

1 AN ACT concerning workplace health.

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  
11 Act, or of any employer who is not engaged in any such  
12 enterprises or businesses, but who has elected to provide and  
13 pay compensation for accidental injuries sustained by any  
14 employee arising out of and in the course of the employment  
15 according to the provisions of this Act, and whose election  
16 to continue under this Act, has not been nullified by any  
17 action of his 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  
21 in the course of the employment even though the employer pays  
22 some or all of the cost thereof. This exclusion shall not  
23 apply in the event that the injured employee was ordered or  
24 assigned by 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 Any injury to or death of any person who has voluntarily  
30 received a smallpox vaccination and who either is designated  
31 as a "first responder" for the purpose of emergency response

1 in the event of an attack using weapons of mass destruction,  
2 or is a member of an Illinois Medical Emergency Response  
3 Team, or is a member of a State Weapons of Mass Destruction  
4 Team is deemed to arise out of and in the course of  
5 employment for all purposes under this Act.

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

7 Section 10. The Workers' Occupational Diseases Act is  
8 amended by changing Section 1 as follows:

9 (820 ILCS 310/1) (from Ch. 48, par. 172.36)

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

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

14 1. The State and each county, city, town, township,  
15 incorporated village, school district, body politic, or  
16 municipal corporation therein.

17 2. Every person, firm, public or private corporation,  
18 including hospitals, public service, eleemosynary, religious  
19 or charitable corporations or associations, who has any  
20 person in service or under any contract for hire, express or  
21 implied, oral or written.

22 3. Where an employer operating under and subject to the  
23 provisions of this Act loans an employee to another such  
24 employer and such loaned employee sustains a compensable  
25 occupational disease in the employment of such borrowing  
26 employer and where such borrowing employer does not provide  
27 or pay the benefits or payments due such employee, such  
28 loaning employer shall be liable to provide or pay all  
29 benefits or payments due such employee under this Act and as  
30 to such employee the liability of such loaning and borrowing  
31 employers shall be joint and several, provided that such  
32 loaning employer shall in the absence of agreement to the

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

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

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

31 (b) The term "employee" as used in this Act, shall be  
32 construed to mean:

33 1. Every person in the service of the State, county,  
34 city, town, township, incorporated village or school

1 district, body politic or municipal corporation therein,  
2 whether by election, appointment or contract of hire, express  
3 or implied, oral or written, including any official of the  
4 State, or of any county, city, town, township, incorporated  
5 village, school district, body politic or municipal  
6 corporation therein and except any duly appointed member of  
7 the fire department in any city whose population exceeds  
8 500,000 according to the last Federal or State census, and  
9 except any member of a fire insurance patrol maintained by a  
10 board of underwriters in this State. One employed by a  
11 contractor who has contracted with the State, or a county,  
12 city, town, township, incorporated village, school district,  
13 body politic or municipal corporation therein, through its  
14 representatives, shall not be considered as an employee of  
15 the State, county, city, town, township, incorporated  
16 village, school district, body politic or municipal  
17 corporation which made the contract.

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

1 the State where the disease was contracted, or in the State  
2 where the contract of hire is made, or in the State where the  
3 employment is principally localized.

4 (c) "Commission" means the Industrial Commission created  
5 by the Workers' Compensation Act, approved July 9, 1951, as  
6 amended.

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

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

22 An employee shall be conclusively deemed to have been  
23 exposed to the hazards of an occupational disease when, for  
24 any length of time however short, he or she is employed in an  
25 occupation or process in which the hazard of the disease  
26 exists; provided however, that in a claim of exposure to  
27 atomic radiation, the fact of such exposure must be verified  
28 by the records of the central registry of radiation exposure  
29 maintained by the Department of Public Health or by some  
30 other recognized governmental agency maintaining records of  
31 such exposures whenever and to the extent that the records  
32 are on file with the Department of Public Health or the  
33 agency.

34 Any disease or death of any person who has voluntarily

1 received a smallpox vaccination and who either is designated  
2 as a "first responder" for the purpose of emergency response  
3 in the event of an attack using weapons of mass destruction,  
4 or is a member of an Illinois Medical Emergency Response  
5 Team, or is a member of a State Weapons of Mass Destruction  
6 Team is deemed to arise out of and in the course of  
7 employment for all purposes under this Act.

8 The employer liable for the compensation in this Act  
9 provided shall be the employer in whose employment the  
10 employee was last exposed to the hazard of the occupational  
11 disease claimed upon regardless of the length of time of such  
12 last exposure, except, in cases of silicosis or asbestosis,  
13 the only employer liable shall be the last employer in whose  
14 employment the employee was last exposed during a period of  
15 60 days or more after the effective date of this Act, to the  
16 hazard of such occupational disease, and, in such cases, an  
17 exposure during a period of less than 60 days, after the  
18 effective date of this Act, shall not be deemed a last  
19 exposure. If a miner who is suffering or suffered from  
20 pneumoconiosis was employed for 10 years or more in one or  
21 more coal mines there shall, effective July 1, 1973 be a  
22 rebuttable presumption that his or her pneumoconiosis arose  
23 out of such employment.

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

28 The insurance carrier liable shall be the carrier whose  
29 policy was in effect covering the employer liable on the last  
30 day of the exposure rendering such employer liable in  
31 accordance with the provisions of this Act.

32 (e) "Disablement" means an impairment or partial  
33 impairment, temporary or permanent, in the function of the  
34 body or any of the members of the body, or the event of

1 becoming disabled from earning full wages at the work in  
2 which the employee was engaged when last exposed to the  
3 hazards of the occupational disease by the employer from whom  
4 he or she claims compensation, or equal wages in other  
5 suitable employment; and "disability" means the state of  
6 being so incapacitated.

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

19 (Source: P.A. 81-992.)

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