

HB6205



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB6205

by Rep. Dwight Kay

SYNOPSIS AS INTRODUCED:

820 ILCS 305/8

from Ch. 48, par. 138.8

Amends the Workers' Compensation Act. Provides that an individual who has been awarded temporary total disability payments under the Act or the Workers' Occupational Diseases Act is not entitled to receive those payments for any period during which the individual is incarcerated. Effective immediately.

LRB097 22066 WGH 70792 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, even if a health care provider sells,
19 transfers, or otherwise assigns an account receivable for
20 procedures, treatments, or services covered under this Act. If
21 the employer does not dispute payment of first aid, medical,
22 surgical, and hospital services, the employer shall make such
23 payment to the provider on behalf of the employee. The employer

1 shall also pay for treatment, instruction and training
2 necessary for the physical, mental and vocational
3 rehabilitation of the employee, including all maintenance
4 costs and expenses incidental thereto. If as a result of the
5 injury the employee is unable to be self-sufficient the
6 employer shall further pay for such maintenance or
7 institutional care as shall be required.

8 The employee may at any time elect to secure his own
9 physician, surgeon and hospital services at the employer's
10 expense, or,

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

1 doctor selected by the employee is rendering improper or
2 inadequate care, the Commission may order the employee to
3 select another doctor certified or qualified in the medical
4 field for which treatment is required. If the employee refuses
5 to make such change the Commission may relieve the employer of
6 his obligation to pay the doctor's charges from the date of
7 refusal to the date of compliance.

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

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

24 When the employee is working light duty on a part-time
25 basis or full-time basis and earns less than he or she would be
26 earning if employed in the full capacity of the job or jobs,

1 then the employee shall be entitled to temporary partial
2 disability benefits. Temporary partial disability benefits
3 shall be equal to two-thirds of the difference between the
4 average amount that the employee would be able to earn in the
5 full performance of his or her duties in the occupation in
6 which he or she was engaged at the time of accident and the
7 gross amount which he or she is earning in the modified job
8 provided to the employee by the employer or in any other job
9 that the employee is working.

10 Every hospital, physician, surgeon or other person
11 rendering treatment or services in accordance with the
12 provisions of this Section shall upon written request furnish
13 full and complete reports thereof to, and permit their records
14 to be copied by, the employer, the employee or his dependents,
15 as the case may be, or any other party to any proceeding for
16 compensation before the Commission, or their attorneys.

17 Notwithstanding the foregoing, the employer's liability to
18 pay for such medical services selected by the employee shall be
19 limited to:

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

21 (2) all medical, surgical and hospital services
22 provided by the physician, surgeon or hospital initially
23 chosen by the employee or by any other physician,
24 consultant, expert, institution or other provider of
25 services recommended by said initial service provider or
26 any subsequent provider of medical services in the chain of

1 referrals from said initial service provider; plus
2 (3) all medical, surgical and hospital services
3 provided by any second physician, surgeon or hospital
4 subsequently chosen by the employee or by any other
5 physician, consultant, expert, institution or other
6 provider of services recommended by said second service
7 provider or any subsequent provider of medical services in
8 the chain of referrals from said second service provider.
9 Thereafter the employer shall select and pay for all
10 necessary medical, surgical and hospital treatment and the
11 employee may not select a provider of medical services at
12 the employer's expense unless the employer agrees to such
13 selection. At any time the employee may obtain any medical
14 treatment he desires at his own expense. This paragraph
15 shall not affect the duty to pay for rehabilitation
16 referred to above.

17 (4) The following shall apply for injuries occurring on
18 or after June 28, 2011 (the effective date of Public Act
19 97-18) ~~this amendatory Act of the 97th General Assembly~~ and
20 only when an employer has an approved preferred provider
21 program pursuant to Section 8.1a on the date the employee
22 sustained his or her accidental injuries:

23 (A) The employer shall, in writing, on a form
24 promulgated by the Commission, inform the employee of
25 the preferred provider program;

26 (B) Subsequent to the report of an injury by an

1 employee, the employee may choose in writing at any
2 time to decline the preferred provider program, in
3 which case that would constitute one of the two choices
4 of medical providers to which the employee is entitled
5 under subsection (a) (2) or (a) (3); and

6 (C) Prior to the report of an injury by an
7 employee, when an employee chooses non-emergency
8 treatment from a provider not within the preferred
9 provider program, that would constitute the employee's
10 one choice of medical providers to which the employee
11 is entitled under subsection (a) (2) or (a) (3).

