any compensable
15 hearing disability. If the losses of hearing average
16 85 decibels or more in the 3 frequencies, then the same
17 shall constitute and be total or 100% compensable
18 hearing loss.

19 (c) In measuring hearing impairment, the lowest
20 measured losses in each of the 3 frequencies shall be
21 added together and divided by 3 to determine the
22 average decibel loss. For every decibel of loss
23 exceeding 30 decibels an allowance of 1.82% shall be
24 made up to the maximum of 100% which is reached at 85
25 decibels.

26 (d) If a hearing loss is established to have

1 existed on July 1, 1975 by audiometric testing the
 2 employer shall not be liable for the previous loss so
 3 established nor shall he be liable for any loss for
 4 which compensation has been paid or awarded.

5 (e) No consideration shall be given to the
 6 question of whether or not the ability of an employee
 7 to understand speech is improved by the use of a
 8 hearing aid.

9 (f) No claim for loss of hearing due to industrial
 10 noise shall be brought against an employer or allowed
 11 unless the employee has been exposed for a period of
 12 time sufficient to cause permanent impairment to noise
 13 levels in excess of the following:

14 Sound Level DBA

15	Slow Response	Hours Per Day
16	90	8
17	92	6
18	95	4
19	97	3
20	100	2
21	102	1-1/2
22	105	1
23	110	1/2
24	115	1/4

25 This subparagraph (f) shall not be applied in cases of
 26 hearing loss resulting from trauma or explosion.

1 17. In computing the compensation to be paid to any
2 employee who, before the accident for which he claims
3 compensation, had before that time sustained an injury
4 resulting in the loss by amputation or partial loss by
5 amputation of any member, including hand, arm, thumb or
6 fingers, leg, foot or any toes, such loss or partial loss
7 of any such member shall be deducted from any award made
8 for the subsequent injury. For the permanent loss of use
9 or the permanent partial loss of use of any such member or
10 the partial loss of sight of an eye, for which
11 compensation has been paid, then such loss shall be taken
12 into consideration and deducted from any award for the
13 subsequent injury.

14 18. The specific case of loss of both hands, both
15 arms, or both feet, or both legs, or both eyes, or of any
16 two thereof, or the permanent and complete loss of the use
17 thereof, constitutes total and permanent disability, to be
18 compensated according to the compensation fixed by
19 paragraph (f) of this Section. These specific cases of
20 total and permanent disability do not exclude other cases.

21 Any employee who has previously suffered the loss or
22 permanent and complete loss of the use of any of such
23 members, and in a subsequent independent accident loses
24 another or suffers the permanent and complete loss of the
25 use of any one of such members the employer for whom the
26 injured employee is working at the time of the last

1 independent accident is liable to pay compensation only
2 for the loss or permanent and complete loss of the use of
3 the member occasioned by the last independent accident.

4 19. In a case of specific loss and the subsequent
5 death of such injured employee from other causes than such
6 injury leaving a widow, widower, or dependents surviving
7 before payment or payment in full for such injury, then
8 the amount due for such injury is payable to the widow or
9 widower and, if there be no widow or widower, then to such
10 dependents, in the proportion which such dependency bears
11 to total dependency.

12 Beginning July 1, 1980, and every 6 months thereafter, the
13 Commission shall examine the Second Injury Fund and when,
14 after deducting all advances or loans made to such Fund, the
15 amount therein is \$500,000 then the amount required to be paid
16 by employers pursuant to paragraph (f) of Section 7 shall be
17 reduced by one-half. When the Second Injury Fund reaches the
18 sum of \$600,000 then the payments shall cease entirely.
19 However, when the Second Injury Fund has been reduced to
20 \$400,000, payment of one-half of the amounts required by
21 paragraph (f) of Section 7 shall be resumed, in the manner
22 herein provided, and when the Second Injury Fund has been
23 reduced to \$300,000, payment of the full amounts required by
24 paragraph (f) of Section 7 shall be resumed, in the manner
25 herein provided. The Commission shall make the changes in
26 payment effective by general order, and the changes in payment

1 become immediately effective for all cases coming before the
2 Commission thereafter either by settlement agreement or final
3 order, irrespective of the date of the accidental injury.

