



Rep. Dwight Kay

Filed: 4/14/2011

09700HB2601ham001

LRB097 07297 WGH 54544 a

1 AMENDMENT TO HOUSE BILL 2601

2 AMENDMENT NO. _____. Amend House Bill 2601 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Workers' Compensation Act is amended by
5 changing Sections 1, 2, 3, 4, 6, 11, and 17 and by adding
6 Section 2.1 as follows:

7 (820 ILCS 305/1) (from Ch. 48, par. 138.1)

8 Sec. 1. This Act may be cited as the Workers' Compensation
9 Act.

10 (a) The term "employer" as used in this Act means a person
11 who employs one or more employees. ÷

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

15 ~~2. Every person, firm, public or private corporation,~~
16 ~~including hospitals, public service, eleemosynary, religious~~

1 ~~or charitable corporations or associations who has any person~~
2 ~~in service or under any contract for hire, express or implied,~~
3 ~~oral or written, and who is engaged in any of the enterprises~~
4 ~~or businesses enumerated in Section 3 of this Act, or who at or~~
5 ~~prior to the time of the accident to the employee for which~~
6 ~~compensation under this Act may be claimed, has in the manner~~
7 ~~provided in this Act elected to become subject to the~~
8 ~~provisions of this Act, and who has not, prior to such~~
9 ~~accident, effected a withdrawal of such election in the manner~~
10 ~~provided in this Act.~~

11 ~~3. Any one engaging in any business or enterprise referred~~
12 ~~to in subsections 1 and 2 of Section 3 of this Act who~~
13 ~~undertakes to do any work enumerated therein, is liable to pay~~
14 ~~compensation to his own immediate employees in accordance with~~
15 ~~the provisions of this Act, and in addition thereto if he~~
16 ~~directly or indirectly engages any contractor whether~~
17 ~~principal or sub contractor to do any such work, he is liable~~
18 ~~to pay compensation to the employees of any such contractor or~~
19 ~~sub contractor unless such contractor or sub contractor has~~
20 ~~insured, in any company or association authorized under the~~
21 ~~laws of this State to insure the liability to pay compensation~~
22 ~~under this Act, or guaranteed his liability to pay such~~
23 ~~compensation. With respect to any time limitation on the filing~~
24 ~~of claims provided by this Act, the timely filing of a claim~~
25 ~~against a contractor or subcontractor, as the case may be,~~
26 ~~shall be deemed to be a timely filing with respect to all~~

1 ~~persons upon whom liability is imposed by this paragraph.~~

2 ~~In the event any such person pays compensation under this~~
3 ~~subsection he may recover the amount thereof from the~~
4 ~~contractor or sub-contractor, if any, and in the event the~~
5 ~~contractor pays compensation under this subsection he may~~
6 ~~recover the amount thereof from the sub-contractor, if any.~~

7 ~~This subsection does not apply in any case where the~~
8 ~~accident occurs elsewhere than on, in or about the immediate~~
9 ~~premises on which the principal has contracted that the work be~~
10 ~~done.~~

11 ~~4. Where an employer operating under and subject to the~~
12 ~~provisions of this Act loans an employee to another such~~
13 ~~employer and such loaned employee sustains a compensable~~
14 ~~accidental injury in the employment of such borrowing employer~~
15 ~~and where such borrowing employer does not provide or pay the~~
16 ~~benefits or payments due such injured employee, such loaning~~
17 ~~employer is liable to provide or pay all benefits or payments~~
18 ~~due such employee under this Act and as to such employee the~~
19 ~~liability of such loaning and borrowing employers is joint and~~
20 ~~several, provided that such loaning employer is in the absence~~
21 ~~of agreement to the contrary entitled to receive from such~~
22 ~~borrowing employer full reimbursement for all sums paid or~~
23 ~~incurred pursuant to this paragraph together with reasonable~~
24 ~~attorneys' fees and expenses in any hearings before the~~
25 ~~Illinois Workers' Compensation Commission or in any action to~~
26 ~~secure such reimbursement. Where any benefit is provided or~~

1 ~~paid by such loaning employer the employee has the duty of~~
2 ~~rendering reasonable cooperation in any hearings, trials or~~
3 ~~proceedings in the case, including such proceedings for~~
4 ~~reimbursement.~~

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

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

26 (b) The term "employee" as used in this Act means:

1 1. Every person in the service of the State, including
2 members of the General Assembly, members of the Commerce
3 Commission, members of the Illinois Workers' Compensation
4 Commission, and all persons in the service of the University of
5 Illinois, county, including deputy sheriffs and assistant
6 state's attorneys, city, town, township, incorporated village
7 or school district, body politic, or municipal corporation
8 therein, whether by election, under appointment or contract of
9 hire, express or implied, oral or written, including all
10 members of the Illinois National Guard while on active duty in
11 the service of the State, and all probation personnel of the
12 Juvenile Court appointed pursuant to Article VI of the Juvenile
13 Court Act of 1987, and including any official of the State, any
14 county, city, town, township, incorporated village, school
15 district, body politic or municipal corporation therein except
16 any duly appointed member of a police department in any city
17 whose population exceeds 200,000 according to the last Federal
18 or State census, and except any member of a fire insurance
19 patrol maintained by a board of underwriters in this State. A
20 duly appointed member of a fire department in any city, the
21 population of which exceeds 200,000 according to the last
22 federal or State census, is an employee under this Act only
23 with respect to claims brought under paragraph (c) of Section
24 8.

25 One employed by a contractor who has contracted with the
26 State, or a county, city, town, township, incorporated village,

1 school district, body politic or municipal corporation
2 therein, through its representatives, is not considered as an
3 employee of the State, county, city, town, township,
4 incorporated village, school district, body politic or
5 municipal corporation which made the contract.

6 2. Every person in the service of another under any
7 contract of hire, express or implied, oral or written,
8 including persons whose employment is outside of the State of
9 Illinois where the contract of hire is made within the State of
10 Illinois, persons whose employment results in fatal or
11 non-fatal injuries within the State of Illinois where the
12 contract of hire is made outside of the State of Illinois, and
13 persons whose employment is principally localized within the
14 State of Illinois, regardless of the place of the accident or
15 the place where the contract of hire was made, and including
16 aliens, and minors who, for the purpose of this Act are
17 considered the same and have the same power to contract,
18 receive payments and give quittances therefor, as adult
19 employees.

20 3. Every sole proprietor and every partner of a business
21 may elect to be covered by this Act.

22 An employee or his dependents under this Act who shall have
23 a cause of action by reason of any injury, disablement or death
24 arising out of and in the course of his employment may elect to
25 pursue his remedy in the State where injured or disabled, or in
26 the State where the contract of hire is made, or in the State

1 where the employment is principally localized.

2 However, any employer may elect to provide and pay
3 compensation to any employee other than those engaged in the
4 usual course of the trade, business, profession or occupation
5 of the employer by complying with Sections 2 and 4 of this Act.
6 Employees are not included within the provisions of this Act
7 when excluded by the laws of the United States relating to
8 liability of employers to their employees for personal injuries
9 where such laws are held to be exclusive.

10 The term "employee" does not include persons performing
11 services as real estate broker, broker-salesman, or salesman
12 when such persons are paid by commission only.

13 Nothing in this subsection (b) shall be construed to
14 require coverage of an employee by an employer who elects not
15 to be covered by this Act.

16 (c) "Commission" means the Industrial Commission created
17 by Section 5 of "The Civil Administrative Code of Illinois",
18 approved March 7, 1917, as amended, or the Illinois Workers'
19 Compensation Commission created by Section 13 of this Act.

20 (Source: P.A. 93-721, eff. 1-1-05.)

21 (820 ILCS 305/2) (from Ch. 48, par. 138.2)

22 Sec. 2. An employer in this State, who does not come within
23 the classes enumerated by subsection (a) or (b) of Section 3 of
24 this Act, may elect to provide and pay compensation for
25 accidental injuries sustained by himself or any employee,

1 arising out of and in the course of the employment according to
2 the provisions of this Act, and thereby relieve himself from
3 any liability for the recovery of damages, except as herein
4 provided. The State of Illinois hereby elects to provide and
5 pay compensation according to the provisions of this Act.

6 (a) Election by any employer to provide and pay
7 compensation according to the provisions of this Act shall be
8 made by the employer filing notice of such election with the
9 Commission, or by insuring his liability to pay compensation
10 under this Act in some insurance carrier authorized, licensed
11 or permitted to do such insurance business in this State.

12 (b) Every employer within the provisions of this Act who
13 has elected to provide and pay compensation according to the
14 provisions of this Act by filing notice of such election with
15 the Commission, shall be bound thereby as to all his employees
16 until January 1st of the next succeeding year and for terms of
17 each year thereafter.

18 Any such employer who may have once elected, may elect not
19 to provide and pay the compensation herein provided for
20 accidents resulting in either injury or death and occurring
21 after the expiration of any such calendar year by filing notice
22 of such election with the Commission at least 60 days prior to
23 the expiration of any such calendar year, and by posting such
24 notice at a conspicuous place in the plant, shop, office, room
25 or place where such employee is employed, or by personal
26 service, in written or printed form, upon such employees, at

1 least 60 days prior to the expiration of any such calendar
2 year.

