

HB3098



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB3098

Introduced 2/23/2011, by Rep. Michael W. Tryon

SYNOPSIS AS INTRODUCED:

820 ILCS 305/8

from Ch. 48, par. 138.8

Amends the Workers' Compensation Act. Provides that no employer shall be required to pay temporary partial or total disability benefits to an employee who has been discharged for cause. Provides procedures for notice and hearings. Defines "discharge for cause" as a discharge resulting from the employee's voluntary violation of a rule or policy of the employer not caused by the employee's disability. Effective January 1, 2012.

LRB097 09012 AEK 49146 b

A BILL FOR

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Workers' Compensation Act is amended by
5 changing Section 8 as follows:

6 (820 ILCS 305/8) (from Ch. 48, par. 138.8)

7 Sec. 8. The amount of compensation which shall be paid to
8 the employee for an accidental injury not resulting in death
9 is:

10 (a) The employer shall provide and pay the negotiated rate,
11 if applicable, or the lesser of the health care provider's
12 actual charges or according to a fee schedule, subject to
13 Section 8.2, in effect at the time the service was rendered for
14 all the necessary first aid, medical and surgical services, and
15 all necessary medical, surgical and hospital services
16 thereafter incurred, limited, however, to that which is
17 reasonably required to cure or relieve from the effects of the
18 accidental injury. If the employer does not dispute payment of
19 first aid, medical, surgical, and hospital services, the
20 employer shall make such payment to the provider on behalf of
21 the employee. The employer shall also pay for treatment,
22 instruction and training necessary for the physical, mental and
23 vocational rehabilitation of the employee, including all

1 maintenance costs and expenses incidental thereto. If as a
2 result of the injury the employee is unable to be
3 self-sufficient the employer shall further pay for such
4 maintenance or institutional care as shall be required.

5 The employee may at any time elect to secure his own
6 physician, surgeon and hospital services at the employer's
7 expense, or,

8 Upon agreement between the employer and the employees, or
9 the employees' exclusive representative, and subject to the
10 approval of the Illinois Workers' Compensation Commission, the
11 employer shall maintain a list of physicians, to be known as a
12 Panel of Physicians, who are accessible to the employees. The
13 employer shall post this list in a place or places easily
14 accessible to his employees. The employee shall have the right
15 to make an alternative choice of physician from such Panel if
16 he is not satisfied with the physician first selected. If, due
17 to the nature of the injury or its occurrence away from the
18 employer's place of business, the employee is unable to make a
19 selection from the Panel, the selection process from the Panel
20 shall not apply. The physician selected from the Panel may
21 arrange for any consultation, referral or other specialized
22 medical services outside the Panel at the employer's expense.
23 Provided that, in the event the Commission shall find that a
24 doctor selected by the employee is rendering improper or
25 inadequate care, the Commission may order the employee to
26 select another doctor certified or qualified in the medical

1 field for which treatment is required. If the employee refuses
2 to make such change the Commission may relieve the employer of
3 his obligation to pay the doctor's charges from the date of
4 refusal to the date of compliance.

5 Any vocational rehabilitation counselors who provide
6 service under this Act shall have appropriate certifications
7 which designate the counselor as qualified to render opinions
8 relating to vocational rehabilitation. Vocational
9 rehabilitation may include, but is not limited to, counseling
10 for job searches, supervising a job search program, and
11 vocational retraining including education at an accredited
12 learning institution. The employee or employer may petition to
13 the Commission to decide disputes relating to vocational
14 rehabilitation and the Commission shall resolve any such
15 dispute, including payment of the vocational rehabilitation
16 program by the employer.

17 The maintenance benefit shall not be less than the
18 temporary total disability rate determined for the employee. In
19 addition, maintenance shall include costs and expenses
20 incidental to the vocational rehabilitation program.

21 When the employee is working light duty on a part-time
22 basis or full-time basis and earns less than he or she would be
23 earning if employed in the full capacity of the job or jobs,
24 then the employee shall be entitled to temporary partial
25 disability benefits. Temporary partial disability benefits
26 shall be equal to two-thirds of the difference between the

1 average amount that the employee would be able to earn in the
2 full performance of his or her duties in the occupation in
3 which he or she was engaged at the time of accident and the net
4 amount which he or she is earning in the modified job provided
5 to the employee by the employer or in any other job that the
6 employee is working.

7 No employer shall be required to pay temporary partial
8 disability benefits to an employee who has been discharged for
9 cause on or after the effective date of this amendatory Act of
10 the 97th General Assembly. Upon notification by the employer,
11 the Commission shall suspend temporary partial disability
12 benefits being paid to an employee who has been discharged for
13 cause. Following a hearing, the Commission may reinstate the
14 temporary partial benefits and retroactively restore any
15 benefits the employer should have paid if it finds the
16 employer's discharge of the employee was not for cause. If the
17 Commission determines that the employee was discharged for
18 cause, the temporary partial disability benefit shall be
19 terminated. "Discharge for cause" means a discharge resulting
20 from the employee's voluntary violation of a rule or policy of
21 the employer not caused by the employee's disability.

22 Every hospital, physician, surgeon or other person
23 rendering treatment or services in accordance with the
24 provisions of this Section shall upon written request furnish
25 full and complete reports thereof to, and permit their records
26 to be copied by, the employer, the employee or his dependents,

1 as the case may be, or any other party to any proceeding for
2 compensation before the Commission, or their attorneys.