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

24 Where the accidental injury results in the amputation of an
25 arm, hand, leg or foot, or the enucleation of an eye, or the
26 loss of any of the natural teeth, the employer shall furnish an

1 artificial of any such members lost or damaged in accidental
2 injury arising out of and in the course of employment, and
3 shall also furnish the necessary braces in all proper and
4 necessary cases. In cases of the loss of a member or members by
5 amputation, the employer shall, whenever necessary, maintain
6 in good repair, refit or replace the artificial limbs during
7 the lifetime of the employee. Where the accidental injury
8 accompanied by physical injury results in damage to a denture,
9 eye glasses or contact eye lenses, or where the accidental
10 injury results in damage to an artificial member, the employer
11 shall replace or repair such denture, glasses, lenses, or
12 artificial member.

13 The furnishing by the employer of any such services or
14 appliances is not an admission of liability on the part of the
15 employer to pay compensation.

16 The furnishing of any such services or appliances or the
17 servicing thereof by the employer is not the payment of
18 compensation.

19 (b) If the period of temporary total incapacity for work
20 lasts more than 3 working days, weekly compensation as
21 hereinafter provided shall be paid beginning on the 4th day of
22 such temporary total incapacity and continuing as long as the
23 total temporary incapacity lasts. In cases where the temporary
24 total incapacity for work continues for a period of 14 days or
25 more from the day of the accident compensation shall commence
26 on the day after the accident.

1 1. The compensation rate for temporary total
2 incapacity under this paragraph (b) of this Section shall
3 be equal to 66 2/3% of the employee's average weekly wage
4 computed in accordance with Section 10, provided that it
5 shall be not less than 66 2/3% of the sum of the Federal
6 minimum wage under the Fair Labor Standards Act, or the
7 Illinois minimum wage under the Minimum Wage Law, whichever
8 is more, multiplied by 40 hours. This percentage rate shall
9 be increased by 10% for each spouse and child, not to
10 exceed 100% of the total minimum wage calculation,
11 nor exceed the employee's average weekly wage computed in
12 accordance with the provisions of Section 10, whichever is
13 less.

14 2. The compensation rate in all cases other than for
15 temporary total disability under this paragraph (b), and
16 other than for serious and permanent disfigurement under
17 paragraph (c) and other than for permanent partial
18 disability under subparagraph (2) of paragraph (d) or under
19 paragraph (e), of this Section shall be equal to 66 2/3% of
20 the employee's average weekly wage computed in accordance
21 with the provisions of Section 10, provided that it shall
22 be not less than 66 2/3% of the sum of the Federal minimum
23 wage under the Fair Labor Standards Act, or the Illinois
24 minimum wage under the Minimum Wage Law, whichever is more,
25 multiplied by 40 hours. This percentage rate shall be
26 increased by 10% for each spouse and child, not to exceed

1 100% 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 2.1. The compensation rate in all cases of serious and
6 permanent disfigurement under paragraph (c) and of
7 permanent partial disability under subparagraph (2) of
8 paragraph (d) or under paragraph (e) of this Section shall
9 be equal to 60% of the employee's average weekly wage
10 computed in accordance with the provisions of Section 10,
11 provided that it shall be not less than 66 2/3% of the sum
12 of the Federal minimum wage under the Fair Labor Standards
13 Act, or the Illinois minimum wage under the Minimum Wage
14 Law, whichever is more, multiplied by 40 hours. This
15 percentage rate shall be increased by 10% for each spouse
16 and child, not to exceed 100% of the total minimum wage
17 calculation,
18 nor exceed the employee's average weekly wage computed in
19 accordance with the provisions of Section 10, whichever is
20 less.

21 3. As used in this Section the term "child" means a
22 child of the employee including any child legally adopted
23 before the accident or whom at the time of the accident the
24 employee was under legal obligation to support or to whom
25 the employee stood in loco parentis, and who at the time of
26 the accident was under 18 years of age and not emancipated.