3 Every employer within the provisions of this Act who has
4 elected to provide and pay compensation according to the
5 provisions of this Act by insuring his liability to pay
6 compensation under this Act, as above provided, shall be bound
7 thereby as to all his employees until the date of expiration or
8 cancellation of such policy of insurance, or any renewal
9 thereof.

10 (c) In the event any employer mentioned in this section,
11 elects to provide and pay the compensation provided in this
12 Act, then every employee of such employer, as a part of his
13 contract of hiring or who may be employed at the time of the
14 taking effect of this Act and the acceptance of its provisions
15 by such employer, shall be deemed to have accepted all the
16 provisions of this Act and shall be bound thereby unless within
17 30 days after such hiring or after the taking effect of this
18 Act, and its acceptance by such employee, he shall file a
19 notice to the contrary with the Commission, whose duty it shall
20 be to immediately notify the employer, and until such notice to
21 the contrary is given to the employer, the measure of liability
22 of such employer shall be determined according to the
23 compensation provisions of this Act.

24 However, any employee may withdraw from the operation of
25 this Act, except those under subsection (a) or (b) of Section
26 3, upon filing a written notice of withdrawal at least 10 days

1 prior to January 1st of any year with the Commission, whose
2 duty it shall be to immediately notify such employer by
3 registered mail, and, until such notice to the contrary is
4 given to such employer, the measure of liability of such
5 employer shall be determined according to the compensation
6 provisions of this Act.

7 (d) Any such employer or employee may, without prejudice to
8 any existing right or claim withdraw his election to reject
9 this Act by giving 30 days' written notice in such manner and
10 form as may be provided by the Commission.

11 (e) Any employer who elects not to be covered by this Act
12 is also subject to the notice requirements of Sections 6 and 17
13 and any notice requirements in the rules of the Commission.

14 (Source: P.A. 83-190.)

15 (820 ILCS 305/2.1 new)

16 Sec. 2.1. Common-law defenses; burden of proof; waiver.

17 (a) In an action against an employer who elects not to be
18 covered by this Act and the Workers' Occupational Diseases Act
19 to recover damages for personal injuries, disability, or death
20 sustained by an employee in the course and scope of the
21 employment, it is not a defense that:

22 (1) the employee was guilty of negligence;

23 (2) the employee assumed the risk of injury,
24 disability, or death; or

25 (3) the injury, disability, or death was caused by the

1 negligence of a fellow employee.

2 (b) This Section does not reinstate or otherwise affect the
3 availability of defenses at common law, including the defenses
4 described by subsection (a).

5 (c) The employer may defend the action on the ground that
6 the injury or disability was caused:

7 (1) by an act of the employee intended to bring about
8 the injury or disability; or

9 (2) while the employee was in a state of intoxication.

10 (d) In an action described by subsection (a) against an
11 employer who elects not to be covered by this Act, the
12 plaintiff must prove negligence of the employer or of an agent
13 or servant of the employer acting within the general scope of
14 the agent's or servant's employment.

15 (e) A cause of action described by subsection (a) may not
16 be waived by an employee before the employee's injury,
17 disability, or death. Any agreement by an employee to waive a
18 cause of action or any right described in subsection (a) before
19 the employee's injury, disability, or death is void and
20 unenforceable.

21 (f) A cause of action described by subsection (a) may not
22 be waived by an employee after the employee's injury unless:

23 (1) the employee voluntarily enters into the waiver
24 with knowledge of the waiver's effect;

25 (2) the waiver is entered into not earlier than the
26 10th business day after the date of the initial report of

1 injury or disability;

2 (3) the employee, before signing the waiver, has
3 received a medical evaluation from a nonemergency care
4 doctor; and

5 (4) the waiver is in a writing under which the true
6 intent of the parties is specifically stated in the
7 document.

8 (g) The waiver provisions required under subsection (f)
9 must be conspicuous and appear on the face of the agreement. To
10 be conspicuous, the waiver provisions must appear in a type
11 larger than the type contained in the body of the agreement or
12 in contrasting colors.

13 (820 ILCS 305/3) (from Ch. 48, par. 138.3)

14 Sec. 3. (a) The provisions of this Act hereinafter
15 following shall apply automatically and without election to the
16 State, county, city, town, township, incorporated village or
17 school district, body politic or municipal corporation.

18 (b) A governmental entity that enters into a building or
19 construction contract shall require the contractor to certify
20 in writing that the contractor has elected to provide workers'
21 compensation coverage for each employee of the contractor
22 employed on the public project. Each subcontractor on the
23 public project shall provide such a certificate relating to
24 coverage of the subcontractor's employees to the general
25 contractor, who shall provide the subcontractor's certificate

1 to the governmental entity. A contractor who has a contract
2 that requires workers' compensation coverage may provide the
3 coverage through a group plan or other method satisfactory to
4 the governing body of the governmental entity. The employment
5 of a maintenance employee by an employer who is not engaging in
6 building or construction as the employer's primary business
7 does not constitute engaging in building or construction. As
8 used in this subsection (b):

9 (1) "Building or construction" includes:

10 (A) erecting or preparing to erect a structure,
11 including a building, bridge, roadway, public utility
12 facility, or related appurtenance;

13 (B) remodeling, extending, repairing, or
14 demolishing a structure; or

15 (C) otherwise improving real property or an
16 appurtenance to real property through similar
17 activities.

18 (2) "Governmental entity" means an entity listed in
19 subsection (a).

20 ~~, and to all employers and all their employees, engaged in any~~
21 ~~department of the following enterprises or businesses which are~~
22 ~~declared to be extra hazardous, namely:~~

23 ~~1. The erection, maintaining, removing, remodeling,~~
24 ~~altering or demolishing of any structure.~~

25 ~~2. Construction, excavating or electrical work.~~

26 ~~3. Carriage by land, water or aerial service and loading or~~

1 ~~unloading in connection therewith, including the distribution~~
2 ~~of any commodity by horsedrawn or motor vehicle where the~~
3 ~~employer employs more than 2 employees in the enterprise or~~
4 ~~business.~~

5 ~~4. The operation of any warehouse or general or terminal~~
6 ~~storehouses.~~

7 ~~5. Mining, surface mining or quarrying.~~

8 ~~6. Any enterprise in which explosive materials are~~
9 ~~manufactured, handled or used in dangerous quantities.~~

10 ~~7. In any business or enterprise, wherein molten metal, or~~
11 ~~explosive or injurious gases, dusts or vapors, or inflammable~~
12 ~~vapors, dusts or fluids, corrosive acids, or atomic radiation~~
13 ~~are manufactured, used, generated, stored or conveyed.~~

14 ~~8. Any enterprise in which sharp edged cutting tools,~~
15 ~~grinders or implements are used, including all enterprises~~
16 ~~which buy, sell or handle junk and salvage, demolish or~~
17 ~~reconstruct machinery.~~

18 ~~9. In any enterprise in which statutory or municipal~~
19 ~~ordinance regulations are now or shall hereafter be imposed for~~
20 ~~the regulating, guarding, use or the placing of machinery or~~
21 ~~appliances or for the protection and safeguarding of the~~
22 ~~employees or the public therein; each of which occupations,~~
23 ~~enterprises or businesses are hereby declared to be extra~~
24 ~~hazardous.~~

25 ~~10. Any enterprise, business or work in connection with the~~
26 ~~laying out or improvement of subdivisions of tracts of land.~~

1 ~~11. Any enterprise for the treatment of cross ties,~~
2 ~~switch ties, telegraph poles, timber or other wood with~~
3 ~~creosote or other preservatives.~~

4 ~~12. Establishments open to the general public wherein~~
5 ~~alcoholic beverages are sold to the general public for~~
6 ~~consumption on the premises.~~

7 ~~13. The operation of any public beauty shop wherein~~
8 ~~chemicals, solutions, or heated instruments or objects are used~~
9 ~~or applied by any employee in the dressing, treatment or waving~~
10 ~~of human hair.~~

11 ~~14. Any business or enterprise serving food to the public~~
12 ~~for consumption on the premises wherein any employee as a~~
13 ~~substantial part of the employee's work uses handcutting~~
14 ~~instruments or slicing machines or other devices for the~~
15 ~~cutting of meat or other food or wherein any employee is in the~~
16 ~~hazard of being scalded or burned by hot grease, hot water, hot~~
17 ~~foods, or other hot fluids, substances or objects.~~

18 ~~15. Any business or enterprise in which electric, gasoline~~
19 ~~or other power driven equipment is used in the operation~~
20 ~~thereof.~~

21 ~~16. Any business or enterprise in which goods, wares or~~
22 ~~merchandise are produced, manufactured or fabricated.~~

23 ~~17. (a) Any business or enterprise in which goods, wares or~~
24 ~~merchandise are sold or in which services are rendered to the~~
25 ~~public at large, provided that this paragraph shall not apply~~
26 ~~to such business or enterprise unless the annual payroll during~~

1 ~~the year next preceding the date of injury shall be in excess~~
2 ~~of \$1,000.~~

3 ~~(b) The corporate officers of any domestic or foreign~~
4 ~~corporation employed by the corporation may elect to withdraw~~
5 ~~themselves as individuals from the operation of this Act. Upon~~
6 ~~an election by the corporate officers to withdraw, written~~
7 ~~notice shall be provided to the insurance carrier of such~~
8 ~~election to withdraw, which election shall be effective upon~~
9 ~~receipt by the insurance carrier of such written notice. A~~
10 ~~corporate officer who thereafter elects to resume coverage~~
11 ~~under the Act as an individual shall provide written notice of~~
12 ~~such election to the insurance carrier which election shall be~~
13 ~~effective upon receipt by the insurance carrier of such written~~
14 ~~notice. For the purpose of this paragraph, a "corporate~~
15 ~~officer" is defined as a bona fide President, Vice President,~~
16 ~~Secretary or Treasurer of a corporation who voluntarily elects~~
17 ~~to withdraw.~~

18 ~~18. On and after July 1, 1980, but not before, any~~
19 ~~household or residence wherein domestic workers are employed~~
20 ~~for a total of 40 or more hours per week for a period of 13 or~~
21 ~~more weeks during a calendar year.~~

22 ~~(c) 19.~~ Nothing contained in this Act shall be construed to
23 apply to any agricultural enterprise, including aquaculture,
24 employing less than 400 working days of agricultural or
25 aquacultural labor per quarter during the preceding calendar
26 year, exclusive of working hours of the employer's spouse and

1 other members of his or her immediate family residing with him
2 or her.