3 Notwithstanding the foregoing, the employer's liability to
4 pay for such medical services selected by the employee shall be
5 limited to:

6 (1) all first aid and emergency treatment; plus

7 (2) all medical, surgical and hospital services
8 provided by the physician, surgeon or hospital initially
9 chosen by the employee or by any other physician,
10 consultant, expert, institution or other provider of
11 services recommended by said initial service provider or
12 any subsequent provider of medical services in the chain of
13 referrals from said initial service provider; plus

14 (3) all medical, surgical and hospital services
15 provided by any second physician, surgeon or hospital
16 subsequently chosen by the employee or by any other
17 physician, consultant, expert, institution or other
18 provider of services recommended by said second service
19 provider or any subsequent provider of medical services in
20 the chain of referrals from said second service provider.

21 Thereafter the employer shall select and pay for all
22 necessary medical, surgical and hospital treatment and the
23 employee may not select a provider of medical services at
24 the employer's expense unless the employer agrees to such
25 selection. At any time the employee may obtain any medical
26 treatment he or she desires at his or her own expense. This

1 paragraph shall not affect the duty to pay for
2 rehabilitation referred to above.

3 When an employer and employee so agree in writing, nothing
4 in this Act prevents an employee whose injury or disability has
5 been established under this Act, from relying in good faith, on
6 treatment by prayer or spiritual means alone, in accordance
7 with the tenets and practice of a recognized church or
8 religious denomination, by a duly accredited practitioner
9 thereof, and having nursing services appropriate therewith,
10 without suffering loss or diminution of the compensation
11 benefits under this Act. However, the employee shall submit to
12 all physical examinations required by this Act. The cost of
13 such treatment and nursing care shall be paid by the employee
14 unless the employer agrees to make such payment.

15 Where the accidental injury results in the amputation of an
16 arm, hand, leg or foot, or the enucleation of an eye, or the
17 loss of any of the natural teeth, the employer shall furnish an
18 artificial of any such members lost or damaged in accidental
19 injury arising out of and in the course of employment, and
20 shall also furnish the necessary braces in all proper and
21 necessary cases. In cases of the loss of a member or members by
22 amputation, the employer shall, whenever necessary, maintain
23 in good repair, refit or replace the artificial limbs during
24 the lifetime of the employee. Where the accidental injury
25 accompanied by physical injury results in damage to a denture,
26 eye glasses or contact eye lenses, or where the accidental

1 injury results in damage to an artificial member, the employer
2 shall replace or repair such denture, glasses, lenses, or
3 artificial member.

4 The furnishing by the employer of any such services or
5 appliances is not an admission of liability on the part of the
6 employer to pay compensation.

7 The furnishing of any such services or appliances or the
8 servicing thereof by the employer is not the payment of
9 compensation.

10 (b) If the period of temporary total incapacity for work
11 lasts more than 3 working days, weekly compensation as
12 hereinafter provided shall be paid beginning on the 4th day of
13 such temporary total incapacity and continuing as long as the
14 total temporary incapacity lasts. In cases where the temporary
15 total incapacity for work continues for a period of 14 days or
16 more from the day of the accident compensation shall commence
17 on the day after the accident.

18 1. The compensation rate for temporary total
19 incapacity under this paragraph (b) of this Section shall
20 be equal to 66 2/3% of the employee's average weekly wage
21 computed in accordance with Section 10, provided that it
22 shall be not less than 66 2/3% of the sum of the Federal
23 minimum wage under the Fair Labor Standards Act, or the
24 Illinois minimum wage under the Minimum Wage Law, whichever
25 is more, multiplied by 40 hours. This percentage rate shall
26 be increased by 10% for each spouse and child, not to

1 exceed 100% of the total minimum wage calculation,
2 nor exceed the employee's average weekly wage computed in
3 accordance with the provisions of Section 10, whichever is
4 less.

5 2. The compensation rate in all cases other than for
6 temporary total disability under this paragraph (b), and
7 other than for serious and permanent disfigurement under
8 paragraph (c) and other than for permanent partial
9 disability under subparagraph (2) of paragraph (d) or under
10 paragraph (e), of this Section shall be equal to 66 2/3% of
11 the employee's average weekly wage computed in accordance
12 with the provisions of Section 10, provided that it shall
13 be not less than 66 2/3% of the sum of the Federal minimum
14 wage under the Fair Labor Standards Act, or the Illinois
15 minimum wage under the Minimum Wage Law, whichever is more,
16 multiplied by 40 hours. This percentage rate shall be
17 increased by 10% for each spouse and child, not to exceed
18 100% of the total minimum wage calculation,
19 nor exceed the employee's average weekly wage computed in
20 accordance with the provisions of Section 10, whichever is
21 less.

22 No employer shall be required to pay temporary total
23 disability benefits to an employee who has been discharged
24 for cause on or after the effective date of this amendatory
25 Act of the 97th General Assembly. Upon notification by the
26 employer, the Commission shall suspend temporary total

1 disability benefits being paid to an employee who has been
2 discharged for cause. Following a hearing, the Commission
3 may reinstate the temporary total disability benefits and
4 retroactively restore any benefits the employer should
5 have paid if it finds the employer's discharge of the
6 employee was not for cause. If the Commission determines
7 that the employee was discharged for cause, the temporary
8 total disability benefit shall be terminated. "Discharge
9 for cause" means a discharge resulting from the employee's
10 voluntary violation of a rule or policy of the employer not
11 caused by the employee's disability.

12 2.1. The compensation rate in all cases of serious and
13 permanent disfigurement under paragraph (c) and of
14 permanent partial disability under subparagraph (2) of
15 paragraph (d) or under paragraph (e) of this Section shall
16 be equal to 60% of the employee's average weekly wage
17 computed in accordance with the provisions of Section 10,
18 provided that it shall be not less than 66 2/3% of the sum
19 of the Federal minimum wage under the Fair Labor Standards
20 Act, or the Illinois minimum wage under the Minimum Wage
21 Law, whichever is more, multiplied by 40 hours. This
22 percentage rate shall be increased by 10% for each spouse
23 and child, not to exceed 100% of the total minimum wage
24 calculation,
25 nor exceed the employee's average weekly wage computed in
26 accordance with the provisions of Section 10, whichever is

1 less.