1 The term "children" means the plural of "child".

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

5 The maximum weekly compensation rate from July 1, 1975,
6 except as hereinafter provided, shall be 100% of the
7 State's average weekly wage in covered industries under the
8 Unemployment Insurance Act, that being the wage that most
9 closely approximates the State's average weekly wage.

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

23 The maximum weekly compensation rate, for the period
24 January 1, 1981 through December 31, 1983, except as
25 hereinafter provided, shall be 100% of the State's average
26 weekly wage in covered industries under the Unemployment

1 Insurance Act in effect on January 1, 1981. Effective
2 January 1, 1984 and on January 1, of each year thereafter
3 the maximum weekly compensation rate, except as
4 hereinafter provided, shall be determined as follows: if
5 during the preceding 12 month period there shall have been
6 an increase in the State's average weekly wage in covered
7 industries under the Unemployment Insurance Act, the
8 weekly compensation rate shall be proportionately
9 increased by the same percentage as the percentage of
10 increase in the State's average weekly wage in covered
11 industries under the Unemployment Insurance Act during
12 such period.

13 From July 1, 1977 and thereafter such maximum weekly
14 compensation rate in death cases under Section 7, and
15 permanent total disability cases under paragraph (f) or
16 subparagraph 18 of paragraph (3) of this Section and for
17 temporary total disability under paragraph (b) of this
18 Section and for amputation of a member or enucleation of an
19 eye under paragraph (e) of this Section shall be increased
20 to 133-1/3% of the State's average weekly wage in covered
21 industries under the Unemployment Insurance Act.

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

26 4.1. Any provision herein to the contrary

1 notwithstanding, the weekly compensation rate for
2 compensation payments under subparagraph 18 of paragraph
3 (e) of this Section and under paragraph (f) of this Section
4 and under paragraph (a) of Section 7 and for amputation of
5 a member or enucleation of an eye under paragraph (e) of
6 this Section, shall in no event be less than 50% of the
7 State's average weekly wage in covered industries under the
8 Unemployment Insurance Act.

9 4.2. Any provision to the contrary notwithstanding,
10 the total compensation payable under Section 7 shall not
11 exceed the greater of \$500,000 or 25 years.

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

18 6. The Department of Employment Security of the State
19 shall on or before the first day of December, 1977, and on
20 or before the first day of June, 1978, and on the first day
21 of each December and June of each year thereafter, publish
22 the State's average weekly wage in covered industries under
23 the Unemployment Insurance Act and the Illinois Workers'
24 Compensation Commission shall on the 15th day of January,
25 1978 and on the 15th day of July, 1978 and on the 15th day
26 of each January and July of each year thereafter, post and

1 publish the State's average weekly wage in covered
2 industries under the Unemployment Insurance Act as last
3 determined and published by the Department of Employment
4 Security. The amount when so posted and published shall be
5 conclusive and shall be applicable as the basis of
6 computation of compensation rates until the next posting
7 and publication as aforesaid.

8 7. The payment of compensation by an employer or his
9 insurance carrier to an injured employee shall not
10 constitute an admission of the employer's liability to pay
11 compensation.

12 (c) For any serious and permanent disfigurement to the
13 hand, head, face, neck, arm, leg below the knee or the chest
14 above the axillary line, the employee is entitled to
15 compensation for such disfigurement, the amount determined by
16 agreement at any time or by arbitration under this Act, at a
17 hearing not less than 6 months after the date of the accidental
18 injury, which amount shall not exceed 150 weeks (if the
19 accidental injury occurs on or after the effective date of this
20 amendatory Act of the 94th General Assembly but before February
21 1, 2006) or 162 weeks (if the accidental injury occurs on or
22 after February 1, 2006) at the applicable rate provided in
23 subparagraph 2.1 of paragraph (b) of this Section.

24 No compensation is payable under this paragraph where
25 compensation is payable under paragraphs (d), (e) or (f) of
26 this Section.

1 A duly appointed member of a fire department in a city, the
2 population of which exceeds 500,000 according to the last
3 federal or State census, is eligible for compensation under
4 this paragraph only where such serious and permanent
5 disfigurement results from burns.