3 (d) 20. Nothing contained in this Act shall be construed to
4 apply to any sole proprietor or partner or member of a limited
5 liability company who elects not to provide and pay
6 compensation for accidental injuries sustained by himself,
7 arising out of and in the course of the employment according to
8 the provisions of this Act.

9 (Source: P.A. 91-591, eff. 8-14-99.)

10 (820 ILCS 305/4) (from Ch. 48, par. 138.4)

11 Sec. 4. (a) Any employer, ~~including but not limited to~~
12 ~~general contractors and their subcontractors,~~ who shall come
13 within the provisions of subsection (a) or (b) of Section 3 of
14 this Act, and any other employer who shall elect to provide and
15 pay the compensation provided for in this Act shall:

16 (1) File with the Commission annually an application
17 for approval as a self-insurer which shall include a
18 current financial statement, and annually, thereafter, an
19 application for renewal of self-insurance, which shall
20 include a current financial statement. Said application
21 and financial statement shall be signed and sworn to by the
22 president or vice president and secretary or assistant
23 secretary of the employer if it be a corporation, or by all
24 of the partners, if it be a copartnership, or by the owner
25 if it be neither a copartnership nor a corporation. All

1 initial applications and all applications for renewal of
2 self-insurance must be submitted at least 60 days prior to
3 the requested effective date of self-insurance. An
4 employer may elect to provide and pay compensation as
5 provided for in this Act as a member of a group workers'
6 compensation pool under Article V 3/4 of the Illinois
7 Insurance Code. If an employer becomes a member of a group
8 workers' compensation pool, the employer shall not be
9 relieved of any obligations imposed by this Act.

10 If the sworn application and financial statement of any
11 such employer does not satisfy the Commission of the
12 financial ability of the employer who has filed it, the
13 Commission shall require such employer to,

14 (2) Furnish security, indemnity or a bond guaranteeing
15 the payment by the employer of the compensation provided
16 for in this Act, provided that any such employer whose
17 application and financial statement shall not have
18 satisfied the commission of his or her financial ability
19 and who shall have secured his liability in part by excess
20 liability insurance shall be required to furnish to the
21 Commission security, indemnity or bond guaranteeing his or
22 her payment up to the effective limits of the excess
23 coverage, or

24 (3) Insure his entire liability to pay such
25 compensation in some insurance carrier authorized,
26 licensed, or permitted to do such insurance business in

1 this State. Every policy of an insurance carrier, insuring
2 the payment of compensation under this Act shall cover all
3 the employees and the entire compensation liability of the
4 insured: Provided, however, that any employer may insure
5 his or her compensation liability with 2 or more insurance
6 carriers or may insure a part and qualify under subsection
7 1, 2, or 4 for the remainder of his or her liability to pay
8 such compensation, subject to the following two
9 provisions:

10 Firstly, the entire compensation liability of the
11 employer to employees working at or from one location
12 shall be insured in one such insurance carrier or shall
13 be self-insured, and

14 Secondly, the employer shall submit evidence
15 satisfactorily to the Commission that his or her entire
16 liability for the compensation provided for in this Act
17 will be secured. Any provisions in any policy, or in
18 any endorsement attached thereto, attempting to limit
19 or modify in any way, the liability of the insurance
20 carriers issuing the same except as otherwise provided
21 herein shall be wholly void.

22 Nothing herein contained shall apply to policies of
23 excess liability carriage secured by employers who have
24 been approved by the Commission as self-insurers, or

25 (4) Make some other provision, satisfactory to the
26 Commission, for the securing of the payment of compensation

1 provided for in this Act, and

2 (5) Upon becoming subject to this Act and thereafter as
3 often as the Commission may in writing demand, file with
4 the Commission in form prescribed by it evidence of his or
5 her compliance with the provision of this Section.

6 (a-1) Regardless of its state of domicile or its principal
7 place of business, an employer shall make payments to its
8 insurance carrier or group self-insurance fund, where
9 applicable, based upon the premium rates of the situs where the
10 work or project is located in Illinois if:

11 (A) the employer is engaged primarily in the building
12 and construction industry; and

13 (B) subdivision (a)(3) of this Section applies to the
14 employer or the employer is a member of a group
15 self-insurance plan as defined in subsection (1) of Section
16 4a.

17 The Illinois Workers' Compensation Commission shall impose
18 a penalty upon an employer for violation of this subsection
19 (a-1) if:

20 (i) the employer is given an opportunity at a hearing
21 to present evidence of its compliance with this subsection
22 (a-1); and

23 (ii) after the hearing, the Commission finds that the
24 employer failed to make payments upon the premium rates of
25 the situs where the work or project is located in Illinois.
26 The penalty shall not exceed \$1,000 for each day of work

1 for which the employer failed to make payments upon the premium
2 rates of the situs where the work or project is located in
3 Illinois, but the total penalty shall not exceed \$50,000 for
4 each project or each contract under which the work was
5 performed.

6 Any penalty under this subsection (a-1) must be imposed not
7 later than one year after the expiration of the applicable
8 limitation period specified in subsection (d) of Section 6 of
9 this Act. Penalties imposed under this subsection (a-1) shall
10 be deposited into the Illinois Workers' Compensation
11 Commission Operations Fund, a special fund that is created in
12 the State treasury. Subject to appropriation, moneys in the
13 Fund shall be used solely for the operations of the Illinois
14 Workers' Compensation Commission and by the Department of
15 Financial and Professional Regulation for the purposes
16 authorized in subsection (c) of Section 25.5 of this Act.

17 (b) The sworn application and financial statement, or
18 security, indemnity or bond, or amount of insurance, or other
19 provisions, filed, furnished, carried, or made by the employer,
20 as the case may be, shall be subject to the approval of the
21 Commission.

22 Deposits under escrow agreements shall be cash, negotiable
23 United States government bonds or negotiable general
24 obligation bonds of the State of Illinois. Such cash or bonds
25 shall be deposited in escrow with any State or National Bank or
26 Trust Company having trust authority in the State of Illinois.

1 Upon the approval of the sworn application and financial
2 statement, security, indemnity or bond or amount of insurance,
3 filed, furnished or carried, as the case may be, the Commission
4 shall send to the employer written notice of its approval
5 thereof. The certificate of compliance by the employer with the
6 provisions of subparagraphs (2) and (3) of paragraph (a) of
7 this Section shall be delivered by the insurance carrier to the
8 Illinois Workers' Compensation Commission within five days
9 after the effective date of the policy so certified. The
10 insurance so certified shall cover all compensation liability
11 occurring during the time that the insurance is in effect and
12 no further certificate need be filed in case such insurance is
13 renewed, extended or otherwise continued by such carrier. The
14 insurance so certified shall not be cancelled or in the event
15 that such insurance is not renewed, extended or otherwise
16 continued, such insurance shall not be terminated until at
17 least 10 days after receipt by the Illinois Workers'
18 Compensation Commission of notice of the cancellation or
19 termination of said insurance; provided, however, that if the
20 employer has secured insurance from another insurance carrier,
21 or has otherwise secured the payment of compensation in
22 accordance with this Section, and such insurance or other
23 security becomes effective prior to the expiration of the 10
24 days, cancellation or termination may, at the option of the
25 insurance carrier indicated in such notice, be effective as of
26 the effective date of such other insurance or security.

1 (c) Whenever the Commission shall find that any
2 corporation, company, association, aggregation of individuals,
3 reciprocal or interinsurers exchange, or other insurer
4 effecting workers' compensation insurance in this State shall
5 be insolvent, financially unsound, or unable to fully meet all
6 payments and liabilities assumed or to be assumed for
7 compensation insurance in this State, or shall practice a
8 policy of delay or unfairness toward employees in the
9 adjustment, settlement, or payment of benefits due such
10 employees, the Commission may after reasonable notice and
11 hearing order and direct that such corporation, company,
12 association, aggregation of individuals, reciprocal or
13 interinsurers exchange, or insurer, shall from and after a date
14 fixed in such order discontinue the writing of any such
15 workers' compensation insurance in this State. Subject to such
16 modification of the order as the Commission may later make on
17 review of the order, as herein provided, it shall thereupon be
18 unlawful for any such corporation, company, association,
19 aggregation of individuals, reciprocal or interinsurers
20 exchange, or insurer to effect any workers' compensation
21 insurance in this State. A copy of the order shall be served
22 upon the Director of Insurance by registered mail. Whenever the
23 Commission finds that any service or adjustment company used or
24 employed by a self-insured employer or by an insurance carrier
25 to process, adjust, investigate, compromise or otherwise
26 handle claims under this Act, has practiced or is practicing a

1 policy of delay or unfairness toward employees in the
2 adjustment, settlement or payment of benefits due such
3 employees, the Commission may after reasonable notice and
4 hearing order and direct that such service or adjustment
5 company shall from and after a date fixed in such order be
6 prohibited from processing, adjusting, investigating,
7 compromising or otherwise handling claims under this Act.