2 3. As used in this Section the term "child" means a
3 child of the employee including any child legally adopted
4 before the accident or whom at the time of the accident the
5 employee was under legal obligation to support or to whom
6 the employee stood in loco parentis, and who at the time of
7 the accident was under 18 years of age and not emancipated.
8 The term "children" means the plural of "child".

9 4. All weekly compensation rates provided under
10 subparagraphs 1, 2 and 2.1 of this paragraph (b) of this
11 Section shall be subject to the following limitations:

12 The maximum weekly compensation rate from July 1, 1975,
13 except as hereinafter provided, shall be 100% of the
14 State's average weekly wage in covered industries under the
15 Unemployment Insurance Act, that being the wage that most
16 closely approximates the State's average weekly wage.

17 The maximum weekly compensation rate, for the period
18 July 1, 1984, through June 30, 1987, except as hereinafter
19 provided, shall be \$293.61. Effective July 1, 1987 and on
20 July 1 of each year thereafter the maximum weekly
21 compensation rate, except as hereinafter provided, shall
22 be determined as follows: if during the preceding 12 month
23 period there shall have been an increase in the State's
24 average weekly wage in covered industries under the
25 Unemployment Insurance Act, the weekly compensation rate
26 shall be proportionately increased by the same percentage

1 as the percentage of increase in the State's average weekly
2 wage in covered industries under the Unemployment
3 Insurance Act during such period.

4 The maximum weekly compensation rate, for the period
5 January 1, 1981 through December 31, 1983, except as
6 hereinafter provided, shall be 100% of the State's average
7 weekly wage in covered industries under the Unemployment
8 Insurance Act in effect on January 1, 1981. Effective
9 January 1, 1984 and on January 1, of each year thereafter
10 the maximum weekly compensation rate, except as
11 hereinafter provided, shall be determined as follows: if
12 during the preceding 12 month period there shall have been
13 an increase in the State's average weekly wage in covered
14 industries under the Unemployment Insurance Act, the
15 weekly compensation rate shall be proportionately
16 increased by the same percentage as the percentage of
17 increase in the State's average weekly wage in covered
18 industries under the Unemployment Insurance Act during
19 such period.

20 From July 1, 1977 and thereafter such maximum weekly
21 compensation rate in death cases under Section 7, and
22 permanent total disability cases under paragraph (f) or
23 subparagraph 18 of paragraph (3) of this Section and for
24 temporary total disability under paragraph (b) of this
25 Section and for amputation of a member or enucleation of an
26 eye under paragraph (e) of this Section shall be increased

1 to 133-1/3% of the State's average weekly wage in covered
2 industries under the Unemployment Insurance Act.

3 For injuries occurring on or after February 1, 2006,
4 the maximum weekly benefit under paragraph (d)1 of this
5 Section shall be 100% of the State's average weekly wage in
6 covered industries under the Unemployment Insurance Act.

7 4.1. Any provision herein to the contrary
8 notwithstanding, the weekly compensation rate for
9 compensation payments under subparagraph 18 of paragraph
10 (e) of this Section and under paragraph (f) of this Section
11 and under paragraph (a) of Section 7 and for amputation of
12 a member or enucleation of an eye under paragraph (e) of
13 this Section, shall in no event be less than 50% of the
14 State's average weekly wage in covered industries under the
15 Unemployment Insurance Act.

16 4.2. Any provision to the contrary notwithstanding,
17 the total compensation payable under Section 7 shall not
18 exceed the greater of \$500,000 or 25 years.

19 5. For the purpose of this Section this State's average
20 weekly wage in covered industries under the Unemployment
21 Insurance Act on July 1, 1975 is hereby fixed at \$228.16
22 per week and the computation of compensation rates shall be
23 based on the aforesaid average weekly wage until modified
24 as hereinafter provided.

25 6. The Department of Employment Security of the State
26 shall on or before the first day of December, 1977, and on

1 or before the first day of June, 1978, and on the first day
2 of each December and June of each year thereafter, publish
3 the State's average weekly wage in covered industries under
4 the Unemployment Insurance Act and the Illinois Workers'
5 Compensation Commission shall on the 15th day of January,
6 1978 and on the 15th day of July, 1978 and on the 15th day
7 of each January and July of each year thereafter, post and
8 publish the State's average weekly wage in covered
9 industries under the Unemployment Insurance Act as last
10 determined and published by the Department of Employment
11 Security. The amount when so posted and published shall be
12 conclusive and shall be applicable as the basis of
13 computation of compensation rates until the next posting
14 and publication as aforesaid.

15 7. The payment of compensation by an employer or his
16 insurance carrier to an injured employee shall not
17 constitute an admission of the employer's liability to pay
18 compensation.

19 (c) For any serious and permanent disfigurement to the
20 hand, head, face, neck, arm, leg below the knee or the chest
21 above the axillary line, the employee is entitled to
22 compensation for such disfigurement, the amount determined by
23 agreement at any time or by arbitration under this Act, at a
24 hearing not less than 6 months after the date of the accidental
25 injury, which amount shall not exceed 150 weeks (if the
26 accidental injury occurs on or after the effective date of this

1 amendatory Act of the 94th General Assembly but before February
2 1, 2006) or 162 weeks (if the accidental injury occurs on or
3 after February 1, 2006) at the applicable rate provided in
4 subparagraph 2.1 of paragraph (b) of this Section.

5 No compensation is payable under this paragraph where
6 compensation is payable under paragraphs (d), (e) or (f) of
7 this Section.

