

HB4099



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB4099

by Rep. Dwight Kay

SYNOPSIS AS INTRODUCED:

820 ILCS 305/8

from Ch. 48, par. 138.8

Amends the Workers' Compensation Act. Provides that the Illinois Workers' Compensation Commission may adjust the standard award formula for wage differential based on the type of employment, the nature and extent of injuries, and the age of the employee as it relates to the employee's remaining length of career in his or her usual and customary line of employment notwithstanding the injuries.

LRB099 03669 KTG 23680 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) and only when an employer has an approved preferred
20 provider program pursuant to Section 8.1a on the date the
21 employee sustained his or her accidental injuries:

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

25 (B) Subsequent to the report of an injury by an
26 employee, the employee may choose in writing at any

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

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

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

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

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

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

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

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

26 1. The compensation rate for temporary total

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

13 2. The compensation rate in all cases other than for
14 temporary total disability under this paragraph (b), and
15 other than for serious and permanent disfigurement under
16 paragraph (c) and other than for permanent partial
17 disability under subparagraph (2) of paragraph (d) or under
18 paragraph (e), of this Section shall be equal to 66 2/3% of
19 the employee's average weekly wage computed in accordance
20 with the provisions of Section 10, provided that it shall
21 be not less than 66 2/3% of the sum of the Federal minimum
22 wage under the Fair Labor Standards Act, or the Illinois
23 minimum wage under the Minimum Wage Law, whichever is more,
24 multiplied by 40 hours. This percentage rate shall be
25 increased by 10% for each spouse and child, not to exceed
26 100% of the total minimum wage calculation,

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

4 2.1. The compensation rate in all cases of serious and
5 permanent disfigurement under paragraph (c) and of
6 permanent partial disability under subparagraph (2) of
7 paragraph (d) or under paragraph (e) of this Section shall
8 be equal to 60% of the employee's average weekly wage
9 computed in accordance with the provisions of Section 10,
10 provided that it shall be not less than 66 2/3% of the sum
11 of the Federal minimum wage under the Fair Labor Standards
12 Act, or the Illinois minimum wage under the Minimum Wage
13 Law, whichever is more, multiplied by 40 hours. This
14 percentage rate shall be increased by 10% for each spouse
15 and child, not to exceed 100% of the total minimum wage
16 calculation,

17 nor exceed the employee's average weekly wage computed in
18 accordance with the provisions of Section 10, whichever is
19 less.

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

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

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

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

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

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

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

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

25 4.1. Any provision herein to the contrary
26 notwithstanding, the weekly compensation rate for

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

8 4.2. Any provision to the contrary notwithstanding,
9 the total compensation payable under Section 7 shall not
10 exceed the greater of \$500,000 or 25 years.

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

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

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

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

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

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

26 A duly appointed member of a fire department in a city, the

1 population of which exceeds 500,000 according to the last
2 federal or State census, is eligible for compensation under
3 this paragraph only where such serious and permanent
4 disfigurement results from burns.

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

23 The Illinois Workers' Compensation Commission may adjust
24 the standard award formula for wage differential based on the
25 following factors:

26 (A) The type of employment.

1 (B) The nature and extent of injuries.

2 (C) The age of the employee as it relates to the
3 employee's remaining length of career in his or her usual
4 and customary line of employment notwithstanding the
5 injuries.

6 2. If, as a result of the accident, the employee sustains
7 serious and permanent injuries not covered by paragraphs (c)
8 and (e) of this Section or having sustained injuries covered by
9 the aforesaid paragraphs (c) and (e), he shall have sustained
10 in addition thereto other injuries which injuries do not
11 incapacitate him from pursuing the duties of his employment but
12 which would disable him from pursuing other suitable
13 occupations, or which have otherwise resulted in physical
14 impairment; or if such injuries partially incapacitate him from
15 pursuing the duties of his usual and customary line of
16 employment but do not result in an impairment of earning
17 capacity, or having resulted in an impairment of earning
18 capacity, the employee elects to waive his right to recover
19 under the foregoing subparagraph 1 of paragraph (d) of this
20 Section then in any of the foregoing events, he shall receive
21 in addition to compensation for temporary total disability
22 under paragraph (b) of this Section, compensation at the rate
23 provided in subparagraph 2.1 of paragraph (b) of this Section
24 for that percentage of 500 weeks that the partial disability
25 resulting from the injuries covered by this paragraph bears to
26 total disability. If the employee shall have sustained a