8 Whenever the Commission finds that any self-insured
9 employer has practiced or is practicing delay or unfairness
10 toward employees in the adjustment, settlement or payment of
11 benefits due such employees, the Commission may, after
12 reasonable notice and hearing, order and direct that after a
13 date fixed in the order such self-insured employer shall be
14 disqualified to operate as a self-insurer and shall be required
15 to insure his entire liability to pay compensation in some
16 insurance carrier authorized, licensed and permitted to do such
17 insurance business in this State, as provided in subparagraph 3
18 of paragraph (a) of this Section.

19 All orders made by the Commission under this Section shall
20 be subject to review by the courts, said review to be taken in
21 the same manner and within the same time as provided by Section
22 19 of this Act for review of awards and decisions of the
23 Commission, upon the party seeking the review filing with the
24 clerk of the court to which said review is taken a bond in an
25 amount to be fixed and approved by the court to which the
26 review is taken, conditioned upon the payment of all

1 compensation awarded against the person taking said review
2 pending a decision thereof and further conditioned upon such
3 other obligations as the court may impose. Upon the review the
4 Circuit Court shall have power to review all questions of fact
5 as well as of law. The penalty hereinafter provided for in this
6 paragraph shall not attach and shall not begin to run until the
7 final determination of the order of the Commission.

8 (d) Whenever a panel of 3 Commissioners comprised of one
9 member of the employing class, one member of the employee
10 class, and one member not identified with either the employing
11 or employee class, with due process and after a hearing,
12 determines an employer has knowingly failed to provide coverage
13 as required by paragraph (a) of this Section, the failure shall
14 be deemed an immediate serious danger to public health, safety,
15 and welfare sufficient to justify service by the Commission of
16 a work-stop order on such employer, requiring the cessation of
17 all business operations of such employer at the place of
18 employment or job site. Any law enforcement agency in the State
19 shall, at the request of the Commission, render any assistance
20 necessary to carry out the provisions of this Section,
21 including, but not limited to, preventing any employee of such
22 employer from remaining at a place of employment or job site
23 after a work-stop order has taken effect. Any work-stop order
24 shall be lifted upon proof of insurance as required by this
25 Act. Any orders under this Section are appealable under Section
26 19(f) to the Circuit Court.

1 Any individual employer, corporate officer or director of a
2 corporate employer, partner of an employer partnership, or
3 member of an employer limited liability company who knowingly
4 fails to provide coverage as required by paragraph (a) of this
5 Section is guilty of a Class 4 felony. This provision shall not
6 apply to any corporate officer or director of any
7 publicly-owned corporation. Each day's violation constitutes a
8 separate offense. The State's Attorney of the county in which
9 the violation occurred, or the Attorney General, shall bring
10 such actions in the name of the People of the State of
11 Illinois, or may, in addition to other remedies provided in
12 this Section, bring an action for an injunction to restrain the
13 violation or to enjoin the operation of any such employer.

14 Any individual employer, corporate officer or director of a
15 corporate employer, partner of an employer partnership, or
16 member of an employer limited liability company who negligently
17 fails to provide coverage as required by paragraph (a) of this
18 Section is guilty of a Class A misdemeanor. This provision
19 shall not apply to any corporate officer or director of any
20 publicly-owned corporation. Each day's violation constitutes a
21 separate offense. The State's Attorney of the county in which
22 the violation occurred, or the Attorney General, shall bring
23 such actions in the name of the People of the State of
24 Illinois.

25 The criminal penalties in this subsection (d) shall not
26 apply where there exists a good faith dispute as to the

1 existence of an employment relationship. Evidence of good faith
2 shall include, but not be limited to, compliance with the
3 definition of employee as used by the Internal Revenue Service.

4 Employers who are subject to and who knowingly fail to
5 comply with this Section shall not be entitled to the benefits
6 of this Act during the period of noncompliance, but shall be
7 liable in an action under any other applicable law of this
8 State. In the action, such employer shall not avail himself or
9 herself of the defenses of assumption of risk or negligence or
10 that the injury was due to a co-employee. In the action, proof
11 of the injury shall constitute prima facie evidence of
12 negligence on the part of such employer and the burden shall be
13 on such employer to show freedom of negligence resulting in the
14 injury. The employer shall not join any other defendant in any
15 such civil action. Nothing in this amendatory Act of the 94th
16 General Assembly shall affect the employee's rights under
17 subdivision (a)3 of Section 1 of this Act. Any employer or
18 carrier who makes payments under subdivision (a)3 of Section 1
19 of this Act shall have a right of reimbursement from the
20 proceeds of any recovery under this Section.

21 An employee of an uninsured employer, or the employee's
22 dependents in case death ensued, may, instead of proceeding
23 against the employer in a civil action in court, file an
24 application for adjustment of claim with the Commission in
25 accordance with the provisions of this Act and the Commission
26 shall hear and determine the application for adjustment of

1 claim in the manner in which other claims are heard and
2 determined before the Commission.

3 All proceedings under this subsection (d) shall be reported
4 on an annual basis to the Workers' Compensation Advisory Board.

5 Upon a finding by the Commission, after reasonable notice
6 and hearing, of the knowing and wilful failure or refusal of an
7 employer to comply with any of the provisions of paragraph (a)
8 of this Section or the failure or refusal of an employer,
9 service or adjustment company, or an insurance carrier to
10 comply with any order of the Illinois Workers' Compensation
11 Commission pursuant to paragraph (c) of this Section
12 disqualifying him or her to operate as a self insurer and
13 requiring him or her to insure his or her liability, the
14 Commission may assess a civil penalty of up to \$500 per day for
15 each day of such failure or refusal after the effective date of
16 this amendatory Act of 1989. The minimum penalty under this
17 Section shall be the sum of \$10,000. Each day of such failure
18 or refusal shall constitute a separate offense. The Commission
19 may assess the civil penalty personally and individually
20 against the corporate officers and directors of a corporate
21 employer, the partners of an employer partnership, and the
22 members of an employer limited liability company, after a
23 finding of a knowing and willful refusal or failure of each
24 such named corporate officer, director, partner, or member to
25 comply with this Section. The liability for the assessed
26 penalty shall be against the named employer first, and if the

1 named employer fails or refuses to pay the penalty to the
2 Commission within 30 days after the final order of the
3 Commission, then the named corporate officers, directors,
4 partners, or members who have been found to have knowingly and
5 willfully refused or failed to comply with this Section shall
6 be liable for the unpaid penalty or any unpaid portion of the
7 penalty. Upon investigation by the insurance non-compliance
8 unit of the Commission, the Attorney General shall have the
9 authority to prosecute all proceedings to enforce the civil and
10 administrative provisions of this Section before the
11 Commission. The Commission shall promulgate procedural rules
12 for enforcing this Section.

13 Upon the failure or refusal of any employer, service or
14 adjustment company or insurance carrier to comply with the
15 provisions of this Section and with the orders of the
16 Commission under this Section, or the order of the court on
17 review after final adjudication, the Commission may bring a
18 civil action to recover the amount of the penalty in Cook
19 County or in Sangamon County in which litigation the Commission
20 shall be represented by the Attorney General. The Commission
21 shall send notice of its finding of non-compliance and
22 assessment of the civil penalty to the Attorney General. It
23 shall be the duty of the Attorney General within 30 days after
24 receipt of the notice, to institute prosecutions and promptly
25 prosecute all reported violations of this Section.

26 Any individual employer, corporate officer or director of a

1 corporate employer, partner of an employer partnership, or
2 member of an employer limited liability company who, with the
3 intent to avoid payment of compensation under this Act to an
4 injured employee or the employee's dependents, knowingly
5 transfers, sells, encumbers, assigns, or in any manner disposes
6 of, conceals, secretes, or destroys any property belonging to
7 the employer, officer, director, partner, or member is guilty
8 of a Class 4 felony.