8 A duly appointed member of a fire department in a city, the
9 population of which exceeds 200,000 according to the last
10 federal or State census, is eligible for compensation under
11 this paragraph only where such serious and permanent
12 disfigurement results from burns.

13 (d) 1. If, after the accidental injury has been sustained,
14 the employee as a result thereof becomes partially
15 incapacitated from pursuing his usual and customary line of
16 employment, he shall, except in cases compensated under the
17 specific schedule set forth in paragraph (e) of this Section,
18 receive compensation for the duration of his disability,
19 subject to the limitations as to maximum amounts fixed in
20 paragraph (b) of this Section, equal to 66-2/3% of the
21 difference between the average amount which he would be able to
22 earn in the full performance of his duties in the occupation in
23 which he was engaged at the time of the accident and the
24 average amount which he is earning or is able to earn in some
25 suitable employment or business after the accident.

26 2. If, as a result of the accident, the employee sustains

1 serious and permanent injuries not covered by paragraphs (c)
2 and (e) of this Section or having sustained injuries covered by
3 the aforesaid paragraphs (c) and (e), he shall have sustained
4 in addition thereto other injuries which injuries do not
5 incapacitate him from pursuing the duties of his employment but
6 which would disable him from pursuing other suitable
7 occupations, or which have otherwise resulted in physical
8 impairment; or if such injuries partially incapacitate him from
9 pursuing the duties of his usual and customary line of
10 employment but do not result in an impairment of earning
11 capacity, or having resulted in an impairment of earning
12 capacity, the employee elects to waive his right to recover
13 under the foregoing subparagraph 1 of paragraph (d) of this
14 Section then in any of the foregoing events, he shall receive
15 in addition to compensation for temporary total disability
16 under paragraph (b) of this Section, compensation at the rate
17 provided in subparagraph 2.1 of paragraph (b) of this Section
18 for that percentage of 500 weeks that the partial disability
19 resulting from the injuries covered by this paragraph bears to
20 total disability. If the employee shall have sustained a
21 fracture of one or more vertebra or fracture of the skull, the
22 amount of compensation allowed under this Section shall be not
23 less than 6 weeks for a fractured skull and 6 weeks for each
24 fractured vertebra, and in the event the employee shall have
25 sustained a fracture of any of the following facial bones:
26 nasal, lachrymal, vomer, zygoma, maxilla, palatine or

1 mandible, the amount of compensation allowed under this Section
2 shall be not less than 2 weeks for each such fractured bone,
3 and for a fracture of each transverse process not less than 3
4 weeks. In the event such injuries shall result in the loss of a
5 kidney, spleen or lung, the amount of compensation allowed
6 under this Section shall be not less than 10 weeks for each
7 such organ. Compensation awarded under this subparagraph 2
8 shall not take into consideration injuries covered under
9 paragraphs (c) and (e) of this Section and the compensation
10 provided in this paragraph shall not affect the employee's
11 right to compensation payable under paragraphs (b), (c) and (e)
12 of this Section for the disabilities therein covered.

13 (e) For accidental injuries in the following schedule, the
14 employee shall receive compensation for the period of temporary
15 total incapacity for work resulting from such accidental
16 injury, under subparagraph 1 of paragraph (b) of this Section,
17 and shall receive in addition thereto compensation for a
18 further period for the specific loss herein mentioned, but
19 shall not receive any compensation under any other provisions
20 of this Act. The following listed amounts apply to either the
21 loss of or the permanent and complete loss of use of the member
22 specified, such compensation for the length of time as follows:

23 1. Thumb-

24 70 weeks if the accidental injury occurs on or
25 after the effective date of this amendatory Act of the
26 94th General Assembly but before February 1, 2006.

1 76 weeks if the accidental injury occurs on or
2 after February 1, 2006.

3 2. First, or index finger-

4 40 weeks if the accidental injury occurs on or
5 after the effective date of this amendatory Act of the
6 94th General Assembly but before February 1, 2006.

7 43 weeks if the accidental injury occurs on or
8 after February 1, 2006.

9 3. Second, or middle finger-

10 35 weeks if the accidental injury occurs on or
11 after the effective date of this amendatory Act of the
12 94th General Assembly but before February 1, 2006.

13 38 weeks if the accidental injury occurs on or
14 after February 1, 2006.

15 4. Third, or ring finger-

16 25 weeks if the accidental injury occurs on or
17 after the effective date of this amendatory Act of the
18 94th General Assembly but before February 1, 2006.

19 27 weeks if the accidental injury occurs on or
20 after February 1, 2006.

21 5. Fourth, or little finger-

22 20 weeks if the accidental injury occurs on or
23 after the effective date of this amendatory Act of the
24 94th General Assembly but before February 1, 2006.

25 22 weeks if the accidental injury occurs on or
26 after February 1, 2006.

1 6. Great toe-

2 35 weeks if the accidental injury occurs on or
3 after the effective date of this amendatory Act of the
4 94th General Assembly but before February 1, 2006.

5 38 weeks if the accidental injury occurs on or
6 after February 1, 2006.

7 7. Each toe other than great toe-

8 12 weeks if the accidental injury occurs on or
9 after the effective date of this amendatory Act of the
10 94th General Assembly but before February 1, 2006.

11 13 weeks if the accidental injury occurs on or
12 after February 1, 2006.

13 8. The loss of the first or distal phalanx of the thumb
14 or of any finger or toe shall be considered to be equal to
15 the loss of one-half of such thumb, finger or toe and the
16 compensation payable shall be one-half of the amount above
17 specified. The loss of more than one phalanx shall be
18 considered as the loss of the entire thumb, finger or toe.
19 In no case shall the amount received for more than one
20 finger exceed the amount provided in this schedule for the
21 loss of a hand.