6 (d) 1. If, after the accidental injury has been sustained,
7 the employee as a result thereof becomes partially
8 incapacitated from pursuing his usual and customary line of
9 employment, he shall, except in cases compensated under the
10 specific schedule set forth in paragraph (e) of this Section,
11 receive compensation for the duration of his disability,
12 subject to the limitations as to maximum amounts fixed in
13 paragraph (b) of this Section, equal to 66-2/3% of the
14 difference between the average amount which he would be able to
15 earn in the full performance of his duties in the occupation in
16 which he was engaged at the time of the accident and the
17 average amount which he is earning or is able to earn in some
18 suitable employment or business after the accident. For
19 accidental injuries that occur on or after September 1, 2011,
20 an award for wage differential under this subsection shall be
21 effective only until the employee reaches the age of 67 or 5
22 years from the date the award becomes final, whichever is
23 later.

24 2. If, as a result of the accident, the employee sustains
25 serious and permanent injuries not covered by paragraphs (c)
26 and (e) of this Section or having sustained injuries covered by

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

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

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

21 1. Thumb-

22 70 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 76 weeks if the accidental injury occurs on or
26 after February 1, 2006.

1 2. First, or index finger-

2 40 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 43 weeks if the accidental injury occurs on or
6 after February 1, 2006.

7 3. Second, or middle finger-

8 35 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 38 weeks if the accidental injury occurs on or
12 after February 1, 2006.

13 4. Third, or ring finger-

14 25 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 27 weeks if the accidental injury occurs on or
18 after February 1, 2006.

19 5. Fourth, or little finger-

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

23 22 weeks if the accidental injury occurs on or
24 after February 1, 2006.

25 6. Great toe-

26 35 weeks if the accidental injury occurs on or

1 after the effective date of this amendatory Act of the
2 94th General Assembly but before February 1, 2006.

3 38 weeks if the accidental injury occurs on or
4 after February 1, 2006.

5 7. Each toe other than great toe-

6 12 weeks if the accidental injury occurs on or
7 after the effective date of this amendatory Act of the
8 94th General Assembly but before February 1, 2006.

9 13 weeks if the accidental injury occurs on or
10 after February 1, 2006.

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

20 9. Hand-

21 190 weeks if the accidental injury occurs on or
22 after the effective date of this amendatory Act of the
23 94th General Assembly but before February 1, 2006.

24 205 weeks if the accidental injury occurs on or
25 after February 1, 2006.

26 190 weeks if the accidental injury occurs on or

1 after June 28, 2011 (the effective date of Public Act
2 97-18) ~~this amendatory Act of the 97th General Assembly~~
3 and if the accidental injury involves carpal tunnel
4 syndrome due to repetitive or cumulative trauma, in
5 which case the permanent partial disability shall not
6 exceed 15% loss of use of the hand, except for cause
7 shown by clear and convincing evidence and in which
8 case the award shall not exceed 30% loss of use of the
9 hand.

10 The loss of 2 or more digits, or one or more phalanges
11 of 2 or more digits, of a hand may be compensated on the
12 basis of partial loss of use of a hand, provided, further,
13 that the loss of 4 digits, or the loss of use of 4 digits,
14 in the same hand shall constitute the complete loss of a
15 hand.

16 10. Arm-

17 235 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.

20 253 weeks if the accidental injury occurs on or
21 after February 1, 2006.

22 Where an accidental injury results in the amputation of
23 an arm below the elbow, such injury shall be compensated as
24 a loss of an arm. Where an accidental injury results in the
25 amputation of an arm above the elbow, compensation for an
26 additional 15 weeks (if the accidental injury occurs on or

1 after the effective date of this amendatory Act of the 94th
2 General Assembly but before February 1, 2006) or an
3 additional 17 weeks (if the accidental injury occurs on or
4 after February 1, 2006) shall be paid, except where the
5 accidental injury results in the amputation of an arm at
6 the shoulder joint, or so close to shoulder joint that an
7 artificial arm cannot be used, or results in the
8 disarticulation of an arm at the shoulder joint, in which
9 case compensation for an additional 65 weeks (if the
10 accidental injury occurs on or after the effective date of
11 this amendatory Act of the 94th General Assembly but before
12 February 1, 2006) or an additional 70 weeks (if the
13 accidental injury occurs on or after February 1, 2006)
14 shall be paid.

15 11. Foot-

16 155 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.

19 167 weeks if the accidental injury occurs on or
20 after February 1, 2006.

21 12. Leg-

22 200 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.

25 215 weeks if the accidental injury occurs on or
26 after February 1, 2006.