9 Penalties and fines collected pursuant to this paragraph
10 (d) shall be deposited upon receipt into a special fund which
11 shall be designated the Injured Workers' Benefit Fund, of which
12 the State Treasurer is ex-officio custodian, such special fund
13 to be held and disbursed in accordance with this paragraph (d)
14 for the purposes hereinafter stated in this paragraph (d), upon
15 the final order of the Commission. The Injured Workers' Benefit
16 Fund shall be deposited the same as are State funds and any
17 interest accruing thereon shall be added thereto every 6
18 months. The Injured Workers' Benefit Fund is subject to audit
19 the same as State funds and accounts and is protected by the
20 general bond given by the State Treasurer. The Injured Workers'
21 Benefit Fund is considered always appropriated for the purposes
22 of disbursements as provided in this paragraph, and shall be
23 paid out and disbursed as herein provided and shall not at any
24 time be appropriated or diverted to any other use or purpose.
25 Moneys in the Injured Workers' Benefit Fund shall be used only
26 for payment of workers' compensation benefits for injured

1 employees when the employer has failed to provide coverage as
2 determined under this paragraph (d) and has failed to pay the
3 benefits due to the injured employee. The Commission shall have
4 the right to obtain reimbursement from the employer for
5 compensation obligations paid by the Injured Workers' Benefit
6 Fund. Any such amounts obtained shall be deposited by the
7 Commission into the Injured Workers' Benefit Fund. If an
8 injured employee or his or her personal representative receives
9 payment from the Injured Workers' Benefit Fund, the State of
10 Illinois has the same rights under paragraph (b) of Section 5
11 that the employer who failed to pay the benefits due to the
12 injured employee would have had if the employer had paid those
13 benefits, and any moneys recovered by the State as a result of
14 the State's exercise of its rights under paragraph (b) of
15 Section 5 shall be deposited into the Injured Workers' Benefit
16 Fund. The custodian of the Injured Workers' Benefit Fund shall
17 be joined with the employer as a party respondent in the
18 application for adjustment of claim. After July 1, 2006, the
19 Commission shall make disbursements from the Fund once each
20 year to each eligible claimant. An eligible claimant is an
21 injured worker who has within the previous fiscal year obtained
22 a final award for benefits from the Commission against the
23 employer and the Injured Workers' Benefit Fund and has notified
24 the Commission within 90 days of receipt of such award. Within
25 a reasonable time after the end of each fiscal year, the
26 Commission shall make a disbursement to each eligible claimant.

1 At the time of disbursement, if there are insufficient moneys
2 in the Fund to pay all claims, each eligible claimant shall
3 receive a pro-rata share, as determined by the Commission, of
4 the available moneys in the Fund for that year. Payment from
5 the Injured Workers' Benefit Fund to an eligible claimant
6 pursuant to this provision shall discharge the obligations of
7 the Injured Workers' Benefit Fund regarding the award entered
8 by the Commission.

9 (e) This Act shall not affect or disturb the continuance of
10 any existing insurance, mutual aid, benefit, or relief
11 association or department, whether maintained in whole or in
12 part by the employer or whether maintained by the employees,
13 the payment of benefits of such association or department being
14 guaranteed by the employer or by some person, firm or
15 corporation for him or her: Provided, the employer contributes
16 to such association or department an amount not less than the
17 full compensation herein provided, exclusive of the cost of the
18 maintenance of such association or department and without any
19 expense to the employee. This Act shall not prevent the
20 organization and maintaining under the insurance laws of this
21 State of any benefit or insurance company for the purpose of
22 insuring against the compensation provided for in this Act, the
23 expense of which is maintained by the employer. This Act shall
24 not prevent the organization or maintaining under the insurance
25 laws of this State of any voluntary mutual aid, benefit or
26 relief association among employees for the payment of

1 additional accident or sick benefits.

2 (f) No existing insurance, mutual aid, benefit or relief
3 association or department shall, by reason of anything herein
4 contained, be authorized to discontinue its operation without
5 first discharging its obligations to any and all persons
6 carrying insurance in the same or entitled to relief or
7 benefits therein.

8 (g) Any contract, oral, written or implied, of employment
9 providing for relief benefit, or insurance or any other device
10 whereby the employee is required to pay any premium or premiums
11 for insurance against the compensation provided for in this Act
12 shall be null and void. Any employer withholding from the wages
13 of any employee any amount for the purpose of paying any such
14 premium shall be guilty of a Class B misdemeanor.

15 In the event the employer does not pay the compensation for
16 which he or she is liable, then an insurance company,
17 association or insurer which may have insured such employer
18 against such liability shall become primarily liable to pay to
19 the employee, his or her personal representative or beneficiary
20 the compensation required by the provisions of this Act to be
21 paid by such employer. The insurance carrier may be made a
22 party to the proceedings in which the employer is a party and
23 an award may be entered jointly against the employer and the
24 insurance carrier.

25 (h) It shall be unlawful for any employer, insurance
26 company or service or adjustment company to interfere with,

1 restrain or coerce an employee in any manner whatsoever in the
2 exercise of the rights or remedies granted to him or her by
3 this Act or to discriminate, attempt to discriminate, or
4 threaten to discriminate against an employee in any way because
5 of his or her exercise of the rights or remedies granted to him
6 or her by this Act.

7 It shall be unlawful for any employer, individually or
8 through any insurance company or service or adjustment company,
9 to discharge or to threaten to discharge, or to refuse to
10 rehire or recall to active service in a suitable capacity an
11 employee because of the exercise of his or her rights or
12 remedies granted to him or her by this Act.

13 (i) If an employer elects to obtain a life insurance policy
14 on his employees, he may also elect to apply such benefits in
15 satisfaction of all or a portion of the death benefits payable
16 under this Act, in which case, the employer's compensation
17 premium shall be reduced accordingly.

18 (j) Within 45 days of receipt of an initial application or
19 application to renew self-insurance privileges the
20 Self-Insurers Advisory Board shall review and submit for
21 approval by the Chairman of the Commission recommendations of
22 disposition of all initial applications to self-insure and all
23 applications to renew self-insurance privileges filed by
24 private self-insurers pursuant to the provisions of this
25 Section and Section 4a-9 of this Act. Each private self-insurer
26 shall submit with its initial and renewal applications the

1 application fee required by Section 4a-4 of this Act.

2 The Chairman of the Commission shall promptly act upon all
3 initial applications and applications for renewal in full
4 accordance with the recommendations of the Board or, should the
5 Chairman disagree with any recommendation of disposition of the
6 Self-Insurer's Advisory Board, he shall within 30 days of
7 receipt of such recommendation provide to the Board in writing
8 the reasons supporting his decision. The Chairman shall also
9 promptly notify the employer of his decision within 15 days of
10 receipt of the recommendation of the Board.

11 If an employer is denied a renewal of self-insurance
12 privileges pursuant to application it shall retain said
13 privilege for 120 days after receipt of a notice of
14 cancellation of the privilege from the Chairman of the
15 Commission.

16 All orders made by the Chairman under this Section shall be
17 subject to review by the courts, such review to be taken in the
18 same manner and within the same time as provided by subsection
19 (f) of Section 19 of this Act for review of awards and
20 decisions of the Commission, upon the party seeking the review
21 filing with the clerk of the court to which such review is
22 taken a bond in an amount to be fixed and approved by the court
23 to which the review is taken, conditioned upon the payment of
24 all compensation awarded against the person taking such review
25 pending a decision thereof and further conditioned upon such
26 other obligations as the court may impose. Upon the review the

1 Circuit Court shall have power to review all questions of fact
2 as well as of law.

3 (Source: P.A. 93-721, eff. 1-1-05; 94-277, eff. 7-20-05;
4 94-839, eff. 6-6-06.)

5 (820 ILCS 305/6) (from Ch. 48, par. 138.6)

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

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

1 servicing the compensation payments of the employer, and the
2 name and address of the person in charge of making compensation
3 payments.

4 (a-5) An employer shall notify each employee whether or not
5 the employer is covered under this Act. The employer shall
6 notify a new employee of the existence or absence of coverage
7 under this Act at the time the employee is hired. Each employer
8 shall post a notice of whether the employer is covered under
9 this Act at conspicuous locations at the employer's place of
10 business as necessary to provide reasonable notice to the
11 employees. The Commission may adopt rules relating to the form
12 and content of the notice. The employer shall revise the notice
13 when the information contained in the notice is changed. An
14 employer who elects to be covered under this Act or who
15 withdraws from coverage shall notify each employee that the
16 coverage has been elected or withdrawn not later than the 15th
17 day after the date on which the election or withdrawal takes
18 effect.

19 (b) Every employer subject to this Act shall maintain
20 accurate records of work-related deaths, injuries and illness
21 other than minor injuries requiring only first aid treatment
22 and which do not involve medical treatment, loss of
23 consciousness, restriction of work or motion, or transfer to
24 another job and file with the Commission, in writing, a report
25 of all accidental deaths, injuries and illnesses arising out of
26 and in the course of the employment resulting in the loss of

1 more than 3 scheduled work days. In the case of death such
2 report shall be made no later than 2 working days following the
3 accidental death. In all other cases such report shall be made
4 between the 15th and 25th of each month unless required to be
5 made sooner by rule of the Commission. In case the injury
6 results in permanent disability, a further report shall be made
7 as soon as it is determined that such permanent disability has
8 resulted or will result from the injury. All reports shall
9 state the date of the injury, including the time of day or
10 night, the nature of the employer's business, the name,
11 address, age, sex, conjugal condition of the injured person,
12 the specific occupation of the injured person, the direct cause
13 of the injury and the nature of the accident, the character of
14 the injury, the length of disability, and in case of death the
15 length of disability before death, the wages of the injured
16 person, whether compensation has been paid to the injured
17 person, or to his or her legal representative or his heirs or
18 next of kin, the amount of compensation paid, the amount paid
19 for physicians', surgeons' and hospital bills, and by whom
20 paid, and the amount paid for funeral or burial expenses if
21 known. The reports shall be made on forms and in the manner as
22 prescribed by the Commission and shall contain such further
23 information as the Commission shall deem necessary and require.
24 The making of these reports releases the employer from making
25 such reports to any other officer of the State and shall
26 satisfy the reporting provisions as contained in the "Health

1 and Safety Act" and "An Act in relation to safety inspections
2 and education in industrial and commercial establishments and
3 to repeal an Act therein named", approved July 18, 1955, as now
4 or hereafter amended. The reports filed with the Commission
5 pursuant to this Section shall be made available by the
6 Commission to the Director of Labor or his representatives and
7 to all other departments of the State of Illinois which shall
8 require such information for the proper discharge of their
9 official duties. Failure to file with the Commission any of the
10 reports required in this Section is a petty offense.