22 9. Hand-

23 190 weeks if the accidental injury occurs on or
24 after the effective date of this amendatory Act of the
25 94th General Assembly but before February 1, 2006.

26 205 weeks if the accidental injury occurs on or

1 after February 1, 2006.

2 The loss of 2 or more digits, or one or more phalanges
3 of 2 or more digits, of a hand may be compensated on the
4 basis of partial loss of use of a hand, provided, further,
5 that the loss of 4 digits, or the loss of use of 4 digits,
6 in the same hand shall constitute the complete loss of a
7 hand.

8 10. Arm-

9 235 weeks if the accidental injury occurs on or
10 after the effective date of this amendatory Act of the
11 94th General Assembly but before February 1, 2006.

12 253 weeks if the accidental injury occurs on or
13 after February 1, 2006.

14 Where an accidental injury results in the amputation of
15 an arm below the elbow, such injury shall be compensated as
16 a loss of an arm. Where an accidental injury results in the
17 amputation of an arm above the elbow, compensation for an
18 additional 15 weeks (if the accidental injury occurs on or
19 after the effective date of this amendatory Act of the 94th
20 General Assembly but before February 1, 2006) or an
21 additional 17 weeks (if the accidental injury occurs on or
22 after February 1, 2006) shall be paid, except where the
23 accidental injury results in the amputation of an arm at
24 the shoulder joint, or so close to shoulder joint that an
25 artificial arm cannot be used, or results in the
26 disarticulation of an arm at the shoulder joint, in which

1 case compensation for an additional 65 weeks (if the
2 accidental injury occurs on or after the effective date of
3 this amendatory Act of the 94th General Assembly but before
4 February 1, 2006) or an additional 70 weeks (if the
5 accidental injury occurs on or after February 1, 2006)
6 shall be paid.

7 11. Foot-

8 155 weeks if the accidental injury occurs on or
9 after the effective date of this amendatory Act of the
10 94th General Assembly but before February 1, 2006.

11 167 weeks if the accidental injury occurs on or
12 after February 1, 2006.

13 12. Leg-

14 200 weeks if the accidental injury occurs on or
15 after the effective date of this amendatory Act of the
16 94th General Assembly but before February 1, 2006.

17 215 weeks if the accidental injury occurs on or
18 after February 1, 2006.

19 Where an accidental injury results in the amputation of
20 a leg below the knee, such injury shall be compensated as
21 loss of a leg. Where an accidental injury results in the
22 amputation of a leg above the knee, compensation for an
23 additional 25 weeks (if the accidental injury occurs on or
24 after the effective date of this amendatory Act of the 94th
25 General Assembly but before February 1, 2006) or an
26 additional 27 weeks (if the accidental injury occurs on or

1 after February 1, 2006) shall be paid, except where the
2 accidental injury results in the amputation of a leg at the
3 hip joint, or so close to the hip joint that an artificial
4 leg cannot be used, or results in the disarticulation of a
5 leg at the hip joint, in which case compensation for an
6 additional 75 weeks (if the accidental injury occurs on or
7 after the effective date of this amendatory Act of the 94th
8 General Assembly but before February 1, 2006) or an
9 additional 81 weeks (if the accidental injury occurs on or
10 after February 1, 2006) shall be paid.

11 13. Eye-

12 150 weeks if the accidental injury occurs on or
13 after the effective date of this amendatory Act of the
14 94th General Assembly but before February 1, 2006.

15 162 weeks if the accidental injury occurs on or
16 after February 1, 2006.

17 Where an accidental injury results in the enucleation
18 of an eye, compensation for an additional 10 weeks (if the
19 accidental injury occurs on or after the effective date of
20 this amendatory Act of the 94th General Assembly but before
21 February 1, 2006) or an additional 11 weeks (if the
22 accidental injury occurs on or after February 1, 2006)
23 shall be paid.

24 14. Loss of hearing of one ear-

25 50 weeks if the accidental injury occurs on or
26 after the effective date of this amendatory Act of the

1 94th General Assembly but before February 1, 2006.

2 54 weeks if the accidental injury occurs on or
3 after February 1, 2006.

4 Total and permanent loss of hearing of both ears-

5 200 weeks if the accidental injury occurs on or
6 after the effective date of this amendatory Act of the
7 94th General Assembly but before February 1, 2006.

8 215 weeks if the accidental injury occurs on or
9 after February 1, 2006.

10 15. Testicle-

11 50 weeks if the accidental injury occurs on or
12 after the effective date of this amendatory Act of the
13 94th General Assembly but before February 1, 2006.

14 54 weeks if the accidental injury occurs on or
15 after February 1, 2006.

16 Both testicles-

17 150 weeks if the accidental injury occurs on or
18 after the effective date of this amendatory Act of the
19 94th General Assembly but before February 1, 2006.

20 162 weeks if the accidental injury occurs on or
21 after February 1, 2006.

22 16. For the permanent partial loss of use of a member
23 or sight of an eye, or hearing of an ear, compensation
24 during that proportion of the number of weeks in the
25 foregoing schedule provided for the loss of such member or
26 sight of an eye, or hearing of an ear, which the partial

1 loss of use thereof bears to the total loss of use of such
2 member, or sight of eye, or hearing of an ear.

3 (a) Loss of hearing for compensation purposes
4 shall be confined to the frequencies of 1,000, 2,000
5 and 3,000 cycles per second. Loss of hearing ability
6 for frequency tones above 3,000 cycles per second are
7 not to be considered as constituting disability for
8 hearing.

