



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB6181

by Rep. Dan Brady

SYNOPSIS AS INTRODUCED:

820 ILCS 305/6

from Ch. 48, par. 138.6

Amends the Workers' Compensation Act. Requires written, signed, and verified notice of an accident to be given to the employer. Provides that, with respect to repetitive trauma or cumulative trauma, notice shall be given within 45 days of the date the condition manifests itself. Specifies contents of the notice. Provides that no defect or inaccuracy in a notice shall be a bar to a proceeding unless the employee proves the defect or inaccuracy was not knowingly and willfully provided or there was good cause for the failure to provide an accurate or non-defective notice.

LRB097 21504 JLS 69602 b

1 AN ACT concerning employment.

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

4 Section 5. The Workers' Compensation Act is amended by
5 changing Section 6 as follows:

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

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

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

1 notice shall promptly be corrected accordingly. In the event
2 the employer is operating as a self-insured employer the notice
3 shall state the name and address of the company, if any,
4 servicing the compensation payments of the employer, and the
5 name and address of the person in charge of making compensation
6 payments.

7 (b) Every employer subject to this Act shall maintain
8 accurate records of work-related deaths, injuries and illness
9 other than minor injuries requiring only first aid treatment
10 and which do not involve medical treatment, loss of
11 consciousness, restriction of work or motion, or transfer to
12 another job and file with the Commission, in writing, a report
13 of all accidental deaths, injuries and illnesses arising out of
14 and in the course of the employment resulting in the loss of
15 more than 3 scheduled work days. In the case of death such
16 report shall be made no later than 2 working days following the
17 accidental death. In all other cases such report shall be made
18 between the 15th and 25th of each month unless required to be
19 made sooner by rule of the Commission. In case the injury
20 results in permanent disability, a further report shall be made
21 as soon as it is determined that such permanent disability has
22 resulted or will result from the injury. All reports shall
23 state the date of the injury, including the time of day or
24 night, the nature of the employer's business, the name,
25 address, age, sex, conjugal condition of the injured person,
26 the specific occupation of the injured person, the direct cause

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

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

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

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

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

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

1 (3) In cases of repetitive trauma or cumulative trauma
2 injury, notice shall be given within 45 days of the date that
3 the condition manifests itself. The date of manifestation is
4 defined as the time when the employee developed symptoms of a
5 repetitive injury or a cumulative trauma condition and such
6 injury or condition was or should have been apparent to a
7 prudent layperson that the injury or condition was related to a
8 work activity.

9 No defect or inaccuracy of such notice shall be a bar to
10 the maintenance of proceedings on arbitration or otherwise by
11 the employee unless the employee ~~employer~~ proves that ~~he is~~
12 ~~unduly prejudiced in such proceedings by~~ such defect or
13 inaccuracy was not knowingly and willfully provided or the
14 employee or his or her beneficiary had good cause for failure
15 to provide such notice.

16 Notice of the accident shall inform the employer of the
17 ~~give the approximate date, approximate time, the location of~~
18 where and how ~~and place of the accident occurred~~ ~~, if known,~~
19 ~~and may be given orally or in 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.)