11 Except as provided in this paragraph, all reports filed
12 hereunder shall be confidential and any person having access to
13 such records filed with the Illinois Workers' Compensation
14 Commission as herein required, who shall release any
15 information therein contained including the names or otherwise
16 identify any persons sustaining injuries or disabilities, or
17 give access to such information to any unauthorized person,
18 shall be subject to discipline or discharge, and in addition
19 shall be guilty of a Class B misdemeanor. The Commission shall
20 compile and distribute to interested persons aggregate
21 statistics, taken from the reports filed hereunder. The
22 aggregate statistics shall not give the names or otherwise
23 identify persons sustaining injuries or disabilities or the
24 employer of any injured or disabled person.

25 (c) Notice of the accident shall be given to the employer
26 as soon as practicable, but not later than 45 days after the

1 accident. Provided:

2 (1) In case of the legal disability of the employee or any
3 dependent of a deceased employee who may be entitled to
4 compensation under the provisions of this Act, the limitations
5 of time by this Act provided do not begin to run against such
6 person under legal disability until a guardian has been
7 appointed.

8 (2) In cases of injuries sustained by exposure to
9 radiological materials or equipment, notice shall be given to
10 the employer within 90 days subsequent to the time that the
11 employee knows or suspects that he has received an excessive
12 dose of radiation.

13 No defect or inaccuracy of such notice shall be a bar to
14 the maintenance of proceedings on arbitration or otherwise by
15 the employee unless the employer proves that he is unduly
16 prejudiced in such proceedings by such defect or inaccuracy.

17 Notice of the accident shall give the approximate date and
18 place of the accident, if known, and may be given orally or in
19 writing.

20 (d) Every employer shall notify each injured employee who
21 has been granted compensation under the provisions of Section 8
22 of this Act of his rights to rehabilitation services and advise
23 him of the locations of available public rehabilitation centers
24 and any other such services of which the employer has
25 knowledge.

26 In any case, other than one where the injury was caused by

1 exposure to radiological materials or equipment or asbestos
2 unless the application for compensation is filed with the
3 Commission within 3 years after the date of the accident, where
4 no compensation has been paid, or within 2 years after the date
5 of the last payment of compensation, where any has been paid,
6 whichever shall be later, the right to file such application
7 shall be barred.

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

14 If in any case except one where the injury was caused by
15 exposure to radiological materials or equipment or asbestos,
16 the accidental injury results in death application for
17 compensation for death may be filed with the Commission within
18 3 years after the date of death where no compensation has been
19 paid or within 2 years after the date of the last payment of
20 compensation where any has been paid, whichever shall be later,
21 but not thereafter.

22 If an accidental injury caused by exposure to radiological
23 material or equipment or asbestos results in death within 25
24 years after the last day that the employee was so exposed
25 application for compensation for death may be filed with the
26 Commission within 3 years after the date of death, where no

1 compensation has been paid, or within 2 years after the date of
2 the last payment of compensation where any has been paid,
3 whichever shall be later, but not thereafter.

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

8 (f) Any condition or impairment of health of an employee
9 employed as a firefighter, emergency medical technician (EMT),
10 or paramedic which results directly or indirectly from any
11 bloodborne pathogen, lung or respiratory disease or condition,
12 heart or vascular disease or condition, hypertension,
13 tuberculosis, or cancer resulting in any disability
14 (temporary, permanent, total, or partial) to the employee shall
15 be rebuttably presumed to arise out of and in the course of the
16 employee's firefighting, EMT, or paramedic employment and,
17 further, shall be rebuttably presumed to be causally connected
18 to the hazards or exposures of the employment. This presumption
19 shall also apply to any hernia or hearing loss suffered by an
20 employee employed as a firefighter, EMT, or paramedic. However,
21 this presumption shall not apply to any employee who has been
22 employed as a firefighter, EMT, or paramedic for less than 5
23 years at the time he or she files an Application for Adjustment
24 of Claim concerning this condition or impairment with the
25 Illinois Workers' Compensation Commission. The Finding and
26 Decision of the Illinois Workers' Compensation Commission

1 under only the rebuttable presumption provision of this
2 subsection shall not be admissible or be deemed res judicata in
3 any disability claim under the Illinois Pension Code arising
4 out of the same medical condition; however, this sentence makes
5 no change to the law set forth in Krohe v. City of Bloomington,
6 204 Ill.2d 392.

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

8 (820 ILCS 305/11) (from Ch. 48, par. 138.11)

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

22 Accidental injuries incurred while participating in
23 voluntary recreational programs including but not limited to
24 athletic events, parties and picnics do not arise out of and in
25 the course of the employment even though the employer pays some

1 or all of the cost thereof. This exclusion shall not apply in
2 the event that the injured employee was ordered or assigned by
3 his employer to participate in the program.

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

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

21 (Source: P.A. 93-829, eff. 7-28-04.)

22 (820 ILCS 305/17) (from Ch. 48, par. 138.17)

23 Sec. 17. The Commission shall cause to be printed and
24 furnish free of charge upon request by any employer or employee
25 such blank forms as may facilitate or promote efficient

1 administration and the performance of the duties of the
2 Commission. It shall provide a proper record in which shall be
3 entered and indexed the name of any employer who shall file a
4 notice of declination or withdrawal under this Act, and the
5 date of the filing thereof; and a proper record in which shall
6 be entered and indexed the name of any employee who shall file
7 such notice of declination or withdrawal, and the date of the
8 filing thereof; and such other notices as may be required by
9 this Act; and records in which shall be recorded all
10 proceedings, orders and awards had or made by the Commission or
11 by the arbitration committees, and such other books or records
12 as it shall deem necessary, all such records to be kept in the
13 office of the Commission.

14 An employer who elects not to be covered by this Act or who
15 withdraws from coverage under this Act must file a notice of
16 declination or withdrawal under this Act with the Commission in
17 writing, in the time and as prescribed by Commission rule, that
18 the employer elects not to be covered. The Commission shall
19 prescribe forms to be used for the employer notification and
20 shall require the employer to provide reasonable information to
21 the Commission about the employer's business.

22 The Commission may destroy all papers and documents which
23 have been on file for more than 5 years where there is no claim
24 for compensation pending or where more than 2 years have
25 elapsed since the termination of the compensation period.

26 The Commission shall compile and distribute to interested

1 persons aggregate statistics, taken from any records and
2 reports in the possession of the Commission. The aggregate
3 statistics shall not give the names or otherwise identify
4 persons sustaining injuries or disabilities or the employer of
5 any injured or disabled person.

6 The Commission is authorized to establish reasonable fees
7 and methods of payment limited to covering only the costs to
8 the Commission for processing, maintaining and generating
9 records or data necessary for the computerized production of
10 documents, records and other materials except to the extent of
11 any salaries or compensation of Commission officers or
12 employees.

13 All fees collected by the Commission under this Section
14 shall be deposited in the Statistical Services Revolving Fund
15 and credited to the account of the Illinois Workers'
16 Compensation Commission.

17 (Source: P.A. 93-721, eff. 1-1-05.)

18 Section 10. The Workers' Occupational Diseases Act is
19 amended by changing Sections 1, 2, 6, and 17 and by adding
20 Section 2.1 as follows:

21 (820 ILCS 310/1) (from Ch. 48, par. 172.36)

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

24 (a) The term "employer" as used in this Act means a person

1 who employs one or more employees. ~~shall be construed to be:~~

2 ~~1. The State and each county, city, town, township,~~
3 ~~incorporated village, school district, body politic, or~~
4 ~~municipal corporation therein.~~

5 ~~2. Every person, firm, public or private corporation,~~
6 ~~including hospitals, public service, eleemosynary,~~
7 ~~religious or charitable corporations or associations, who~~
8 ~~has any person in service or under any contract for hire,~~
9 ~~express or implied, oral or written.~~

10 ~~3. Where an employer operating under and subject to the~~
11 ~~provisions of this Act loans an employee to another such~~
12 ~~employer and such loaned employee sustains a compensable~~
13 ~~occupational disease in the employment of such borrowing~~
14 ~~employer and where such borrowing employer does not provide~~
15 ~~or pay the benefits or payments due such employee, such~~
16 ~~loaning employer shall be liable to provide or pay all~~
17 ~~benefits or payments due such employee under this Act and~~
18 ~~as to such employee the liability of such loaning and~~
19 ~~borrowing employers shall be joint and several, provided~~
20 ~~that such loaning employer shall in the absence of~~
21 ~~agreement to the contrary be entitled to receive from such~~
22 ~~borrowing employer full reimbursement for all sums paid or~~
23 ~~incurred pursuant to this paragraph together with~~
24 ~~reasonable attorneys' fees and expenses in any hearings~~
25 ~~before the Illinois Workers' Compensation Commission or in~~
26 ~~any action to secure such reimbursement. Where any benefit~~

1 ~~is provided or paid by such loaning employer, the employee~~
2 ~~shall have the duty of rendering reasonable co-operation in~~
3 ~~any hearings, trials or proceedings in the case, including~~
4 ~~such proceedings for reimbursement.~~

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

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

1 ~~provisions of this Section.~~

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

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

24 2. Every person in the service of another under any
25 contract of hire, express or implied, oral or written, who
26 contracts an occupational disease while working in the

1 State of Illinois, or who contracts an occupational disease
2 while working outside of the State of Illinois but where
3 the contract of hire is made within the State of Illinois,
4 and any person whose employment is principally localized
5 within the State of Illinois, regardless of the place where
6 the disease was contracted or place where the contract of
7 hire was made, including aliens, and minors who, for the
8 purpose of this Act, except Section 3 hereof, shall be
9 considered the same and have the same power to contract,
10 receive payments and give quittances therefor, as adult
11 employees. An employee or his or her dependents under this
12 Act who shall have a cause of action by reason of an
13 occupational disease, disablement or death arising out of
14 and in the course of his or her employment may elect or
15 pursue his or her remedy in the State where the disease was
16 contracted, or in the State where the contract of hire is
17 made, or in the State where the employment is principally
18 localized.

