



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

SB1735

Introduced 2/19/2009, by Sen. Dan Cronin

#### SYNOPSIS AS INTRODUCED:

820 ILCS 305/6  
820 ILCS 310/1

from Ch. 48, par. 138.6  
from Ch. 48, par. 172.36

Amends provisions of the Workers' Compensation Act and the Workers' Occupational Diseases Act providing that the disability of a firefighter, emergency medical technician, or paramedic resulting from a condition or health impairment that results directly or indirectly from any bloodborne pathogen, lung or respiratory disease or condition, heart or vascular disease or condition, hypertension, tuberculosis, or cancer is rebuttably presumed to arise out of and in the course of employment and to be causally connected to the hazards or exposures of the employment. Provides that the presumption does not apply to a condition or impairment of health that results from any cancer, lung or respiratory disease or condition, or heart or vascular disease or condition if the employee used cigarettes or other tobacco products within the 60-month period preceding the filing of an Application for Adjustment of Claim.

LRB096 03831 WGH 13863 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 notice  
3 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 compensation  
6 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 of  
14 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 made  
21 as soon as it is determined that such permanent disability has  
22 resulted or will result from the injury. All reports shall  
23 state the date of the injury, including the time of day or  
24 night, the nature of the employer's business, the name,  
25 address, age, sex, conjugal condition of the injured person,  
26 the specific occupation of the injured person, the direct cause

1 of the injury and the nature of the accident, the character of  
2 the injury, the length of disability, and in case of death the  
3 length of disability before death, the wages of the injured  
4 person, whether compensation has been paid to the injured  
5 person, or to his or her legal representative or his heirs or  
6 next of kin, the amount of compensation paid, the amount paid  
7 for physicians', surgeons' and hospital bills, and by whom  
8 paid, and the amount paid for funeral or burial expenses if  
9 known. The reports shall be made on forms and in the manner as  
10 prescribed by the Commission and shall contain such further  
11 information as the Commission shall deem necessary and require.  
12 The making of these reports releases the employer from making  
13 such reports to any other officer of the State and shall  
14 satisfy the reporting provisions as contained in the "Health  
15 and Safety Act" and "An Act in relation to safety inspections  
16 and education in industrial and commercial establishments and  
17 to repeal an Act therein named", approved July 18, 1955, as now  
18 or hereafter amended. The reports filed with the Commission  
19 pursuant to this Section shall be made available by the  
20 Commission to the Director of Labor or his representatives and  
21 to all other departments of the State of Illinois which shall  
22 require such information for the proper discharge of their  
23 official duties. Failure to file with the Commission any of the  
24 reports required in this Section is a petty offense.

25 Except as provided in this paragraph, all reports filed  
26 hereunder shall be confidential and any person having access to

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

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

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

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

1           No defect or inaccuracy of such notice shall be a bar to  
2 the maintenance of proceedings on arbitration or otherwise by  
3 the employee unless the employer proves that he is unduly  
4 prejudiced in such proceedings by such defect or inaccuracy.

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

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

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

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

1 file such application shall be barred.

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

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

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

22 (f) Any condition or impairment of health of an employee  
23 employed as a firefighter, emergency medical technician (EMT),  
24 or paramedic which results directly or indirectly from any  
25 bloodborne pathogen, lung or respiratory disease or condition,  
26 heart or vascular disease or condition, hypertension,

1 tuberculosis, or cancer resulting in any disability  
2 (temporary, permanent, total, or partial) to the employee shall  
3 be rebuttably presumed to arise out of and in the course of the  
4 employee's firefighting, EMT, or paramedic employment and,  
5 further, shall be rebuttably presumed to be causally connected  
6 to the hazards or exposures of the employment. This presumption  
7 shall also apply to any hernia or hearing loss suffered by an  
8 employee employed as a firefighter, EMT, or paramedic. However,  
9 this presumption shall not apply to any employee who has been  
10 employed as a firefighter, EMT, or paramedic for less than 5  
11 years at the time he or she files an Application for Adjustment  
12 of Claim concerning this condition or impairment with the  
13 Illinois Workers' Compensation Commission. This presumption  
14 does not apply to any condition or impairment of health that  
15 results from any cancer, lung or respiratory disease or  
16 condition, or heart or vascular disease or condition if the  
17 employee used cigarettes or other tobacco products within the  
18 60-month period preceding the time he or she files an  
19 Application for Adjustment of Claim concerning this condition  
20 or impairment with the Illinois Workers' Compensation  
21 Commission. For the purpose of this subsection, "cigarette" has  
22 the meaning set forth in Section 1 of the Cigarette Tax Act,  
23 and "tobacco products" has the definition set forth in Section  
24 10-5 of the Tobacco Products Tax Act of 1995. The Finding and  
25 Decision of the Illinois Workers' Compensation Commission  
26 under only the rebuttable presumption provision of this



1 subsection shall not be admissible or be deemed res judicata in  
2 any disability claim under the Illinois Pension Code arising  
3 out of the same medical condition; however, this sentence makes  
4 no change to the law set forth in Krohe v. City of Bloomington,  
5 204 Ill.2d 392.