1 fracture of one or more vertebra or fracture of the skull, the
2 amount of compensation allowed under this Section shall be not
3 less than 6 weeks for a fractured skull and 6 weeks for each
4 fractured vertebra, and in the event the employee shall have
5 sustained a fracture of any of the following facial bones:
6 nasal, lachrymal, vomer, zygoma, maxilla, palatine or
7 mandible, the amount of compensation allowed under this Section
8 shall be not less than 2 weeks for each such fractured bone,
9 and for a fracture of each transverse process not less than 3
10 weeks. In the event such injuries shall result in the loss of a
11 kidney, spleen or lung, the amount of compensation allowed
12 under this Section shall be not less than 10 weeks for each
13 such organ. Compensation awarded under this subparagraph 2
14 shall not take into consideration injuries covered under
15 paragraphs (c) and (e) of this Section and the compensation
16 provided in this paragraph shall not affect the employee's
17 right to compensation payable under paragraphs (b), (c) and (e)
18 of this Section for the disabilities therein covered.

19 (e) For accidental injuries in the following schedule, the
20 employee shall receive compensation for the period of temporary
21 total incapacity for work resulting from such accidental
22 injury, under subparagraph 1 of paragraph (b) of this Section,
23 and shall receive in addition thereto compensation for a
24 further period for the specific loss herein mentioned, but
25 shall not receive any compensation under any other provisions
26 of this Act. The following listed amounts apply to either the

1 loss of or the permanent and complete loss of use of the member
2 specified, such compensation for the length of time as follows:

3 1. Thumb-

4 70 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 76 weeks if the accidental injury occurs on or
8 after February 1, 2006.

9 2. First, or index finger-

10 40 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 43 weeks if the accidental injury occurs on or
14 after February 1, 2006.

15 3. Second, or middle finger-

16 35 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 38 weeks if the accidental injury occurs on or
20 after February 1, 2006.

21 4. Third, or ring finger-

22 25 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 27 weeks if the accidental injury occurs on or
26 after February 1, 2006.

1 5. Fourth, or little finger-

2 20 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 22 weeks if the accidental injury occurs on or
6 after February 1, 2006.

7 6. Great toe-

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 7. Each toe other than great toe-

14 12 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 13 weeks if the accidental injury occurs on or
18 after February 1, 2006.

19 8. The loss of the first or distal phalanx of the thumb
20 or of any finger or toe shall be considered to be equal to
21 the loss of one-half of such thumb, finger or toe and the
22 compensation payable shall be one-half of the amount above
23 specified. The loss of more than one phalanx shall be
24 considered as the loss of the entire thumb, finger or toe.
25 In no case shall the amount received for more than one
26 finger exceed the amount provided in this schedule for the

1 loss of a hand.

2 9. Hand-

3 190 weeks if the accidental injury occurs on or
4 after the effective date of this amendatory Act of the
5 94th General Assembly but before February 1, 2006.

6 205 weeks if the accidental injury occurs on or
7 after February 1, 2006.

8 190 weeks if the accidental injury occurs on or
9 after June 28, 2011 (the effective date of Public Act
10 97-18) and if the accidental injury involves carpal
11 tunnel syndrome due to repetitive or cumulative
12 trauma, in which case the permanent partial disability
13 shall not exceed 15% loss of use of the hand, except
14 for cause shown by clear and convincing evidence and in
15 which case the award shall not exceed 30% loss of use
16 of the hand.

17 The loss of 2 or more digits, or one or more phalanges
18 of 2 or more digits, of a hand may be compensated on the
19 basis of partial loss of use of a hand, provided, further,
20 that the loss of 4 digits, or the loss of use of 4 digits,
21 in the same hand shall constitute the complete loss of a
22 hand.

23 10. Arm-

24 235 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.

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

3 Where an accidental injury results in the amputation of
4 an arm below the elbow, such injury shall be compensated as
5 a loss of an arm. Where an accidental injury results in the
6 amputation of an arm above the elbow, compensation for an
7 additional 15 weeks (if the accidental injury occurs on or
8 after the effective date of this amendatory Act of the 94th
9 General Assembly but before February 1, 2006) or an
10 additional 17 weeks (if the accidental injury occurs on or
11 after February 1, 2006) shall be paid, except where the
12 accidental injury results in the amputation of an arm at
13 the shoulder joint, or so close to shoulder joint that an
14 artificial arm cannot be used, or results in the
15 disarticulation of an arm at the shoulder joint, in which
16 case compensation for an additional 65 weeks (if the
17 accidental injury occurs on or after the effective date of
18 this amendatory Act of the 94th General Assembly but before
19 February 1, 2006) or an additional 70 weeks (if the
20 accidental injury occurs on or after February 1, 2006)
21 shall be paid.