4 On August 1, 1996 and on February 1 and August 1 of each
5 subsequent year, the Commission shall examine the special fund
6 designated as the "Rate Adjustment Fund" and when, after
7 deducting all advances or loans made to said fund, the amount
8 therein is \$4,000,000, the amount required to be paid by
9 employers pursuant to paragraph (f) of Section 7 shall be
10 reduced by one-half. When the Rate Adjustment Fund reaches the
11 sum of \$5,000,000 the payment therein shall cease entirely.
12 However, when said Rate Adjustment Fund has been reduced to
13 \$3,000,000 the amounts required by paragraph (f) of Section 7
14 shall be resumed in the manner herein provided.

15 (f) In case of complete disability, which renders the
16 employee wholly and permanently incapable of work, or in the
17 specific case of total and permanent disability as provided in
18 subparagraph 18 of paragraph (e) of this Section, compensation
19 shall be payable at the rate provided in subparagraph 2 of
20 paragraph (b) of this Section for life.

21 An employee entitled to benefits under paragraph (f) of
22 this Section shall also be entitled to receive from the Rate
23 Adjustment Fund provided in paragraph (f) of Section 7 of the
24 supplementary benefits provided in paragraph (g) of this
25 Section 8.

26 If any employee who receives an award under this paragraph

1 afterwards returns to work or is able to do so, and earns or is
2 able to earn as much as before the accident, payments under
3 such award shall cease. If such employee returns to work, or is
4 able to do so, and earns or is able to earn part but not as
5 much as before the accident, such award shall be modified so as
6 to conform to an award under paragraph (d) of this Section. If
7 such award is terminated or reduced under the provisions of
8 this paragraph, such employees have the right at any time
9 within 30 months after the date of such termination or
10 reduction to file petition with the Commission for the purpose
11 of determining whether any disability exists as a result of
12 the original accidental injury and the extent thereof.

13 Disability as enumerated in subdivision 18, paragraph (e)
14 of this Section is considered complete disability.

15 If an employee who had previously incurred loss or the
16 permanent and complete loss of use of one member, through the
17 loss or the permanent and complete loss of the use of one hand,
18 one arm, one foot, one leg, or one eye, incurs permanent and
19 complete disability through the loss or the permanent and
20 complete loss of the use of another member, he shall receive,
21 in addition to the compensation payable by the employer and
22 after such payments have ceased, an amount from the Second
23 Injury Fund provided for in paragraph (f) of Section 7, which,
24 together with the compensation payable from the employer in
25 whose employ he was when the last accidental injury was
26 incurred, will equal the amount payable for permanent and

1 complete disability as provided in this paragraph of this
2 Section.

3 The custodian of the Second Injury Fund provided for in
4 paragraph (f) of Section 7 shall be joined with the employer as
5 a party respondent in the application for adjustment of claim.
6 The application for adjustment of claim shall state briefly
7 and in general terms the approximate time and place and manner
8 of the loss of the first member.

9 In its award the Commission or the Arbitrator shall
10 specifically find the amount the injured employee shall be
11 weekly paid, the number of weeks compensation which shall be
12 paid by the employer, the date upon which payments begin out of
13 the Second Injury Fund provided for in paragraph (f) of
14 Section 7 of this Act, the length of time the weekly payments
15 continue, the date upon which the pension payments commence
16 and the monthly amount of the payments. The Commission shall
17 30 days after the date upon which payments out of the Second
18 Injury Fund have begun as provided in the award, and every
19 month thereafter, prepare and submit to the State Comptroller
20 a voucher for payment for all compensation accrued to that
21 date at the rate fixed by the Commission. The State
22 Comptroller shall draw a warrant to the injured employee along
23 with a receipt to be executed by the injured employee and
24 returned to the Commission. The endorsed warrant and receipt
25 is a full and complete acquittance to the Commission for the
26 payment out of the Second Injury Fund. No other appropriation

1 or warrant is necessary for payment out of the Second Injury
2 Fund. The Second Injury Fund is appropriated for the purpose
3 of making payments according to the terms of the awards.

4 As of July 1, 1980 to July 1, 1982, all claims against and
5 obligations of the Second Injury Fund shall become claims
6 against and obligations of the Rate Adjustment Fund to the
7 extent there is insufficient money in the Second Injury Fund
8 to pay such claims and obligations. In that case, all
9 references to "Second Injury Fund" in this Section shall also
10 include the Rate Adjustment Fund.