1 Where an accidental injury results in the amputation of
2 a leg below the knee, such injury shall be compensated as
3 loss of a leg. Where an accidental injury results in the
4 amputation of a leg above the knee, compensation for an
5 additional 25 weeks (if the accidental injury occurs on or
6 after the effective date of this amendatory Act of the 94th
7 General Assembly but before February 1, 2006) or an
8 additional 27 weeks (if the accidental injury occurs on or
9 after February 1, 2006) shall be paid, except where the
10 accidental injury results in the amputation of a leg at the
11 hip joint, or so close to the hip joint that an artificial
12 leg cannot be used, or results in the disarticulation of a
13 leg at the hip joint, in which case compensation for an
14 additional 75 weeks (if the accidental injury occurs on or
15 after the effective date of this amendatory Act of the 94th
16 General Assembly but before February 1, 2006) or an
17 additional 81 weeks (if the accidental injury occurs on or
18 after February 1, 2006) shall be paid.

19 13. Eye-

20 150 weeks if the accidental injury occurs on or
21 after the effective date of this amendatory Act of the
22 94th General Assembly but before February 1, 2006.

23 162 weeks if the accidental injury occurs on or
24 after February 1, 2006.

25 Where an accidental injury results in the enucleation
26 of an eye, compensation for an additional 10 weeks (if the

1 accidental injury occurs on or after the effective date of
2 this amendatory Act of the 94th General Assembly but before
3 February 1, 2006) or an additional 11 weeks (if the
4 accidental injury occurs on or after February 1, 2006)
5 shall be paid.

6 14. Loss of hearing of one ear-

7 50 weeks if the accidental injury occurs on or
8 after the effective date of this amendatory Act of the
9 94th General Assembly but before February 1, 2006.

10 54 weeks if the accidental injury occurs on or
11 after February 1, 2006.

12 Total and permanent loss of hearing of both ears-

13 200 weeks if the accidental injury occurs on or
14 after the effective date of this amendatory Act of the
15 94th General Assembly but before February 1, 2006.

16 215 weeks if the accidental injury occurs on or
17 after February 1, 2006.

18 15. Testicle-

19 50 weeks if the accidental injury occurs on or
20 after the effective date of this amendatory Act of the
21 94th General Assembly but before February 1, 2006.

22 54 weeks if the accidental injury occurs on or
23 after February 1, 2006.

24 Both testicles-

25 150 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.

2 162 weeks if the accidental injury occurs on or
3 after February 1, 2006.

4 16. For the permanent partial loss of use of a member
5 or sight of an eye, or hearing of an ear, compensation
6 during that proportion of the number of weeks in the
7 foregoing schedule provided for the loss of such member or
8 sight of an eye, or hearing of an ear, which the partial
9 loss of use thereof bears to the total loss of use of such
10 member, or sight of eye, or hearing of an ear.

11 (a) Loss of hearing for compensation purposes
12 shall be confined to the frequencies of 1,000, 2,000
13 and 3,000 cycles per second. Loss of hearing ability
14 for frequency tones above 3,000 cycles per second are
15 not to be considered as constituting disability for
16 hearing.

17 (b) The percent of hearing loss, for purposes of
18 the determination of compensation claims for
19 occupational deafness, shall be calculated as the
20 average in decibels for the thresholds of hearing for
21 the frequencies of 1,000, 2,000 and 3,000 cycles per
22 second. Pure tone air conduction audiometric
23 instruments, approved by nationally recognized
24 authorities in this field, shall be used for measuring
25 hearing loss. If the losses of hearing average 30
26 decibels or less in the 3 frequencies, such losses of

1 hearing shall not then constitute any compensable
2 hearing disability. If the losses of hearing average 85
3 decibels or more in the 3 frequencies, then the same
4 shall constitute and be total or 100% compensable
5 hearing loss.

6 (c) In measuring hearing impairment, the lowest
7 measured losses in each of the 3 frequencies shall be
8 added together and divided by 3 to determine the
9 average decibel loss. For every decibel of loss
10 exceeding 30 decibels an allowance of 1.82% shall be
11 made up to the maximum of 100% which is reached at 85
12 decibels.

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

18 (e) No consideration shall be given to the question
19 of whether or not the ability of an employee to
20 understand speech is improved by the use of a hearing
21 aid.

