



Sen. Christine Radogno

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LRB098 06378 JLS 43638 a

1 AMENDMENT TO SENATE BILL 1847

2 AMENDMENT NO. _____. Amend Senate Bill 1847, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

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

7 (820 ILCS 305/6) (from Ch. 48, par. 138.6)

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

16 In addition thereto, the employer shall post in a

1 conspicuous place on the place of the employment a printed or
2 typewritten notice stating whether he is insured or whether he
3 has qualified and is operating as a self-insured employer. In
4 the event the employer is insured, the notice shall state the
5 name and address of his insurance carrier, the number of the
6 insurance policy, its effective date and the date of
7 termination. In the event of the termination of the policy for
8 any reason prior to the termination date stated, the posted
9 notice shall promptly be corrected accordingly. In the event
10 the employer is operating as a self-insured employer the notice
11 shall state the name and address of the company, if any,
12 servicing the compensation payments of the employer, and the
13 name and address of the person in charge of making compensation
14 payments.

15 (b) Every employer subject to this Act shall maintain
16 accurate records of work-related deaths, injuries and illness
17 other than minor injuries requiring only first aid treatment
18 and which do not involve medical treatment, loss of
19 consciousness, restriction of work or motion, or transfer to
20 another job and file with the Commission, in writing, a report
21 of all accidental deaths, injuries and illnesses arising out of
22 and in the course of the employment resulting in the loss of
23 more than 3 scheduled work days. In the case of death such
24 report shall be made no later than 2 working days following the
25 accidental death. In all other cases such report shall be made
26 between the 15th and 25th of each month unless required to be

1 made sooner by rule of the Commission. In case the injury
2 results in permanent disability, a further report shall be made
3 as soon as it is determined that such permanent disability has
4 resulted or will result from the injury. All reports shall
5 state the date of the injury, including the time of day or
6 night, the nature of the employer's business, the name,
7 address, age, sex, conjugal condition of the injured person,
8 the specific occupation of the injured person, the direct cause
9 of the injury and the nature of the accident, the character of
10 the injury, the length of disability, and in case of death the
11 length of disability before death, the wages of the injured
12 person, whether compensation has been paid to the injured
13 person, or to his or her legal representative or his heirs or
14 next of kin, the amount of compensation paid, the amount paid
15 for physicians', surgeons' and hospital bills, and by whom
16 paid, and the amount paid for funeral or burial expenses if
17 known. The reports shall be made on forms and in the manner as
18 prescribed by the Commission and shall contain such further
19 information as the Commission shall deem necessary and require.
20 The making of these reports releases the employer from making
21 such reports to any other officer of the State and shall
22 satisfy the reporting provisions as contained in the "Health
23 and Safety Act" and "An Act in relation to safety inspections
24 and education in industrial and commercial establishments and
25 to repeal an Act therein named", approved July 18, 1955, as now
26 or hereafter amended. The reports filed with the Commission

1 pursuant to this Section shall be made available by the
2 Commission to the Director of Labor or his representatives and
3 to all other departments of the State of Illinois which shall
4 require such information for the proper discharge of their
5 official duties. Failure to file with the Commission any of the
6 reports required in this Section is a petty offense.

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

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

24 (1) In case of the legal disability of the employee or any
25 dependent of a deceased employee who may be entitled to
26 compensation under the provisions of this Act, the limitations

1 of time by this Act provided do not begin to run against such
2 person under legal disability until a guardian has been
3 appointed.

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

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 employer proves that he is unduly
12 prejudiced in such proceedings by such defect or inaccuracy.

13 Notice of the accident shall give the approximate date and
14 place of the accident, if known, and may be given orally or in
15 writing.

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

22 In any case, other than one where the injury was caused by
23 exposure to radiological materials or equipment or asbestos
24 unless the application for compensation is filed with the
25 Commission within 3 years after the date of the accident, where
26 no compensation has been paid, or within 2 years after the date

1 of the last payment of compensation, where any has been paid,
2 whichever shall be later, the right to file such application
3 shall be barred.

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

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

18 If an accidental injury caused by exposure to radiological
19 material or equipment or asbestos results in death within 25
20 years after the last day that the employee was so exposed
21 application for compensation for death may be filed with the
22 Commission within 3 years after the date of death, where no
23 compensation has been paid, or within 2 years after the date of
24 the last payment of compensation where any has been paid,
25 whichever shall be later, but not thereafter.

26 (e) Any contract or agreement made by any employer or his

1 agent or attorney with any employee or any other beneficiary of
2 any claim under the provisions of this Act within 7 days after
3 the injury shall be presumed to be fraudulent.

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

1 non-emergency medical transfers to or from medical care
2 facilities. The changes made to this subsection by this
3 amendatory Act of the 98th General Assembly shall be narrowly
4 construed. The Finding and Decision of the Illinois Workers'
5 Compensation Commission under only the rebuttable presumption
6 provision of this subsection shall not be admissible or be
7 deemed res judicata in any disability claim under the Illinois
8 Pension Code arising out of the same medical condition;
9 however, this sentence makes no change to the law set forth in
10 Krohe v. City of Bloomington, 204 Ill.2d 392.