19 Nothing in this subsection (b) shall be construed to
20 require coverage of an employee by an employer who elects not
21 to be covered by this Act.

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

25 (d) In this Act the term "Occupational Disease" means a
26 disease arising out of and in the course of the employment or

1 which has become aggravated and rendered disabling as a result
2 of the exposure of the employment. Such aggravation shall arise
3 out of a risk peculiar to or increased by the employment and
4 not common to the general public.

5 A disease shall be deemed to arise out of the employment if
6 there is apparent to the rational mind, upon consideration of
7 all the circumstances, a causal connection between the
8 conditions under which the work is performed and the
9 occupational disease. The disease need not to have been
10 foreseen or expected but after its contraction it must appear
11 to have had its origin or aggravation in a risk connected with
12 the employment and to have flowed from that source as a
13 rational consequence.

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

25 Any injury to or disease or death of an employee arising
26 from the administration of a vaccine, including without

1 limitation smallpox vaccine, to prepare for, or as a response
2 to, a threatened or potential bioterrorist incident to the
3 employee as part of a voluntary inoculation program in
4 connection with the person's employment or in connection with
5 any governmental program or recommendation for the inoculation
6 of workers in the employee's occupation, geographical area, or
7 other category that includes the employee is deemed to arise
8 out of and in the course of the employment for all purposes
9 under this Act. This paragraph added by Public Act 93-829 is
10 declarative of existing law and is not a new enactment.

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

26 If a deceased miner was employed for 10 years or more in

1 one or more coal mines and died from a respirable disease there
2 shall, effective July 1, 1973, be a rebuttable presumption that
3 his or her death was due to pneumoconiosis.

4 Any condition or impairment of health of an employee
5 employed as a firefighter, emergency medical technician (EMT),
6 or paramedic which results directly or indirectly from any
7 bloodborne pathogen, lung or respiratory disease or condition,
8 heart or vascular disease or condition, hypertension,
9 tuberculosis, or cancer resulting in any disability
10 (temporary, permanent, total, or partial) to the employee shall
11 be rebuttably presumed to arise out of and in the course of the
12 employee's firefighting, EMT, or paramedic employment and,
13 further, shall be rebuttably presumed to be causally connected
14 to the hazards or exposures of the employment. This presumption
15 shall also apply to any hernia or hearing loss suffered by an
16 employee employed as a firefighter, EMT, or paramedic. However,
17 this presumption shall not apply to any employee who has been
18 employed as a firefighter, EMT, or paramedic for less than 5
19 years at the time he or she files an Application for Adjustment
20 of Claim concerning this condition or impairment with the
21 Illinois Workers' Compensation Commission. The Finding and
22 Decision of the Illinois Workers' Compensation Commission
23 under only the rebuttable presumption provision of this
24 paragraph shall not be admissible or be deemed res judicata in
25 any disability claim under the Illinois Pension Code arising
26 out of the same medical condition; however, this sentence makes

1 no change to the law set forth in Krohe v. City of Bloomington,
2 204 Ill.2d 392.

3 The insurance carrier liable shall be the carrier whose
4 policy was in effect covering the employer liable on the last
5 day of the exposure rendering such employer liable in
6 accordance with the provisions of this Act.

7 (e) "Disablement" means an impairment or partial
8 impairment, temporary or permanent, in the function of the body
9 or any of the members of the body, or the event of becoming
10 disabled from earning full wages at the work in which the
11 employee was engaged when last exposed to the hazards of the
12 occupational disease by the employer from whom he or she claims
13 compensation, or equal wages in other suitable employment; and
14 "disability" means the state of being so incapacitated.

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

26 (Source: P.A. 95-316, eff. 1-1-08; 95-331, eff. 8-21-07.)

1 (820 ILCS 310/2) (from Ch. 48, par. 172.37)

2 Sec. 2. (a) Where any employer in this State is
3 automatically and without election subject to and bound by the
4 provisions of the Workers' Compensation Act by reason of the
5 provisions of subsection (a) or (b) of Section 3 thereof, as
6 heretofore or hereafter amended, then such employer and all of
7 his employees working within this State shall be automatically
8 and without election subject to and bound by the compensation
9 provisions of this Act with respect to all cases in which the
10 last day of the last exposure to the hazards of the disease
11 claimed upon shall have been on or after the effective date of
12 this amendatory Act of the 97th General Assembly July 1, 1957.
13 However, nothing contained in this Act shall be construed to
14 apply to any business, enterprise, household or residence which
15 is exempt from the compensation provisions of the Workers'
16 Compensation Act under subsection (c) of paragraphs 17, 18 and
17 19 of Section 3 of that Act.

18 (b) Any employer in this State who does not come within the
19 classes enumerated by Section 2 (a) of this Act may elect to
20 provide and pay compensation according to the provisions of
21 this Act, for disability or death resulting from occupational
22 diseases, and such election, when effective, shall apply to all
23 cases in which the last day of the last exposure as defined in
24 this Act to the hazards of the occupational disease claimed
25 upon shall have occurred on or after the effective date of such

1 election, and shall relieve such employer of all liability
2 under Section 3 of this Act and all other liability with
3 respect to injury to health or death therefrom by reason of any
4 disease contracted or sustained in the course of the
5 employment. The State of Illinois hereby elects to provide and
6 pay compensation according to the provisions of this Act.

7 (c) Election by any employer, pursuant to paragraph (b) of
8 this Section shall be made by filing notice of such election
9 with the Illinois Workers' Compensation Commission or by
10 insuring his liability to pay compensation under this Act in
11 some insurance carrier authorized, licensed or permitted to do
12 such insurance business in this State. Such employer shall
13 either furnish to his employees personally or post in a
14 conspicuous place in the place of employment notice of his
15 election.

16 (d) Every employer who has elected pursuant to paragraphs
17 (b) and (c) of this section to provide and pay compensation
18 shall, from and after the effective date of such election be
19 and operate under all provisions of this Act except Section 3
20 hereof, with respect to all his employees except those who have
21 rejected in due time as provided in paragraph (e). Any employer
22 having elected, prior to October 1, 1941, not to provide and
23 pay compensation may at any time thereafter again elect
24 pursuant to paragraphs (b) and (c) to provide and pay
25 compensation, but having thus elected for the second time to
26 provide and pay compensation such employer shall, from and

1 after the effective date of such last said election, be and
2 operate under all provisions of this Act, except Section 3
3 hereof, with respect to all employees except those who have
4 rejected in due time as provided in paragraph (e) of this
5 section.

6 (e) If any employer elects, pursuant to paragraph (b) and
7 (c) of this section, then every employee of such employer, who
8 may be employed at the time of such election by such employer,
9 shall be deemed to have accepted all the compensation
10 provisions of this Act and shall be bound thereby unless within
11 30 days after such election he shall file a notice to the
12 contrary with the Commission whose duty it shall be immediately
13 to notify the employer, and until such notice is given to the
14 employer, the measure of liability of such employer shall be
15 determined according to the compensation provisions of this
16 Act; and every employee of such employer, hired after such
17 employer's election, as a part of his contract of hiring shall
18 be deemed to have accepted all of the compensation provisions
19 of this Act, and shall have no right of rejection.

20 (f) Every employer within the provisions of this Act who
21 has elected to provide any pay compensation according to the
22 provisions of this Act by filing notice of such election with
23 the Commission, shall be bound thereby as to all his employees
24 until January 1st of the next succeeding year and for terms of
25 each year thereafter.

26 Any such employer who may have once elected, may elect not

1 to provide and pay the compensation herein provided for
2 accidents resulting in either injury or death and occurring
3 after the expiration of any such calendar year by filing notice
4 of such election with the Commission at least 60 days prior to
5 the expiration of any such calendar year, and by posting such
6 notice at a conspicuous place in the plant, shop, office, room
7 or place where such employee is employed, or by personal
8 service, in written or printed form, upon such employees, at
9 least 60 days prior to the expiration of any such calendar
10 year.

11 Every employer within the provisions of this Act who has
12 elected to provide and pay compensation according to the
13 provisions of this Act by insuring his liability to pay
14 compensation under this Act, as above provided, shall be bound
15 thereby as to all his employees until the date of expiration or
16 cancellation of such policy of insurance, or any renewal
17 thereof.