22 (f) No claim for loss of hearing due to industrial
23 noise shall be brought against an employer or allowed
24 unless the employee has been exposed for a period of
25 time sufficient to cause permanent impairment to noise
26 levels in excess of the following:

1	Sound Level DBA	
2	Slow Response	Hours Per Day
3	90	8
4	92	6
5	95	4
6	97	3
7	100	2
8	102	1-1/2
9	105	1
10	110	1/2
11	115	1/4

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

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

26 18. The specific case of loss of both hands, both arms,

1 or both feet, or both legs, or both eyes, or of any two
2 thereof, or the permanent and complete loss of the use
3 thereof, constitutes total and permanent disability, to be
4 compensated according to the compensation fixed by
5 paragraph (f) of this Section. These specific cases of
6 total and permanent disability do not exclude other cases.

7 Any employee who has previously suffered the loss or
8 permanent and complete loss of the use of any of such
9 members, and in a subsequent independent accident loses
10 another or suffers the permanent and complete loss of the
11 use of any one of such members the employer for whom the
12 injured employee is working at the time of the last
13 independent accident is liable to pay compensation only for
14 the loss or permanent and complete loss of the use of the
15 member occasioned by the last independent accident.

16 19. In a case of specific loss and the subsequent death
17 of such injured employee from other causes than such injury
18 leaving a widow, widower, or dependents surviving before
19 payment or payment in full for such injury, then the amount
20 due for such injury is payable to the widow or widower and,
21 if there be no widow or widower, then to such dependents,
22 in the proportion which such dependency bears to total
23 dependency.

24 Beginning July 1, 1980, and every 6 months thereafter, the
25 Commission shall examine the Second Injury Fund and when, after
26 deducting all advances or loans made to such Fund, the amount

1 therein is \$500,000 then the amount required to be paid by
2 employers pursuant to paragraph (f) of Section 7 shall be
3 reduced by one-half. When the Second Injury Fund reaches the
4 sum of \$600,000 then the payments shall cease entirely.
5 However, when the Second Injury Fund has been reduced to
6 \$400,000, payment of one-half of the amounts required by
7 paragraph (f) of Section 7 shall be resumed, in the manner
8 herein provided, and when the Second Injury Fund has been
9 reduced to \$300,000, payment of the full amounts required by
10 paragraph (f) of Section 7 shall be resumed, in the manner
11 herein provided. The Commission shall make the changes in
12 payment effective by general order, and the changes in payment
13 become immediately effective for all cases coming before the
14 Commission thereafter either by settlement agreement or final
15 order, irrespective of the date of the accidental injury.

16 On August 1, 1996 and on February 1 and August 1 of each
17 subsequent year, the Commission shall examine the special fund
18 designated as the "Rate Adjustment Fund" and when, after
19 deducting all advances or loans made to said fund, the amount
20 therein is \$4,000,000, the amount required to be paid by
21 employers pursuant to paragraph (f) of Section 7 shall be
22 reduced by one-half. When the Rate Adjustment Fund reaches the
23 sum of \$5,000,000 the payment therein shall cease entirely.
24 However, when said Rate Adjustment Fund has been reduced to
25 \$3,000,000 the amounts required by paragraph (f) of Section 7
26 shall be resumed in the manner herein provided.

1 (f) In case of complete disability, which renders the
2 employee wholly and permanently incapable of work, or in the
3 specific case of total and permanent disability as provided in
4 subparagraph 18 of paragraph (e) of this Section, compensation
5 shall be payable at the rate provided in subparagraph 2 of
6 paragraph (b) of this Section for life.

7 An employee entitled to benefits under paragraph (f) of
8 this Section shall also be entitled to receive from the Rate
9 Adjustment Fund provided in paragraph (f) of Section 7 of the
10 supplementary benefits provided in paragraph (g) of this
11 Section 8.

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

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

1 If an employee who had previously incurred loss or the
2 permanent and complete loss of use of one member, through the
3 loss or the permanent and complete loss of the use of one hand,
4 one arm, one foot, one leg, or one eye, incurs permanent and
5 complete disability through the loss or the permanent and
6 complete loss of the use of another member, he shall receive,
7 in addition to the compensation payable by the employer and
8 after such payments have ceased, an amount from the Second
9 Injury Fund provided for in paragraph (f) of Section 7, which,
10 together with the compensation payable from the employer in
11 whose employ he was when the last accidental injury was
12 incurred, will equal the amount payable for permanent and
13 complete disability as provided in this paragraph of this
14 Section.