22 11. Foot-

23 155 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.

26 167 weeks if the accidental injury occurs on or

1 after February 1, 2006.

2 12. Leg-

3 200 weeks if the accidental injury occurs on or
4 after the effective date of this amendatory Act of the
5 94th General Assembly but before February 1, 2006.

6 215 weeks if the accidental injury occurs on or
7 after February 1, 2006.

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

26 13. Eye-

1 150 weeks if the accidental injury occurs on or
2 after the effective date of this amendatory Act of the
3 94th General Assembly but before February 1, 2006.

4 162 weeks if the accidental injury occurs on or
5 after February 1, 2006.

6 Where an accidental injury results in the enucleation
7 of an eye, compensation for an additional 10 weeks (if the
8 accidental injury occurs on or after the effective date of
9 this amendatory Act of the 94th General Assembly but before
10 February 1, 2006) or an additional 11 weeks (if the
11 accidental injury occurs on or after February 1, 2006)
12 shall be paid.

13 14. Loss of hearing of one ear-

14 50 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 54 weeks if the accidental injury occurs on or
18 after February 1, 2006.

19 Total and permanent loss of hearing of both ears-

20 200 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.

23 215 weeks if the accidental injury occurs on or
24 after February 1, 2006.

25 15. Testicle-

26 50 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 54 weeks if the accidental injury occurs on or
4 after February 1, 2006.

5 Both testicles-

6 150 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.

9 162 weeks if the accidental injury occurs on or
10 after February 1, 2006.

11 16. For the permanent partial loss of use of a member
12 or sight of an eye, or hearing of an ear, compensation
13 during that proportion of the number of weeks in the
14 foregoing schedule provided for the loss of such member or
15 sight of an eye, or hearing of an ear, which the partial
16 loss of use thereof bears to the total loss of use of such
17 member, or sight of eye, or hearing of an ear.

18 (a) Loss of hearing for compensation purposes
19 shall be confined to the frequencies of 1,000, 2,000
20 and 3,000 cycles per second. Loss of hearing ability
21 for frequency tones above 3,000 cycles per second are
22 not to be considered as constituting disability for
23 hearing.

24 (b) The percent of hearing loss, for purposes of
25 the determination of compensation claims for
26 occupational deafness, shall be calculated as the

1 average in decibels for the thresholds of hearing for
2 the frequencies of 1,000, 2,000 and 3,000 cycles per
3 second. Pure tone air conduction audiometric
4 instruments, approved by nationally recognized
5 authorities in this field, shall be used for measuring
6 hearing loss. If the losses of hearing average 30
7 decibels or less in the 3 frequencies, such losses of
8 hearing shall not then constitute any compensable
9 hearing disability. If the losses of hearing average 85
10 decibels or more in the 3 frequencies, then the same
11 shall constitute and be total or 100% compensable
12 hearing loss.

13 (c) In measuring hearing impairment, the lowest
14 measured losses in each of the 3 frequencies shall be
15 added together and divided by 3 to determine the
16 average decibel loss. For every decibel of loss
17 exceeding 30 decibels an allowance of 1.82% shall be
18 made up to the maximum of 100% which is reached at 85
19 decibels.

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

25 (e) No consideration shall be given to the question
26 of whether or not the ability of an employee to

1 understand speech is improved by the use of a hearing
2 aid.

3 (f) No claim for loss of hearing due to industrial
4 noise shall be brought against an employer or allowed
5 unless the employee has been exposed for a period of
6 time sufficient to cause permanent impairment to noise
7 levels in excess of the following:

8 Sound Level DBA

9	Slow Response	Hours Per Day
10	90	8
11	92	6
12	95	4
13	97	3
14	100	2
15	102	1-1/2
16	105	1
17	110	1/2
18	115	1/4

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

21 17. In computing the compensation to be paid to any
22 employee who, before the accident for which he claims
23 compensation, had before that time sustained an injury
24 resulting in the loss by amputation or partial loss by
25 amputation of any member, including hand, arm, thumb or
26 fingers, leg, foot or any toes, such loss or partial loss

1 of any such member shall be deducted from any award made
2 for the subsequent injury. For the permanent loss of use or
3 the permanent partial loss of use of any such member or the
4 partial loss of sight of an eye, for which compensation has
5 been paid, then such loss shall be taken into consideration
6 and deducted from any award for the subsequent injury.