6 (Source: P.A. 95-316, eff. 1-1-08.)

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,  
19 religious or charitable corporations or associations, who  
20 has any person in service or under any contract for hire,  
21 express or 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

1 occupational disease in the employment of such borrowing  
2 employer and where such borrowing employer does not provide  
3 or pay the benefits or payments due such employee, such  
4 loaning employer shall be liable to provide or pay all  
5 benefits or payments due such employee under this Act and  
6 as to such employee the liability of such loaning and  
7 borrowing employers shall be joint and several, provided  
8 that such loaning employer shall in the absence of  
9 agreement to the contrary be entitled to receive from such  
10 borrowing employer full reimbursement for all sums paid or  
11 incurred pursuant to this paragraph together with  
12 reasonable attorneys' fees and expenses in any hearings  
13 before the Illinois Workers' Compensation Commission or in  
14 any action to secure such reimbursement. Where any benefit  
15 is provided or paid by such loaning employer, the employee  
16 shall have the duty of rendering reasonable co-operation in  
17 any hearings, trials or proceedings in the case, including  
18 such proceedings for reimbursement.

19 Where an employee files an Application for Adjustment  
20 of Claim with the Illinois Workers' Compensation  
21 Commission alleging that his or her claim is covered by the  
22 provisions of the preceding paragraph, and joining both the  
23 alleged loaning and borrowing employers, they and each of  
24 them, upon written demand by the employee and within 7 days  
25 after receipt of such demand, shall have the duty of filing  
26 with the Illinois Workers' Compensation Commission a

1 written admission or denial of the allegation that the  
2 claim is covered by the provisions of the preceding  
3 paragraph and in default of such filing or if any such  
4 denial be ultimately determined not to have been bona fide  
5 then the provisions of Paragraph K of Section 19 of this  
6 Act shall apply.

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

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

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

1 population exceeds 500,000 according to the last Federal or  
2 State census, and except any member of a fire insurance  
3 patrol maintained by a board of underwriters in this State.  
4 One employed by a contractor who has contracted with the  
5 State, or a county, city, town, township, incorporated  
6 village, school district, body politic or municipal  
7 corporation therein, through its representatives, shall  
8 not be considered as an employee of the State, county,  
9 city, town, township, incorporated village, school  
10 district, body politic or municipal corporation which made  
11 the contract.

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

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

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

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

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

25 An employee shall be conclusively deemed to have been  
26 exposed to the hazards of an occupational disease when, for any

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

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

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

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

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

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

1 employee employed as a firefighter, EMT, or paramedic. However,  
2 this presumption shall not apply to any employee who has been  
3 employed as a firefighter, EMT, or paramedic for less than 5  
4 years at the time he or she files an Application for Adjustment  
5 of Claim concerning this condition or impairment with the  
6 Illinois Workers' Compensation Commission. This presumption  
7 does not apply to any condition or impairment of health that  
8 results from any cancer, lung or respiratory disease or  
9 condition, or heart or vascular disease or condition if the  
10 employee used cigarettes or other tobacco products within the  
11 60-month period preceding the time he or she files an  
12 Application for Adjustment of Claim concerning this condition  
13 or impairment with the Illinois Workers' Compensation  
14 Commission. For the purpose of this subsection, "cigarette" has  
15 the meaning set forth in Section 1 of the Cigarette Tax Act,  
16 and "tobacco products" has the definition set forth in Section  
17 10-5 of the Tobacco Products Tax Act of 1995. The Finding and  
18 Decision of the Illinois Workers' Compensation Commission  
19 under only the rebuttable presumption provision of this  
20 paragraph shall not be admissible or be deemed res judicata in  
21 any disability claim under the Illinois Pension Code arising  
22 out of the same medical condition; however, this sentence makes  
23 no change to the law set forth in Krohe v. City of Bloomington,  
24 204 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. 95-316, eff. 1-1-08; 95-331, eff. 8-21-07.)