11 (g) Every award for permanent total disability entered by
12 the Commission on and after July 1, 1965 under which
13 compensation payments shall become due and payable after the
14 effective date of this amendatory Act, and every award for
15 death benefits or permanent total disability entered by the
16 Commission on and after the effective date of this amendatory
17 Act shall be subject to annual adjustments as to the amount of
18 the compensation rate therein provided. Such adjustments shall
19 first be made on July 15, 1977, and all awards made and entered
20 prior to July 1, 1975 and on July 15 of each year thereafter.
21 In all other cases such adjustment shall be made on July 15 of
22 the second year next following the date of the entry of the
23 award and shall further be made on July 15 annually
24 thereafter. If during the intervening period from the date of
25 the entry of the award, or the last periodic adjustment, there
26 shall have been an increase in the State's average weekly wage

1 in covered industries under the Unemployment Insurance Act,
2 the weekly compensation rate shall be proportionately
3 increased by the same percentage as the percentage of increase
4 in the State's average weekly wage in covered industries under
5 the Unemployment Insurance Act. The increase in the
6 compensation rate under this paragraph shall in no event bring
7 the total compensation rate to an amount greater than the
8 prevailing maximum rate at the time that the annual adjustment
9 is made. Such increase shall be paid in the same manner as
10 herein provided for payments under the Second Injury Fund to
11 the injured employee, or his dependents, as the case may be,
12 out of the Rate Adjustment Fund provided in paragraph (f) of
13 Section 7 of this Act. Payments shall be made at the same
14 intervals as provided in the award or, at the option of the
15 Commission, may be made in quarterly payment on the 15th day of
16 January, April, July and October of each year. In the event of
17 a decrease in such average weekly wage there shall be no change
18 in the then existing compensation rate. The within paragraph
19 shall not apply to cases where there is disputed liability and
20 in which a compromise lump sum settlement between the employer
21 and the injured employee, or his dependents, as the case may
22 be, has been duly approved by the Illinois Workers'
23 Compensation Commission.

24 Provided, that in cases of awards entered by the
25 Commission for injuries occurring before July 1, 1975, the
26 increases in the compensation rate adjusted under the

1 foregoing provision of this paragraph (g) shall be limited to
2 increases in the State's average weekly wage in covered
3 industries under the Unemployment Insurance Act occurring
4 after July 1, 1975.

5 For every accident occurring on or after July 20, 2005 but
6 before the effective date of this amendatory Act of the 94th
7 General Assembly (Senate Bill 1283 of the 94th General
8 Assembly), the annual adjustments to the compensation rate in
9 awards for death benefits or permanent total disability, as
10 provided in this Act, shall be paid by the employer. The
11 adjustment shall be made by the employer on July 15 of the
12 second year next following the date of the entry of the award
13 and shall further be made on July 15 annually thereafter. If
14 during the intervening period from the date of the entry of the
15 award, or the last periodic adjustment, there shall have been
16 an increase in the State's average weekly wage in covered
17 industries under the Unemployment Insurance Act, the employer
18 shall increase the weekly compensation rate proportionately by
19 the same percentage as the percentage of increase in the
20 State's average weekly wage in covered industries under the
21 Unemployment Insurance Act. The increase in the compensation
22 rate under this paragraph shall in no event bring the total
23 compensation rate to an amount greater than the prevailing
24 maximum rate at the time that the annual adjustment is made. In
25 the event of a decrease in such average weekly wage there shall
26 be no change in the then existing compensation rate. Such

1 increase shall be paid by the employer in the same manner and
2 at the same intervals as the payment of compensation in the
3 award. This paragraph shall not apply to cases where there is
4 disputed liability and in which a compromise lump sum
5 settlement between the employer and the injured employee, or
6 his or her dependents, as the case may be, has been duly
7 approved by the Illinois Workers' Compensation Commission.

8 The annual adjustments for every award of death benefits
9 or permanent total disability involving accidents occurring
10 before July 20, 2005 and accidents occurring on or after the
11 effective date of this amendatory Act of the 94th General
12 Assembly (Senate Bill 1283 of the 94th General Assembly) shall
13 continue to be paid from the Rate Adjustment Fund pursuant to
14 this paragraph and Section 7(f) of this Act.