18 (g) An employer who elects to be covered under the Workers'
19 Compensation Act may not decline coverage under this Act. An
20 employer who declines coverage under the Workers' Compensation
21 Act may not elect to be covered under this Act. An employer who
22 withdraws from coverage under the Workers' Compensation Act
23 must also withdraw from coverage under this Act.

24 (Source: P.A. 93-721, eff. 1-1-05.)

1 Sec. 2.1. Common-law defenses; burden of proof; waiver.
2 Section 2.1 of the Workers' Compensation Act applies when an
3 employer who elects not to be covered by this Act and the
4 Workers' Compensation Act.

5 (820 ILCS 310/6) (from Ch. 48, par. 172.41)

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

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

1 name and address of the person in charge of making compensation
2 payments.

3 (a-5) An employer shall notify each employee whether or not
4 the employer is covered under this Act. The employer shall
5 notify a new employee of the existence or absence of coverage
6 under this Act at the time the employee is hired. Each employer
7 shall post a notice of whether the employer is covered under
8 this Act at conspicuous locations at the employer's place of
9 business as necessary to provide reasonable notice to the
10 employees. The Commission may adopt rules relating to the form
11 and content of the notice. The employer shall revise the notice
12 when the information contained in the notice is changed. An
13 employer who elects to be covered under this Act or who
14 withdraws from coverage shall notify each employee that the
15 coverage has been elected or withdrawn not later than the 15th
16 day after the date on which the election or withdrawal takes
17 effect.

18 (b) Every employer subject to this Act shall maintain
19 accurate records of work-related deaths, injuries and
20 illnesses other than minor injuries requiring only first aid
21 treatment and which do not involve medical treatment, loss of
22 consciousness, restriction of work or motion or transfer to
23 another job and file with the Illinois Workers' Compensation
24 Commission, in writing, a report of all occupational diseases
25 arising out of and in the course of the employment and
26 resulting in death, or disablement or illness resulting in the

1 loss of more than 3 scheduled work days. In the case of death
2 such report shall be made no later than 2 working days
3 following the occupational death. In all other cases such
4 report shall be made between the 15th and 25th of each month
5 unless required to be made sooner by rule of the Illinois
6 Workers' Compensation Commission. In case the occupational
7 disease results in permanent disability, a further report shall
8 be made as soon as it is determined that such permanent
9 disability has resulted or will result therefrom. All reports
10 shall state the date of the disablement, the nature of the
11 employer's business, the name, address, the age, sex, conjugal
12 condition of the disabled person, the specific occupation of
13 the person, the nature and character of the occupational
14 disease, the length of disability, and, in case of death, the
15 length of disability before death, the wages of the employee,
16 whether compensation has been paid to the employee, or to his
17 legal representative or his heirs or next of kin, the amount of
18 compensation paid, the amount paid for physicians', surgeons'
19 and hospital bills, and by whom paid, and the amount paid for
20 funeral or burial expenses, if known. The reports shall be made
21 on forms and in the manner as prescribed by the Illinois
22 Workers' Compensation Commission and shall contain such
23 further information as the Commission shall deem necessary and
24 require. The making of such reports releases the employer from
25 making such reports to any other officer of the State and shall
26 satisfy the reporting provisions as contained in the "Health

1 And Safety Act" and "An Act in relation to safety inspections
2 and education in industrial and commercial establishments and
3 to repeal an Act therein named", approved July 18, 1955, as
4 amended. The report filed with the Illinois Workers'
5 Compensation Commission pursuant to the provisions of this
6 Section shall be made available by the Illinois Workers'
7 Compensation Commission to the Director of Labor or his
8 representatives, to the Department of Public Health pursuant to
9 the Illinois Health and Hazardous Substances Registry Act, and
10 to all other departments of the State of Illinois which shall
11 require such information for the proper discharge of their
12 official duties. Failure to file with the Commission any of the
13 reports required in this Section is a petty offense.

14 Except as provided in this paragraph, all reports filed
15 hereunder shall be confidential and any person having access to
16 such records filed with the Illinois Workers' Compensation
17 Commission as herein required, who shall release the names or
18 otherwise identify any persons sustaining injuries or
19 disabilities, or gives access to such information to any
20 unauthorized person, shall be subject to discipline or
21 discharge, and in addition shall be guilty of a Class B
22 misdemeanor. The Commission shall compile and distribute to
23 interested persons aggregate statistics, taken from the
24 reports filed hereunder. The aggregate statistics shall not
25 give the names or otherwise identify persons sustaining
26 injuries or disabilities or the employer of any injured or

1 disabled person.

2 (c) There shall be given notice to the employer of
3 disablement arising from an occupational disease as soon as
4 practicable after the date of the disablement. If the
5 Commission shall find that the failure to give such notice
6 substantially prejudices the rights of the employer the
7 Commission in its discretion may order that the right of the
8 employee to proceed under this Act shall be barred.

9 In case of legal disability of the employee or any
10 dependent of a deceased employee who may be entitled to
11 compensation, under the provisions of this Act, the limitations
12 of time in this Section of this Act provided shall not begin to
13 run against such person who is under legal disability until a
14 conservator or guardian has been appointed. No defect or
15 inaccuracy of such notice shall be a bar to the maintenance of
16 proceedings on arbitration or otherwise by the employee unless
17 the employer proves that he or she is unduly prejudiced in such
18 proceedings by such defect or inaccuracy. Notice of the
19 disabling disease may be given orally or in writing. In any
20 case, other than injury or death caused by exposure to
21 radiological materials or equipment or asbestos, unless
22 application for compensation is filed with the Commission
23 within 3 years after the date of the disablement, where no
24 compensation has been paid, or within 2 years after the date of
25 the last payment of compensation, where any has been paid,
26 whichever shall be later, the right to file such application

1 shall be barred. If the occupational disease results in death,
2 application for compensation for death may be filed with the
3 Commission within 3 years after the date of death where no
4 compensation has been paid, or within 3 years after the last
5 payment of compensation, where any has been paid, whichever is
6 later, but not thereafter.

7 Effective July 1, 1973 in cases of disability caused by
8 coal miners pneumoconiosis unless application for compensation
9 is filed with the Commission within 5 years after the employee
10 was last exposed where no compensation has been paid, or within
11 5 years after the last payment of compensation where any has
12 been paid, the right to file such application shall be barred.

13 In cases of disability caused by exposure to radiological
14 materials or equipment or asbestos, unless application for
15 compensation is filed with the Commission within 25 years after
16 the employee was so exposed, the right to file such application
17 shall be barred.

18 In cases of death occurring within 25 years from the last
19 exposure to radiological material or equipment or asbestos,
20 application for compensation must be filed within 3 years of
21 death where no compensation has been paid, or within 3 years,
22 after the date of the last payment where any has been paid, but
23 not thereafter.

24 (d) Any contract or agreement made by any employer or his
25 agent or attorney with any employee or any other beneficiary of
26 any claim under the provisions of this Act within 7 days after

1 the disablement shall be presumed to be fraudulent.

2 (Source: P.A. 93-721, eff. 1-1-05.)

3 (820 ILCS 310/17) (from Ch. 48, par. 172.52)

4 Sec. 17. The Commission shall cause to be printed and shall
5 furnish free of charge upon request by any employer or employee
6 such blank forms as it shall deem requisite to facilitate or
7 promote the efficient administration of this Act, and the
8 performance of the duties of the Commission. It shall provide a
9 proper record in which shall be entered and indexed the name of
10 any employer who shall file a notice of election under this
11 Act, and the date of the filing thereof; and a proper record in
12 which shall be entered and indexed the name of any employee who
13 shall file a notice of election, and the date of the filing
14 thereof; and such other notices as may be required by this Act;
15 and records in which shall be recorded all proceedings, orders
16 and awards had or made by the Commission, or by the arbitration
17 committees, and such other books or records as it shall deem
18 necessary, all such records to be kept in the office of the
19 Commission. The Commission, in its discretion, may destroy all
20 papers and documents except notices of election and waivers
21 which have been on file for more than five years where there is
22 no claim for compensation pending, or where more than two years
23 have elapsed since the termination of the compensation period.

24 An employer who elects not to be covered by this Act or who
25 withdraws from coverage under this Act must file a notice of

1 declination or withdrawal under this Act with the Commission in
2 writing, in the time and as prescribed by Commission rule, that
3 the employer elects not to be covered. The Commission shall
4 prescribe forms to be used for the employer notification and
5 shall require the employer to provide reasonable information to
6 the Commission about the employer's business.

7 The Commission shall compile and distribute to interested
8 persons aggregate statistics, taken from any records and
9 reports in the possession of the Commission. The aggregate
10 statistics shall not give the names or otherwise identify
11 persons sustaining injuries or disabilities or the employer of
12 any injured or disabled person.

13 The Commission is authorized to establish reasonable fees
14 and methods of payment limited to covering only the costs to
15 the Commission for processing, maintaining and generating
16 records or data necessary for the computerized production of
17 documents, records and other materials except to the extent of
18 any salaries or compensation of Commission officers or
19 employees.

20 All fees collected by the Commission under this Section
21 shall be deposited in the Statistical Services Revolving Fund
22 and credited to the account of the Illinois Workers'
23 Compensation Commission.

24 (Source: P.A. 93-721, eff. 1-1-05.)"