



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB1065

Introduced 1/12/2023, by Rep. Rita Mayfield

SYNOPSIS AS INTRODUCED:

820 ILCS 305/6

from Ch. 48, par. 138.6

Amends the Workers' Compensation Act. Provides that the rebuttable presumption concerning specified conditions or impairments of health of an employee employed as a firefighter, emergency medical technician, emergency medical technician-intermediate, advanced emergency medical technician, or paramedic is intended to shift the burden of proof to the employing entity and any party attacking the presumption must establish by clear and convincing evidence an independent and non-work related cause for the condition or disability and prove that no aspect of the employment contributed to the condition. Provides that the rebuttable presumption relating to hearing loss cannot be overcome with evidence allegedly showing that the injured employee did not meet specified exposure thresholds.

LRB103 05308 SPS 50326 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 Workers' Compensation Act is amended by
5 changing Section 6 as follows:

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

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

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

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

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

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

24 Except as provided in this paragraph, all reports filed
25 hereunder shall be confidential and any person having access
26 to such records filed with the Illinois Workers' Compensation

1 Commission as herein required, who shall release any
2 information therein contained including the names or otherwise
3 identify any persons sustaining injuries or disabilities, or
4 give access to such information to any unauthorized person,
5 shall be subject to discipline or discharge, and in addition
6 shall be guilty of a Class B misdemeanor. The Commission shall
7 compile and distribute to interested persons aggregate
8 statistics, taken from the reports filed hereunder. The
9 aggregate statistics shall not give the names or otherwise
10 identify persons sustaining injuries or disabilities or the
11 employer of any injured person or person with a disability.

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

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

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

26 No defect or inaccuracy of such notice shall be a bar to

1 the maintenance of proceedings on arbitration or otherwise by
2 the employee unless the employer proves that he is unduly
3 prejudiced in such proceedings by such defect or inaccuracy.

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

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

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

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

1 If in any case except one where the injury was caused by
2 exposure to radiological materials or equipment or asbestos,
3 the accidental injury results in death application for
4 compensation for death may be filed with the Commission within
5 3 years after the date of death where no compensation has been
6 paid or within 2 years after the date of the last payment of
7 compensation where any has been paid, whichever shall be
8 later, but not thereafter.

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

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

21 (f) Any condition or impairment of health of an employee
22 employed as a firefighter, emergency medical technician (EMT),
23 emergency medical technician-intermediate (EMT-I), advanced
24 emergency medical technician (A-EMT), or paramedic which
25 results directly or indirectly from any bloodborne pathogen,
26 contagious staph infection, including Methicillin-resistant

1 Staphylococcus aureus (MRSA), lung or respiratory disease or
2 condition, heart or vascular disease or condition,
3 hypertension, tuberculosis, or cancer resulting in any
4 disability (temporary, permanent, total, or partial) to the
5 employee shall be rebuttably presumed to arise out of and in
6 the course of the employee's firefighting, EMT, or paramedic
7 employment and, further, shall be rebuttably presumed to be
8 causally connected to the hazards or exposures of the
9 employment. This presumption shall also apply to any hernia or
10 hearing loss suffered by an employee employed as a
11 firefighter, EMT, EMT-I, A-EMT, or paramedic. However, this
12 presumption shall not apply to any employee who has been
13 employed as a firefighter, EMT, or paramedic for less than 5
14 years at the time he or she files an Application for Adjustment
15 of Claim concerning this condition or impairment with the
16 Illinois Workers' Compensation Commission. The rebuttable
17 presumption established under this subsection is intended to
18 be a strong presumption supported by compelling policy
19 considerations to compensate the victims and their families
20 who succumb to the conditions described in this subsection.
21 This presumption is intended to shift the burden of proof to
22 the employing entity and any party attacking the presumption
23 must establish by clear and convincing evidence an independent
24 and non-work related cause for the condition or disability
25 listed in this subsection and prove that no aspect of the
26 employment contributed to the condition. The rebuttable

1 presumption relating to hearing loss cannot be overcome with
2 evidence allegedly showing that the injured employee did not
3 meet the exposure thresholds listed in subsections (e) and (f)
4 of Section 8. The rebuttable presumption established under

5 this subsection, however, does not apply to an emergency
6 medical technician (EMT), emergency medical
7 technician-intermediate (EMT-I), advanced emergency medical
8 technician (A-EMT), or paramedic employed by a private
9 employer if the employee spends the preponderance of his or
10 her work time for that employer engaged in medical transfers
11 between medical care facilities or non-emergency medical
12 transfers to or from medical care facilities. The changes made
13 to this subsection by Public Act 98-291 shall be narrowly
14 construed. The Finding and Decision of the Illinois Workers'
15 Compensation Commission under only the rebuttable presumption
16 provision of this subsection shall not be admissible or be
17 deemed res judicata in any disability claim under the Illinois
18 Pension Code arising out of the same medical condition;
19 however, this sentence makes no change to the law set forth in
20 Krohe v. City of Bloomington, 204 Ill.2d 392.

21 (Source: P.A. 102-493, eff. 8-20-21.)