15 (h) In case death occurs from any cause before the total
16 compensation to which the employee would have been entitled
17 has been paid, then in case the employee leaves any widow,
18 widower, child, parent (or any grandchild, grandparent or
19 other lineal heir or any collateral heir dependent at the time
20 of the accident upon the earnings of the employee to the extent
21 of 50% or more of total dependency) such compensation shall be
22 paid to the beneficiaries of the deceased employee and
23 distributed as provided in paragraph (g) of Section 7.

24 (h-1) In case an injured employee is under legal
25 disability at the time when any right or privilege accrues to
26 him or her under this Act, a guardian may be appointed pursuant

1 to law, and may, on behalf of such person under legal
2 disability, claim and exercise any such right or privilege
3 with the same effect as if the employee himself or herself had
4 claimed or exercised the right or privilege. No limitations of
5 time provided by this Act run so long as the employee who is
6 under legal disability is without a conservator or guardian.

7 (i) In case the injured employee is under 16 years of age
8 at the time of the accident and is illegally employed, the
9 amount of compensation payable under paragraphs (b), (c), (d),
10 (e) and (f) of this Section is increased 50%.

11 However, where an employer has on file an employment
12 certificate issued pursuant to the Child Labor Law or work
13 permit issued pursuant to the Federal Fair Labor Standards
14 Act, as amended, or a birth certificate properly and duly
15 issued, such certificate, permit or birth certificate is
16 conclusive evidence as to the age of the injured minor
17 employee for the purposes of this Section.

18 Nothing herein contained repeals or amends the provisions
19 of the Child Labor Law relating to the employment of minors
20 under the age of 16 years.

21 (j) 1. In the event the injured employee receives
22 benefits, including medical, surgical or hospital benefits
23 under any group plan covering non-occupational disabilities
24 contributed to wholly or partially by the employer, which
25 benefits should not have been payable if any rights of
26 recovery existed under this Act, then such amounts so paid to

1 the employee from any such group plan as shall be consistent
2 with, and limited to, the provisions of paragraph 2 hereof,
3 shall be credited to or against any compensation payment for
4 temporary total incapacity for work or any medical, surgical
5 or hospital benefits made or to be made under this Act. In such
6 event, the period of time for giving notice of accidental
7 injury and filing application for adjustment of claim does not
8 commence to run until the termination of such payments. This
9 paragraph does not apply to payments made under any group plan
10 which would have been payable irrespective of an accidental
11 injury under this Act. Any employer receiving such credit
12 shall keep such employee safe and harmless from any and all
13 claims or liabilities that may be made against him by reason of
14 having received such payments only to the extent of such
15 credit.

16 Any excess benefits paid to or on behalf of a State
17 employee by the State Employees' Retirement System under
18 Article 14 of the Illinois Pension Code on a death claim or
19 disputed disability claim shall be credited against any
20 payments made or to be made by the State of Illinois to or on
21 behalf of such employee under this Act, except for payments
22 for medical expenses which have already been incurred at the
23 time of the award. The State of Illinois shall directly
24 reimburse the State Employees' Retirement System to the extent
25 of such credit.

26 2. Nothing contained in this Act shall be construed to

1 give the employer or the insurance carrier the right to credit
2 for any benefits or payments received by the employee other
3 than compensation payments provided by this Act, and where the
4 employee receives payments other than compensation payments,
5 whether as full or partial salary, group insurance benefits,
6 bonuses, annuities or any other payments, the employer or
7 insurance carrier shall receive credit for each such payment
8 only to the extent of the compensation that would have been
9 payable during the period covered by such payment.

10 3. The extension of time for the filing of an Application
11 for Adjustment of Claim as provided in paragraph 1 above shall
12 not apply to those cases where the time for such filing had
13 expired prior to the date on which payments or benefits
14 enumerated herein have been initiated or resumed. Provided
15 however that this paragraph 3 shall apply only to cases
16 wherein the payments or benefits hereinabove enumerated shall
17 be received after July 1, 1969.

18 (Source: P.A. 97-18, eff. 6-28-11; 97-268, eff. 8-8-11;
19 97-813, eff. 7-13-12.)

20 Section 99. Effective date. This Act takes effect upon
21 becoming law.