



**93RD GENERAL ASSEMBLY**  
**State of Illinois**  
**2003 and 2004**  
**HB4251**

Introduced 1/29/2004, by Terry R. Parke

**SYNOPSIS AS INTRODUCED:**

820 ILCS 305/11

from Ch. 48, par. 138.11

Amends the Workers' Compensation Act. Provides that no compensation is payable if an injury was caused solely by the intoxication of the employee or by the influence of alcohol or any narcotic drugs, barbiturates, or other stimulants not prescribed by a physician or by the combined influence of alcohol and any other drug or drugs that affected the employee to a specified extent. Contains provisions regarding evidence, presumptions, and measurement.

LRB093 19789 WGH 45531 b

1 AN ACT concerning workers' compensation.

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 11 as follows:

6 (820 ILCS 305/11) (from Ch. 48, par. 138.11)

7 Sec. 11. The compensation herein provided, together with  
8 the provisions of this Act, shall be the measure of the  
9 responsibility of any employer engaged in any of the  
10 enterprises or businesses enumerated in Section 3 of this Act,  
11 or of any employer who is not engaged in any such enterprises  
12 or businesses, but who has elected to provide and pay  
13 compensation for accidental injuries sustained by any employee  
14 arising out of and in the course of the employment according to  
15 the provisions of this Act, and whose election to continue  
16 under this Act, has not been nullified by any action of his  
17 employees as provided for in this Act.

18 Accidental injuries incurred while participating in  
19 voluntary recreational programs including but not limited to  
20 athletic events, parties and picnics do not arise out of and in  
21 the course of the employment even though the employer pays some  
22 or all of the cost thereof. This exclusion shall not apply in  
23 the event that the injured employee was ordered or assigned by  
24 his employer to participate in the program.

25 Accidental injuries incurred while participating as a  
26 patient in a drug or alcohol rehabilitation program do not  
27 arise out of and in the course of employment even though the  
28 employer pays some or all of the costs thereof.

29 No compensation shall be payable if the injury was caused  
30 solely by the intoxication of the employee, or if the injury  
31 was caused by the influence of alcohol or any narcotic drugs,  
32 barbiturates, or other stimulants not prescribed by a

1 physician, or by the combined influence of alcohol and any  
2 other drug or drugs that affected the employee to such an  
3 extent that the Commission determines that the intoxication  
4 constituted a departure from employment. Evidence of the  
5 concentration of alcohol or a drug or combination thereof in a  
6 person's blood or breath at the time alleged, as determined by  
7 analysis of the person's blood, urine, breath, or other bodily  
8 substance, shall be admissible in any hearing to determine  
9 compensability. Should the employee refuse to submit to such  
10 analysis, it shall be presumed, in the absence of substantial  
11 evidence to the contrary, that the accident was caused by the  
12 intoxication of the employee. If there was at the time of the  
13 injury 0.08 percent or more by weight of alcohol in the  
14 employee's blood or breath, it shall be presumed, in the  
15 absence of substantial evidence to the contrary, that the  
16 injury was caused by the intoxication of the employee.  
17 Percentage by weight of alcohol in the blood shall be based  
18 upon grams of alcohol per 100 milliliters of blood. Percentage  
19 by weight of alcohol in the breath shall be based upon grams of  
20 alcohol per 210 liters of breath.

21 (Source: P.A. 81-1482.)