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

12 Section 10. The Workers' Occupational Diseases Act is
13 amended by changing Section 1 as follows:

14 (820 ILCS 310/1) (from Ch. 48, par. 172.36)

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

17 (a) The term "employer" as used in this Act shall be
18 construed to be:

19 1. The State and each county, city, town, township,
20 incorporated village, school district, body politic, or
21 municipal corporation therein.

22 2. Every person, firm, public or private corporation,
23 including hospitals, public service, eleemosynary,
24 religious or charitable corporations or associations, who

1 has any person in service or under any contract for hire,
2 express or implied, oral or written.

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

24 Where an employee files an Application for Adjustment
25 of Claim with the Illinois Workers' Compensation
26 Commission alleging that his or her claim is covered by the

1 provisions of the preceding paragraph, and joining both the
2 alleged loaning and borrowing employers, they and each of
3 them, upon written demand by the employee and within 7 days
4 after receipt of such demand, shall have the duty of filing
5 with the Illinois Workers' Compensation Commission a
6 written admission or denial of the allegation that the
7 claim is covered by the provisions of the preceding
8 paragraph and in default of such filing or if any such
9 denial be ultimately determined not to have been bona fide
10 then the provisions of Paragraph K of Section 19 of this
11 Act shall apply.

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

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

23 1. Every person in the service of the State, county,
24 city, town, township, incorporated village or school
25 district, body politic or municipal corporation therein,
26 whether by election, appointment or contract of hire,

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

17 2. Every person in the service of another under any
18 contract of hire, express or implied, oral or written, who
19 contracts an occupational disease while working in the
20 State of Illinois, or who contracts an occupational disease
21 while working outside of the State of Illinois but where
22 the contract of hire is made within the State of Illinois,
23 and any person whose employment is principally localized
24 within the State of Illinois, regardless of the place where
25 the disease was contracted or place where the contract of
26 hire was made, including aliens, and minors who, for the

1 purpose of this Act, except Section 3 hereof, shall be
2 considered the same and have the same power to contract,
3 receive payments and give quittances therefor, as adult
4 employees. An employee or his or her dependents under this
5 Act who shall have a cause of action by reason of an
6 occupational disease, disablement or death arising out of
7 and in the course of his or her employment may elect or
8 pursue his or her remedy in the State where the disease was
9 contracted, or in the State where the contract of hire is
10 made, or in the State where the employment is principally
11 localized.

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

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

21 A disease shall be deemed to arise out of the employment if
22 there is apparent to the rational mind, upon consideration of
23 all the circumstances, a causal connection between the
24 conditions under which the work is performed and the
25 occupational disease. The disease need not to have been
26 foreseen or expected but after its contraction it must appear

1 to have had its origin or aggravation in a risk connected with
2 the employment and to have flowed from that source as a
3 rational consequence.

4 An employee shall be conclusively deemed to have been
5 exposed to the hazards of an occupational disease when, for any
6 length of time however short, he or she is employed in an
7 occupation or process in which the hazard of the disease
8 exists; provided however, that in a claim of exposure to atomic
9 radiation, the fact of such exposure must be verified by the
10 records of the central registry of radiation exposure
11 maintained by the Department of Public Health or by some other
12 recognized governmental agency maintaining records of such
13 exposures whenever and to the extent that the records are on
14 file with the Department of Public Health or the agency.

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

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

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

20 Any condition or impairment of health of an employee
21 employed as a firefighter, emergency medical technician (EMT),
22 or paramedic which results directly or indirectly from any
23 bloodborne pathogen, lung or respiratory disease or condition,
24 heart or vascular disease or condition, hypertension,
25 tuberculosis, or cancer resulting in any disability
26 (temporary, permanent, total, or partial) to the employee shall

1 be rebuttably presumed to arise out of and in the course of the
2 employee's firefighting, EMT, or paramedic employment and,
3 further, shall be rebuttably presumed to be causally connected
4 to the hazards or exposures of the employment. This presumption
5 shall also apply to any hernia or hearing loss suffered by an
6 employee employed as a firefighter, EMT, or paramedic. However,
7 this presumption shall not apply to any employee who has been
8 employed as a firefighter, EMT, or paramedic for less than 5
9 years at the time he or she files an Application for Adjustment
10 of Claim concerning this condition or impairment with the
11 Illinois Workers' Compensation Commission. The rebuttable
12 presumption established under this subsection, however, does
13 not apply to an emergency medical technician (EMT) or paramedic
14 employed by a private employer if the employee spends the
15 preponderance of his or her work time for that employer engaged
16 in medical transfers between medical care facilities or
17 non-emergency medical transfers to or from medical care
18 facilities. The changes made to this subsection by this
19 amendatory Act of the 98th General Assembly shall be narrowly
20 construed. The Finding and Decision of the Illinois Workers'
21 Compensation Commission under only the rebuttable presumption
22 provision of this paragraph shall not be admissible or be
23 deemed res judicata in any disability claim under the Illinois
24 Pension Code arising out of the same medical condition;
25 however, this sentence makes no change to the law set forth in
26 Krohe v. City of Bloomington, 204 Ill.2d 392.

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

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

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

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