7 18. The specific case of loss of both hands, both arms,
8 or both feet, or both legs, or both eyes, or of any two
9 thereof, or the permanent and complete loss of the use
10 thereof, constitutes total and permanent disability, to be
11 compensated according to the compensation fixed by
12 paragraph (f) of this Section. These specific cases of
13 total and permanent disability do not exclude other cases.

14 Any employee who has previously suffered the loss or
15 permanent and complete loss of the use of any of such
16 members, and in a subsequent independent accident loses
17 another or suffers the permanent and complete loss of the
18 use of any one of such members the employer for whom the
19 injured employee is working at the time of the last
20 independent accident is liable to pay compensation only for
21 the loss or permanent and complete loss of the use of the
22 member occasioned by the last independent accident.

23 19. In a case of specific loss and the subsequent death
24 of such injured employee from other causes than such injury
25 leaving a widow, widower, or dependents surviving before
26 payment or payment in full for such injury, then the amount

1 due for such injury is payable to the widow or widower and,
2 if there be no widow or widower, then to such dependents,
3 in the proportion which such dependency bears to total
4 dependency.

5 Beginning July 1, 1980, and every 6 months thereafter, the
6 Commission shall examine the Second Injury Fund and when, after
7 deducting all advances or loans made to such Fund, the amount
8 therein is \$500,000 then the amount required to be paid by
9 employers pursuant to paragraph (f) of Section 7 shall be
10 reduced by one-half. When the Second Injury Fund reaches the
11 sum of \$600,000 then the payments shall cease entirely.
12 However, when the Second Injury Fund has been reduced to
13 \$400,000, payment of one-half of the amounts required by
14 paragraph (f) of Section 7 shall be resumed, in the manner
15 herein provided, and when the Second Injury Fund has been
16 reduced to \$300,000, payment of the full amounts required by
17 paragraph (f) of Section 7 shall be resumed, in the manner
18 herein provided. The Commission shall make the changes in
19 payment effective by general order, and the changes in payment
20 become immediately effective for all cases coming before the
21 Commission thereafter either by settlement agreement or final
22 order, irrespective of the date of the accidental injury.

23 On August 1, 1996 and on February 1 and August 1 of each
24 subsequent year, the Commission shall examine the special fund
25 designated as the "Rate Adjustment Fund" and when, after
26 deducting all advances or loans made to said fund, the amount

1 therein is \$4,000,000, 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 Rate Adjustment Fund reaches the
4 sum of \$5,000,000 the payment therein shall cease entirely.
5 However, when said Rate Adjustment Fund has been reduced to
6 \$3,000,000 the amounts required by paragraph (f) of Section 7
7 shall be resumed in the manner herein provided.

8 (f) In case of complete disability, which renders the
9 employee wholly and permanently incapable of work, or in the
10 specific case of total and permanent disability as provided in
11 subparagraph 18 of paragraph (e) of this Section, compensation
12 shall be payable at the rate provided in subparagraph 2 of
13 paragraph (b) of this Section for life.

14 An employee entitled to benefits under paragraph (f) of
15 this Section shall also be entitled to receive from the Rate
16 Adjustment Fund provided in paragraph (f) of Section 7 of the
17 supplementary benefits provided in paragraph (g) of this
18 Section 8.

19 If any employee who receives an award under this paragraph
20 afterwards returns to work or is able to do so, and earns or is
21 able to earn as much as before the accident, payments under
22 such award shall cease. If such employee returns to work, or is
23 able to do so, and earns or is able to earn part but not as much
24 as before the accident, such award shall be modified so as to
25 conform to an award under paragraph (d) of this Section. If
26 such award is terminated or reduced under the provisions of

1 this paragraph, such employees have the right at any time
2 within 30 months after the date of such termination or
3 reduction to file petition with the Commission for the purpose
4 of determining whether any disability exists as a result of the
5 original accidental injury and the extent thereof.

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

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

22 The custodian of the Second Injury Fund provided for in
23 paragraph (f) of Section 7 shall be joined with the employer as
24 a party respondent in the application for adjustment of claim.
25 The application for adjustment of claim shall state briefly and
26 in general terms the approximate time and place and manner of

1 the loss of the first member.