9 (b) The percent of hearing loss, for purposes of
10 the determination of compensation claims for
11 occupational deafness, shall be calculated as the
12 average in decibels for the thresholds of hearing for
13 the frequencies of 1,000, 2,000 and 3,000 cycles per
14 second. Pure tone air conduction audiometric
15 instruments, approved by nationally recognized
16 authorities in this field, shall be used for measuring
17 hearing loss. If the losses of hearing average 30
18 decibels or less in the 3 frequencies, such losses of
19 hearing shall not then constitute any compensable
20 hearing disability. If the losses of hearing average 85
21 decibels or more in the 3 frequencies, then the same
22 shall constitute and be total or 100% compensable
23 hearing loss.

24 (c) In measuring hearing impairment, the lowest
25 measured losses in each of the 3 frequencies shall be
26 added together and divided by 3 to determine the

1 average decibel loss. For every decibel of loss
 2 exceeding 30 decibels an allowance of 1.82% shall be
 3 made up to the maximum of 100% which is reached at 85
 4 decibels.

5 (d) If a hearing loss is established to have
 6 existed on July 1, 1975 by audiometric testing the
 7 employer shall not be liable for the previous loss so
 8 established nor shall he be liable for any loss for
 9 which compensation has been paid or awarded.

10 (e) No consideration shall be given to the question
 11 of whether or not the ability of an employee to
 12 understand speech is improved by the use of a hearing
 13 aid.

14 (f) No claim for loss of hearing due to industrial
 15 noise shall be brought against an employer or allowed
 16 unless the employee has been exposed for a period of
 17 time sufficient to cause permanent impairment to noise
 18 levels in excess of the following:

19 Sound Level DBA

20	Slow Response	Hours Per Day
21	90	8
22	92	6
23	95	4
24	97	3
25	100	2
26	102	1-1/2

1	105	1
2	110	1/2
3	115	1/4

4 This subparagraph (f) shall not be applied in cases of
5 hearing loss resulting from trauma or explosion.

6 17. In computing the compensation to be paid to any
7 employee who, before the accident for which he claims
8 compensation, had before that time sustained an injury
9 resulting in the loss by amputation or partial loss by
10 amputation of any member, including hand, arm, thumb or
11 fingers, leg, foot or any toes, such loss or partial loss
12 of any such member shall be deducted from any award made
13 for the subsequent injury. For the permanent loss of use or
14 the permanent partial loss of use of any such member or the
15 partial loss of sight of an eye, for which compensation has
16 been paid, then such loss shall be taken into consideration
17 and deducted from any award for the subsequent injury.

18 18. The specific case of loss of both hands, both arms,
19 or both feet, or both legs, or both eyes, or of any two
20 thereof, or the permanent and complete loss of the use
21 thereof, constitutes total and permanent disability, to be
22 compensated according to the compensation fixed by
23 paragraph (f) of this Section. These specific cases of
24 total and permanent disability do not exclude other cases.

25 Any employee who has previously suffered the loss or
26 permanent and complete loss of the use of any of such

1 members, and in a subsequent independent accident loses
2 another or suffers the permanent and complete loss of the
3 use of any one of such members the employer for whom the
4 injured employee is working at the time of the last
5 independent accident is liable to pay compensation only for
6 the loss or permanent and complete loss of the use of the
7 member occasioned by the last independent accident.

8 19. In a case of specific loss and the subsequent death
9 of such injured employee from other causes than such injury
10 leaving a widow, widower, or dependents surviving before
11 payment or payment in full for such injury, then the amount
12 due for such injury is payable to the widow or widower and,
13 if there be no widow or widower, then to such dependents,
14 in the proportion which such dependency bears to total
15 dependency.

16 Beginning July 1, 1980, and every 6 months thereafter, the
17 Commission shall examine the Second Injury Fund and when, after
18 deducting all advances or loans made to such Fund, the amount
19 therein is \$500,000 then the amount required to be paid by
20 employers pursuant to paragraph (f) of Section 7 shall be
21 reduced by one-half. When the Second Injury Fund reaches the
22 sum of \$600,000 then the payments shall cease entirely.
23 However, when the Second Injury Fund has been reduced to
24 \$400,000, payment of one-half of the amounts required by
25 paragraph (f) of Section 7 shall be resumed, in the manner
26 herein provided, and when the Second Injury Fund has been

1 reduced to \$300,000, payment of the full amounts required by
2 paragraph (f) of Section 7 shall be resumed, in the manner
3 herein provided. The Commission shall make the changes in
4 payment effective by general order, and the changes in payment
5 become immediately effective for all cases coming before the
6 Commission thereafter either by settlement agreement or final
7 order, irrespective of the date of the accidental injury.

8 On August 1, 1996 and on February 1 and August 1 of each
9 subsequent year, the Commission shall examine the special fund
10 designated as the "Rate Adjustment Fund" and when, after
11 deducting all advances or loans made to said fund, the amount
12 therein is \$4,000,000, the amount required to be paid by
13 employers pursuant to paragraph (f) of Section 7 shall be
14 reduced by one-half. When the Rate Adjustment Fund reaches the
15 sum of \$5,000,000 the payment therein shall cease entirely.
16 However, when said Rate Adjustment Fund has been reduced to
17 \$3,000,000 the amounts required by paragraph (f) of Section 7
18 shall be resumed in the manner herein provided.

19 (f) In case of complete disability, which renders the
20 employee wholly and permanently incapable of work, or in the
21 specific case of total and permanent disability as provided in
22 subparagraph 18 of paragraph (e) of this Section, compensation
23 shall be payable at the rate provided in subparagraph 2 of
24 paragraph (b) of this Section for life.

25 An employee entitled to benefits under paragraph (f) of
26 this Section shall also be entitled to receive from the Rate

1 Adjustment Fund provided in paragraph (f) of Section 7 of the
2 supplementary benefits provided in paragraph (g) of this
3 Section 8.