15 The custodian of the Second Injury Fund provided for in
16 paragraph (f) of Section 7 shall be joined with the employer as
17 a party respondent in the application for adjustment of claim.
18 The application for adjustment of claim shall state briefly and
19 in general terms the approximate time and place and manner of
20 the loss of the first member.

21 In its award the Commission or the Arbitrator shall
22 specifically find the amount the injured employee shall be
23 weekly paid, the number of weeks compensation which shall be
24 paid by the employer, the date upon which payments begin out of
25 the Second Injury Fund provided for in paragraph (f) of Section
26 7 of this Act, the length of time the weekly payments continue,

1 the date upon which the pension payments commence and the
2 monthly amount of the payments. The Commission shall 30 days
3 after the date upon which payments out of the Second Injury
4 Fund have begun as provided in the award, and every month
5 thereafter, prepare and submit to the State Comptroller a
6 voucher for payment for all compensation accrued to that date
7 at the rate fixed by the Commission. The State Comptroller
8 shall draw a warrant to the injured employee along with a
9 receipt to be executed by the injured employee and returned to
10 the Commission. The endorsed warrant and receipt is a full and
11 complete acquittance to the Commission for the payment out of
12 the Second Injury Fund. No other appropriation or warrant is
13 necessary for payment out of the Second Injury Fund. The Second
14 Injury Fund is appropriated for the purpose of making payments
15 according to the terms of the awards.

16 As of July 1, 1980 to July 1, 1982, all claims against and
17 obligations of the Second Injury Fund shall become claims
18 against and obligations of the Rate Adjustment Fund to the
19 extent there is insufficient money in the Second Injury Fund to
20 pay such claims and obligations. In that case, all references
21 to "Second Injury Fund" in this Section shall also include the
22 Rate Adjustment Fund.

23 (g) Every award for permanent total disability entered by
24 the Commission on and after July 1, 1965 under which
25 compensation payments shall become due and payable after the
26 effective date of this amendatory Act, and every award for

1 death benefits or permanent total disability entered by the
2 Commission on and after the effective date of this amendatory
3 Act shall be subject to annual adjustments as to the amount of
4 the compensation rate therein provided. Such adjustments shall
5 first be made on July 15, 1977, and all awards made and entered
6 prior to July 1, 1975 and on July 15 of each year thereafter.
7 In all other cases such adjustment shall be made on July 15 of
8 the second year next following the date of the entry of the
9 award and shall further be made on July 15 annually thereafter.
10 If during the intervening period from the date of the entry of
11 the award, or the last periodic adjustment, there shall have
12 been an increase in the State's average weekly wage in covered
13 industries under the Unemployment Insurance Act, the weekly
14 compensation rate shall be proportionately increased by the
15 same percentage as the percentage of increase in the State's
16 average weekly wage in covered industries under the
17 Unemployment Insurance Act. The increase in the compensation
18 rate under this paragraph shall in no event bring the total
19 compensation rate to an amount greater than the prevailing
20 maximum rate at the time that the annual adjustment is made.
21 Such increase shall be paid in the same manner as herein
22 provided for payments under the Second Injury Fund to the
23 injured employee, or his dependents, as the case may be, out of
24 the Rate Adjustment Fund provided in paragraph (f) of Section 7
25 of this Act. Payments shall be made at the same intervals as
26 provided in the award or, at the option of the Commission, may

1 be made in quarterly payment on the 15th day of January, April,
2 July and October of each year. In the event of a decrease in
3 such average weekly wage there shall be no change in the then
4 existing compensation rate. The within paragraph shall not
5 apply to cases where there is disputed liability and in which a
6 compromise lump sum settlement between the employer and the
7 injured employee, or his dependents, as the case may be, has
8 been duly approved by the Illinois Workers' Compensation
9 Commission.

10 Provided, that in cases of awards entered by the Commission
11 for injuries occurring before July 1, 1975, the increases in
12 the compensation rate adjusted under the foregoing provision of
13 this paragraph (g) shall be limited to increases in the State's
14 average weekly wage in covered industries under the
15 Unemployment Insurance Act occurring after July 1, 1975.