2 In its award the Commission or the Arbitrator shall
3 specifically find the amount the injured employee shall be
4 weekly paid, the number of weeks compensation which shall be
5 paid by the employer, the date upon which payments begin out of
6 the Second Injury Fund provided for in paragraph (f) of Section
7 7 of this Act, the length of time the weekly payments continue,
8 the date upon which the pension payments commence and the
9 monthly amount of the payments. The Commission shall 30 days
10 after the date upon which payments out of the Second Injury
11 Fund have begun as provided in the award, and every month
12 thereafter, prepare and submit to the State Comptroller a
13 voucher for payment for all compensation accrued to that date
14 at the rate fixed by the Commission. The State Comptroller
15 shall draw a warrant to the injured employee along with a
16 receipt to be executed by the injured employee and returned to
17 the Commission. The endorsed warrant and receipt is a full and
18 complete acquittance to the Commission for the payment out of
19 the Second Injury Fund. No other appropriation or warrant is
20 necessary for payment out of the Second Injury Fund. The Second
21 Injury Fund is appropriated for the purpose of making payments
22 according to the terms of the awards.

23 As of July 1, 1980 to July 1, 1982, all claims against and
24 obligations of the Second Injury Fund shall become claims
25 against and obligations of the Rate Adjustment Fund to the
26 extent there is insufficient money in the Second Injury Fund to

1 pay such claims and obligations. In that case, all references
2 to "Second Injury Fund" in this Section shall also include the
3 Rate Adjustment Fund.

4 (g) Every award for permanent total disability entered by
5 the Commission on and after July 1, 1965 under which
6 compensation payments shall become due and payable after the
7 effective date of this amendatory Act, and every award for
8 death benefits or permanent total disability entered by the
9 Commission on and after the effective date of this amendatory
10 Act shall be subject to annual adjustments as to the amount of
11 the compensation rate therein provided. Such adjustments shall
12 first be made on July 15, 1977, and all awards made and entered
13 prior to July 1, 1975 and on July 15 of each year thereafter.
14 In all other cases such adjustment shall be made on July 15 of
15 the second year next following the date of the entry of the
16 award and shall further be made on July 15 annually thereafter.
17 If during the intervening period from the date of the entry of
18 the award, or the last periodic adjustment, there shall have
19 been an increase in the State's average weekly wage in covered
20 industries under the Unemployment Insurance Act, the weekly
21 compensation rate shall be proportionately increased by the
22 same percentage as the percentage of increase in the State's
23 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.
2 Such increase shall be paid in the same manner as herein
3 provided for payments under the Second Injury Fund to the
4 injured employee, or his dependents, as the case may be, out of
5 the Rate Adjustment Fund provided in paragraph (f) of Section 7
6 of this Act. Payments shall be made at the same intervals as
7 provided in the award or, at the option of the Commission, may
8 be made in quarterly payment on the 15th day of January, April,
9 July and October of each year. In the event of a decrease in
10 such average weekly wage there shall be no change in the then
11 existing compensation rate. The within paragraph shall not
12 apply to cases where there is disputed liability and in which a
13 compromise lump sum settlement between the employer and the
14 injured employee, or his dependents, as the case may be, has
15 been duly approved by the Illinois Workers' Compensation
16 Commission.

17 Provided, that in cases of awards entered by the Commission
18 for injuries occurring before July 1, 1975, the increases in
19 the compensation rate adjusted under the foregoing provision of
20 this paragraph (g) shall be limited to increases in the State's
21 average weekly wage in covered industries under the
22 Unemployment Insurance Act occurring after July 1, 1975.

23 For every accident occurring on or after July 20, 2005 but
24 before the effective date of this amendatory Act of the 94th
25 General Assembly (Senate Bill 1283 of the 94th General
26 Assembly), the annual adjustments to the compensation rate in