4 If any employee who receives an award under this paragraph
5 afterwards returns to work or is able to do so, and earns or is
6 able to earn as much as before the accident, payments under
7 such award shall cease. If such employee returns to work, or is
8 able to do so, and earns or is able to earn part but not as much
9 as before the accident, such award shall be modified so as to
10 conform to an award under paragraph (d) of this Section. If
11 such award is terminated or reduced under the provisions of
12 this paragraph, such employees have the right at any time
13 within 30 months after the date of such termination or
14 reduction to file petition with the Commission for the purpose
15 of determining whether any disability exists as a result of the
16 original accidental injury and the extent thereof.

17 Disability as enumerated in subdivision 18, paragraph (e)
18 of this Section is considered complete disability.

19 If an employee who had previously incurred loss or the
20 permanent and complete loss of use of one member, through the
21 loss or the permanent and complete loss of the use of one hand,
22 one arm, one foot, one leg, or one eye, incurs permanent and
23 complete disability through the loss or the permanent and
24 complete loss of the use of another member, he shall receive,
25 in addition to the compensation payable by the employer and
26 after such payments have ceased, an amount from the Second

1 Injury Fund provided for in paragraph (f) of Section 7, which,
2 together with the compensation payable from the employer in
3 whose employ he was when the last accidental injury was
4 incurred, will equal the amount payable for permanent and
5 complete disability as provided in this paragraph of this
6 Section.

7 The custodian of the Second Injury Fund provided for in
8 paragraph (f) of Section 7 shall be joined with the employer as
9 a party respondent in the application for adjustment of claim.
10 The application for adjustment of claim shall state briefly and
11 in general terms the approximate time and place and manner of
12 the loss of the first member.

13 In its award the Commission or the Arbitrator shall
14 specifically find the amount the injured employee shall be
15 weekly paid, the number of weeks compensation which shall be
16 paid by the employer, the date upon which payments begin out of
17 the Second Injury Fund provided for in paragraph (f) of Section
18 7 of this Act, the length of time the weekly payments continue,
19 the date upon which the pension payments commence and the
20 monthly amount of the payments. The Commission shall 30 days
21 after the date upon which payments out of the Second Injury
22 Fund have begun as provided in the award, and every month
23 thereafter, prepare and submit to the State Comptroller a
24 voucher for payment for all compensation accrued to that date
25 at the rate fixed by the Commission. The State Comptroller
26 shall draw a warrant to the injured employee along with a

1 receipt to be executed by the injured employee and returned to
2 the Commission. The endorsed warrant and receipt is a full and
3 complete acquittance to the Commission for the payment out of
4 the Second Injury Fund. No other appropriation or warrant is
5 necessary for payment out of the Second Injury Fund. The Second
6 Injury Fund is appropriated for the purpose of making payments
7 according to the terms of the awards.

8 As of July 1, 1980 to July 1, 1982, all claims against and
9 obligations of the Second Injury Fund shall become claims
10 against and obligations of the Rate Adjustment Fund to the
11 extent there is insufficient money in the Second Injury Fund to
12 pay such claims and obligations. In that case, all references
13 to "Second Injury Fund" in this Section shall also include the
14 Rate Adjustment Fund.

15 (g) Every award for permanent total disability entered by
16 the Commission on and after July 1, 1965 under which
17 compensation payments shall become due and payable after the
18 effective date of this amendatory Act, and every award for
19 death benefits or permanent total disability entered by the
20 Commission on and after the effective date of this amendatory
21 Act shall be subject to annual adjustments as to the amount of
22 the compensation rate therein provided. Such adjustments shall
23 first be made on July 15, 1977, and all awards made and entered
24 prior to July 1, 1975 and on July 15 of each year thereafter.
25 In all other cases such adjustment shall be made on July 15 of
26 the second year next following the date of the entry of the

1 award and shall further be made on July 15 annually thereafter.
2 If during the intervening period from the date of the entry of
3 the award, or the last periodic adjustment, there shall have
4 been an increase in the State's average weekly wage in covered
5 industries under the Unemployment Insurance Act, the weekly
6 compensation rate shall be proportionately increased by the
7 same percentage as the percentage of increase in the State's
8 average weekly wage in covered industries under the
9 Unemployment Insurance Act. The increase in the compensation
10 rate under this paragraph shall in no event bring the total
11 compensation rate to an amount greater than the prevailing
12 maximum rate at the time that the annual adjustment is made.
13 Such increase shall be paid in the same manner as herein
14 provided for payments under the Second Injury Fund to the
15 injured employee, or his dependents, as the case may be, out of
16 the Rate Adjustment Fund provided in paragraph (f) of Section 7
17 of this Act. Payments shall be made at the same intervals as
18 provided in the award or, at the option of the Commission, may
19 be made in quarterly payment on the 15th day of January, April,
20 July and October of each year. In the event of a decrease in
21 such average weekly wage there shall be no change in the then
22 existing compensation rate. The within paragraph shall not
23 apply to cases where there is disputed liability and in which a
24 compromise lump sum settlement between the employer and the
25 injured employee, or his dependents, as the case may be, has
26 been duly approved by the Illinois Workers' Compensation

1 Commission.

2 Provided, that in cases of awards entered by the Commission
3 for injuries occurring before July 1, 1975, the increases in
4 the compensation rate adjusted under the foregoing provision of
5 this paragraph (g) shall be limited to increases in the State's
6 average weekly wage in covered industries under the
7 Unemployment Insurance Act occurring after July 1, 1975.