16 For every accident occurring on or after July 20, 2005 but
17 before the effective date of this amendatory Act of the 94th
18 General Assembly (Senate Bill 1283 of the 94th General
19 Assembly), the annual adjustments to the compensation rate in
20 awards for death benefits or permanent total disability, as
21 provided in this Act, shall be paid by the employer. The
22 adjustment shall be made by the employer on July 15 of the
23 second year next following the date of the entry of the award
24 and shall further be made on July 15 annually thereafter. If
25 during the intervening period from the date of the entry of the
26 award, or the last periodic adjustment, there shall have been

1 an increase in the State's average weekly wage in covered
2 industries under the Unemployment Insurance Act, the employer
3 shall increase the weekly compensation rate proportionately by
4 the same percentage as the percentage of increase in the
5 State's average weekly wage in covered industries under the
6 Unemployment Insurance Act. The increase in the compensation
7 rate under this paragraph shall in no event bring the total
8 compensation rate to an amount greater than the prevailing
9 maximum rate at the time that the annual adjustment is made. In
10 the event of a decrease in such average weekly wage there shall
11 be no change in the then existing compensation rate. Such
12 increase shall be paid by the employer in the same manner and
13 at the same intervals as the payment of compensation in the
14 award. This paragraph shall not apply to cases where there is
15 disputed liability and in which a compromise lump sum
16 settlement between the employer and the injured employee, or
17 his or her dependents, as the case may be, has been duly
18 approved by the Illinois Workers' Compensation Commission.

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

26 (h) In case death occurs from any cause before the total

1 compensation to which the employee would have been entitled has
2 been paid, then in case the employee leaves any widow, widower,
3 child, parent (or any grandchild, grandparent or other lineal
4 heir or any collateral heir dependent at the time of the
5 accident upon the earnings of the employee to the extent of 50%
6 or more of total dependency) such compensation shall be paid to
7 the beneficiaries of the deceased employee and distributed as
8 provided in paragraph (g) of Section 7.

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

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

22 However, where an employer has on file an employment
23 certificate issued pursuant to the Child Labor Law or work
24 permit issued pursuant to the Federal Fair Labor Standards Act,
25 as amended, or a birth certificate properly and duly issued,
26 such certificate, permit or birth certificate is conclusive

1 evidence as to the age of the injured minor employee for the
2 purposes of this Section.

3 Nothing herein contained repeals or amends the provisions
4 of the Child Labor Law relating to the employment of minors
5 under the age of 16 years.

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

26 Any excess benefits paid to or on behalf of a State

1 employee by the State Employees' Retirement System under
2 Article 14 of the Illinois Pension Code on a death claim or
3 disputed disability claim shall be credited against any
4 payments made or to be made by the State of Illinois to or on
5 behalf of such employee under this Act, except for payments for
6 medical expenses which have already been incurred at the time
7 of the award. The State of Illinois shall directly reimburse
8 the State Employees' Retirement System to the extent of such
9 credit.

10 2. Nothing contained in this Act shall be construed to give
11 the employer or the insurance carrier the right to credit for
12 any benefits or payments received by the employee other than
13 compensation payments provided by this Act, and where the
14 employee receives payments other than compensation payments,
15 whether as full or partial salary, group insurance benefits,
16 bonuses, annuities or any other payments, the employer or
17 insurance carrier shall receive credit for each such payment
18 only to the extent of the compensation that would have been
19 payable during the period covered by such payment.

20 3. The extension of time for the filing of an Application
21 for Adjustment of Claim as provided in paragraph 1 above shall
22 not apply to those cases where the time for such filing had
23 expired prior to the date on which payments or benefits
24 enumerated herein have been initiated or resumed. Provided
25 however that this paragraph 3 shall apply only to cases wherein
26 the payments or benefits hereinabove enumerated shall be

1 received after July 1, 1969.

2 (k) Notwithstanding any other provision of law, an
3 individual who has been awarded temporary total disability
4 payments under this Act or the Workers' Occupational Diseases
5 Act is not entitled to receive those payments for any period
6 during which the individual is incarcerated.

7 (Source: P.A. 97-18, eff. 6-28-11; 97-268, eff. 8-8-11; revised
8 9-15-11.)

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.