1 awards for death benefits or permanent total disability, as
2 provided in this Act, shall be paid by the employer. The
3 adjustment shall be made by the employer on July 15 of the
4 second year next following the date of the entry of the award
5 and shall further be made on July 15 annually thereafter. If
6 during the intervening period from the date of the entry of the
7 award, or the last periodic adjustment, there shall have been
8 an increase in the State's average weekly wage in covered
9 industries under the Unemployment Insurance Act, the employer
10 shall increase the weekly compensation rate proportionately by
11 the same percentage as the percentage of increase in the
12 State's average weekly wage in covered industries under the
13 Unemployment Insurance Act. The increase in the compensation
14 rate under this paragraph shall in no event bring the total
15 compensation rate to an amount greater than the prevailing
16 maximum rate at the time that the annual adjustment is made. In
17 the event of a decrease in such average weekly wage there shall
18 be no change in the then existing compensation rate. Such
19 increase shall be paid by the employer in the same manner and
20 at the same intervals as the payment of compensation in the
21 award. This paragraph shall not apply to cases where there is
22 disputed liability and in which a compromise lump sum
23 settlement between the employer and the injured employee, or
24 his or her dependents, as the case may be, has been duly
25 approved by the Illinois Workers' Compensation Commission.

26 The annual adjustments for every award of death benefits or

1 permanent total disability involving accidents occurring
2 before July 20, 2005 and accidents occurring on or after the
3 effective date of this amendatory Act of the 94th General
4 Assembly (Senate Bill 1283 of the 94th General Assembly) shall
5 continue to be paid from the Rate Adjustment Fund pursuant to
6 this paragraph and Section 7(f) of this Act.

7 (h) In case death occurs from any cause before the total
8 compensation to which the employee would have been entitled has
9 been paid, then in case the employee leaves any widow, widower,
10 child, parent (or any grandchild, grandparent or other lineal
11 heir or any collateral heir dependent at the time of the
12 accident upon the earnings of the employee to the extent of 50%
13 or more of total dependency) such compensation shall be paid to
14 the beneficiaries of the deceased employee and distributed as
15 provided in paragraph (g) of Section 7.

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

25 (i) In case the injured employee is under 16 years of age
26 at the time of the accident and is illegally employed, the

1 amount of compensation payable under paragraphs (b), (c), (d),
2 (e) and (f) of this Section is increased 50%.

3 However, where an employer has on file an employment
4 certificate issued pursuant to the Child Labor Law or work
5 permit issued pursuant to the Federal Fair Labor Standards Act,
6 as amended, or a birth certificate properly and duly issued,
7 such certificate, permit or birth certificate is conclusive
8 evidence as to the age of the injured minor employee for the
9 purposes of this Section.

10 Nothing herein contained repeals or amends the provisions
11 of the Child Labor Law relating to the employment of minors
12 under the age of 16 years.

13 (j) 1. In the event the injured employee receives benefits,
14 including medical, surgical or hospital benefits under any
15 group plan covering non-occupational disabilities contributed
16 to wholly or partially by the employer, which benefits should
17 not have been payable if any rights of recovery existed under
18 this Act, then such amounts so paid to the employee from any
19 such group plan as shall be consistent with, and limited to,
20 the provisions of paragraph 2 hereof, shall be credited to or
21 against any compensation payment for temporary total
22 incapacity for work or any medical, surgical or hospital
23 benefits made or to be made under this Act. In such event, the
24 period of time for giving notice of accidental injury and
25 filing application for adjustment of claim does not commence to
26 run until the termination of such payments. This paragraph does

1 not apply to payments made under any group plan which would
2 have been payable irrespective of an accidental injury under
3 this Act. Any employer receiving such credit shall keep such
4 employee safe and harmless from any and all claims or
5 liabilities that may be made against him by reason of having
6 received such payments only to the extent of such credit.

7 Any excess benefits paid to or on behalf of a State
8 employee by the State Employees' Retirement System under
9 Article 14 of the Illinois Pension Code on a death claim or
10 disputed disability claim shall be credited against any
11 payments made or to be made by the State of Illinois to or on
12 behalf of such employee under this Act, except for payments for
13 medical expenses which have already been incurred at the time
14 of the award. The State of Illinois shall directly reimburse
15 the State Employees' Retirement System to the extent of such
16 credit.

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

1 3. The extension of time for the filing of an Application
2 for Adjustment of Claim as provided in paragraph 1 above shall
3 not apply to those cases where the time for such filing had
4 expired prior to the date on which payments or benefits
5 enumerated herein have been initiated or resumed. Provided
6 however that this paragraph 3 shall apply only to cases wherein
7 the payments or benefits hereinabove enumerated shall be
8 received after July 1, 1969.

9 (Source: P.A. 97-18, eff. 6-28-11; 97-268, eff. 8-8-11; 97-813,
10 eff. 7-13-12.)