8 For every accident occurring on or after July 20, 2005 but
9 before the effective date of this amendatory Act of the 94th
10 General Assembly (Senate Bill 1283 of the 94th General
11 Assembly), the annual adjustments to the compensation rate in
12 awards for death benefits or permanent total disability, as
13 provided in this Act, shall be paid by the employer. The
14 adjustment shall be made by the employer on July 15 of the
15 second year next following the date of the entry of the award
16 and shall further be made on July 15 annually thereafter. If
17 during the intervening period from the date of the entry of the
18 award, or the last periodic adjustment, there shall have been
19 an increase in the State's average weekly wage in covered
20 industries under the Unemployment Insurance Act, the employer
21 shall increase the weekly compensation rate proportionately by
22 the same percentage as the percentage of increase in the
23 State's average weekly wage in covered industries under the
24 Unemployment Insurance Act. The increase in the compensation
25 rate under this paragraph shall in no event bring the total
26 compensation rate to an amount greater than the prevailing

1 maximum rate at the time that the annual adjustment is made. In
2 the event of a decrease in such average weekly wage there shall
3 be no change in the then existing compensation rate. Such
4 increase shall be paid by the employer in the same manner and
5 at the same intervals as the payment of compensation in the
6 award. This paragraph shall not apply to cases where there is
7 disputed liability and in which a compromise lump sum
8 settlement between the employer and the injured employee, or
9 his or her dependents, as the case may be, has been duly
10 approved by the Illinois Workers' Compensation Commission.

11 The annual adjustments for every award of death benefits or
12 permanent total disability involving accidents occurring
13 before July 20, 2005 and accidents occurring on or after the
14 effective date of this amendatory Act of the 94th General
15 Assembly (Senate Bill 1283 of the 94th General Assembly) shall
16 continue to be paid from the Rate Adjustment Fund pursuant to
17 this paragraph and Section 7(f) of this Act.

18 (h) In case death occurs from any cause before the total
19 compensation to which the employee would have been entitled has
20 been paid, then in case the employee leaves any widow, widower,
21 child, parent (or any grandchild, grandparent or other lineal
22 heir or any collateral heir dependent at the time of the
23 accident upon the earnings of the employee to the extent of 50%
24 or more of total dependency) such compensation shall be paid to
25 the beneficiaries of the deceased employee and distributed as
26 provided in paragraph (g) of Section 7.

1 (h-1) In case an injured employee is under legal disability
2 at the time when any right or privilege accrues to him or her
3 under this Act, a guardian may be appointed pursuant to law,
4 and may, on behalf of such person under legal disability, claim
5 and exercise any such right or privilege with the same effect
6 as if the employee himself or herself had claimed or exercised
7 the right or privilege. No limitations of time provided by this
8 Act run so long as the employee who is under legal disability
9 is without a conservator or guardian.

10 (i) In case the injured employee is under 16 years of age
11 at the time of the accident and is illegally employed, the
12 amount of compensation payable under paragraphs (b), (c), (d),
13 (e) and (f) of this Section is increased 50%.

14 However, where an employer has on file an employment
15 certificate issued pursuant to the Child Labor Law or work
16 permit issued pursuant to the Federal Fair Labor Standards Act,
17 as amended, or a birth certificate properly and duly issued,
18 such certificate, permit or birth certificate is conclusive
19 evidence as to the age of the injured minor employee for the
20 purposes of this Section.

21 Nothing herein contained repeals or amends the provisions
22 of the Child Labor Law relating to the employment of minors
23 under the age of 16 years.

24 (j) 1. In the event the injured employee receives benefits,
25 including medical, surgical or hospital benefits under any
26 group plan covering non-occupational disabilities contributed

1 to wholly or partially by the employer, which benefits should
2 not have been payable if any rights of recovery existed under
3 this Act, then such amounts so paid to the employee from any
4 such group plan as shall be consistent with, and limited to,
5 the provisions of paragraph 2 hereof, shall be credited to or
6 against any compensation payment for temporary total
7 incapacity for work or any medical, surgical or hospital
8 benefits made or to be made under this Act. In such event, the
9 period of time for giving notice of accidental injury and
10 filing application for adjustment of claim does not commence to
11 run until the termination of such payments. This paragraph does
12 not apply to payments made under any group plan which would
13 have been payable irrespective of an accidental injury under
14 this Act. Any employer receiving such credit shall keep such
15 employee safe and harmless from any and all claims or
16 liabilities that may be made against him by reason of having
17 received such payments only to the extent of such credit.

18 Any excess benefits paid to or on behalf of a State
19 employee by the State Employees' Retirement System under
20 Article 14 of the Illinois Pension Code on a death claim or
21 disputed disability claim shall be credited against any
22 payments made or to be made by the State of Illinois to or on
23 behalf of such employee under this Act, except for payments for
24 medical expenses which have already been incurred at the time
25 of the award. The State of Illinois shall directly reimburse
26 the State Employees' Retirement System to the extent of such

1 credit.

2 2. Nothing contained in this Act shall be construed to give
3 the employer or the insurance carrier the right to credit for
4 any benefits or payments received by the employee other than
5 compensation payments provided by this Act, and where the
6 employee receives payments other than compensation payments,
7 whether as full or partial salary, group insurance benefits,
8 bonuses, annuities or any other payments, the employer or
9 insurance carrier shall receive credit for each such payment
10 only to the extent of the compensation that would have been
11 payable during the period covered by such payment.

12 3. The extension of time for the filing of an Application
13 for Adjustment of Claim as provided in paragraph 1 above shall
14 not apply to those cases where the time for such filing had
15 expired prior to the date on which payments or benefits
16 enumerated herein have been initiated or resumed. Provided
17 however that this paragraph 3 shall apply only to cases wherein
18 the payments or benefits hereinabove enumerated shall be
19 received after July 1, 1969.

20 (Source: P.A. 93-721, eff. 1-1-05; 94-277, eff. 7-20-05;
21 94-695, eff. 11-16-05.)

22 Section 99. Effective date. This Act takes effect January
23 1, 2012.