

1 AN ACT concerning workplace injuries and diseases.

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 2 as follows:

6 (820 ILCS 305/2) (from Ch. 48, par. 138.2)

7 Sec. 2. An employer in this State, who does not come
8 within the classes enumerated by Section 3 of this Act, may
9 elect to provide and pay compensation for accidental injuries
10 sustained by himself or any employee, arising out of and in
11 the course of the employment according to the provisions of
12 this Act, and thereby relieve himself from any liability for
13 the recovery of damages, except as herein provided. The State
14 of Illinois hereby elects to provide and pay compensation
15 according to the provisions of this Act. For purposes of this
16 Act, an injury arises out of the employment if the injury
17 would not have occurred but for the fact that the conditions
18 or obligations of the employment placed the employee in the
19 position where the employee was injured by a neutral force.
20 A neutral force is a force that is neither personal to the
21 employee nor distinctly associated with the employment.

22 (a) Election by any employer to provide and pay
23 compensation according to the provisions of this Act shall be
24 made by the employer filing notice of such election with the
25 Commission, or by insuring his liability to pay compensation
26 under this Act in some insurance carrier authorized, licensed
27 or permitted to do such insurance business in this State.

28 (b) Every employer within the provisions of this Act who
29 has elected to provide and pay compensation according to the
30 provisions of this Act by filing notice of such election with
31 the Commission, shall be bound thereby as to all his

1 employees until January 1st of the next succeeding year and
2 for terms of each year thereafter.

3 Any such employer who may have once elected, may elect
4 not to provide and pay the compensation herein provided for
5 accidents resulting in either injury or death and occurring
6 after the expiration of any such calendar year by filing
7 notice of such election with the Commission at least 60 days
8 prior to the expiration of any such calendar year, and by
9 posting such notice at a conspicuous place in the plant,
10 shop, office, room or place where such employee is employed,
11 or by personal service, in written or printed form, upon such
12 employees, at least 60 days prior to the expiration of any
13 such calendar year.

14 Every employer within the provisions of this Act who has
15 elected to provide and pay compensation according to the
16 provisions of this Act by insuring his liability to pay
17 compensation under this Act, as above provided, shall be
18 bound thereby as to all his employees until the date of
19 expiration or cancellation of such policy of insurance, or
20 any renewal thereof.

21 (c) In the event any employer mentioned in this section,
22 elects to provide and pay the compensation provided in this
23 Act, then every employee of such employer, as a part of his
24 contract of hiring or who may be employed at the time of the
25 taking effect of this Act and the acceptance of its
26 provisions by such employer, shall be deemed to have accepted
27 all the provisions of this Act and shall be bound thereby
28 unless within 30 days after such hiring or after the taking
29 effect of this Act, and its acceptance by such employee, he
30 shall file a notice to the contrary with the Commission,
31 whose duty it shall be to immediately notify the employer,
32 and until such notice to the contrary is given to the
33 employer, the measure of liability of such employer shall be
34 determined according to the compensation provisions of this

1 Act.

2 However, any employee may withdraw from the operation of
3 this Act, except those under Section 3, upon filing a written
4 notice of withdrawal at least 10 days prior to January 1st of
5 any year with the Commission, whose duty it shall be to
6 immediately notify such employer by registered mail, and,
7 until such notice to the contrary is given to such employer,
8 the measure of liability of such employer shall be determined
9 according to the compensation provisions of this Act.

10 (d) Any such employer or employee may, without prejudice
11 to any existing right or claim withdraw his election to
12 reject this Act by giving 30 days' written notice in such
13 manner and form as may be provided by the Commission.

14 (Source: P.A. 83-190.)

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

17 (820 ILCS 310/1) (from Ch. 48, par. 172.36)

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

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

22 1. The State and each county, city, town, township,
23 incorporated village, school district, body politic, or
24 municipal corporation therein.

25 2. Every person, firm, public or private corporation,
26 including hospitals, public service, eleemosynary, religious
27 or charitable corporations or associations, who has any
28 person in service or under any contract for hire, express or
29 implied, oral or written.

30 3. Where an employer operating under and subject to the
31 provisions of this Act loans an employee to another such
32 employer and such loaned employee sustains a compensable

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

18 Where an employee files an Application for Adjustment of
19 Claim with the Industrial Commission alleging that his or her
20 claim is covered by the provisions of the preceding
21 paragraph, and joining both the alleged loaning and borrowing
22 employers, they and each of them, upon written demand by the
23 employee and within 7 days after receipt of such demand,
24 shall have the duty of filing with the Industrial Commission
25 a written admission or denial of the allegation that the
26 claim is covered by the provisions of the preceding paragraph
27 and in default of such filing or if any such denial be
28 ultimately determined not to have been bona fide then the
29 provisions of Paragraph K of Section 19 of this Act shall
30 apply.

31 An employer whose business or enterprise or a substantial
32 part thereof consists of hiring, procuring or furnishing
33 employees to or for other employers operating under and
34 subject to the provisions of this Act for the performance of

1 the work of such other employers and who pays such employees
2 their salary or wage notwithstanding that they are doing the
3 work of such other employers shall be deemed a loaning
4 employer within the meaning and provisions of this Section.

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

7 1. Every person in the service of the State, county,
8 city, town, township, incorporated village or school
9 district, body politic or municipal corporation therein,
10 whether by election, appointment or contract of hire, express
11 or implied, oral or written, including any official of the
12 State, or of any county, city, town, township, incorporated
13 village, school district, body politic or municipal
14 corporation therein and except any duly appointed member of
15 the fire department in any city whose population exceeds
16 500,000 according to the last Federal or State census, and
17 except any member of a fire insurance patrol maintained by a
18 board of underwriters in this State. One employed by a
19 contractor who has contracted with the State, or a county,
20 city, town, township, incorporated village, school district,
21 body politic or municipal corporation therein, through its
22 representatives, shall not be considered as an employee of
23 the State, county, city, town, township, incorporated
24 village, school district, body politic or municipal
25 corporation which made the contract.

26 2. Every person in the service of another under any
27 contract of hire, express or implied, oral or written, who
28 contracts an occupational disease while working in the State
29 of Illinois, or who contracts an occupational disease while
30 working outside of the State of Illinois but where the
31 contract of hire is made within the State of Illinois, and
32 any person whose employment is principally localized within
33 the State of Illinois, regardless of the place where the
34 disease was contracted or place where the contract of hire

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

12 (c) "Commission" means the Industrial Commission created
13 by the Workers' Compensation Act, approved July 9, 1951, as
14 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
18 result of the exposure of the employment. Such aggravation
19 shall arise out of a risk peculiar to or increased by the
20 employment and not common to the general public. For
21 purposes of this Act, a disease arises out of the employment
22 if the disease would not have occurred but for the fact that
23 the conditions or obligations of the employment placed the
24 employee in the position where the employee was exposed to
25 the disease by a neutral force. A neutral force is a force
26 that is neither personal to the employee nor distinctly
27 associated with the employment.

28 A disease shall be deemed to arise out of the employment
29 if there is apparent to the rational mind, upon consideration
30 of all the circumstances, a causal connection between the
31 conditions under which the work is performed and the
32 occupational disease. The disease need not to have been
33 foreseen or expected but after its contraction it must appear
34 to have had its origin or aggravation in a risk connected

1 with the employment and to have flowed from that source as a
2 rational consequence.

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

15 The employer liable for the compensation in this Act
16 provided shall be the employer in whose employment the
17 employee was last exposed to the hazard of the occupational
18 disease claimed upon regardless of the length of time of such
19 last exposure, except, in cases of silicosis or asbestosis,
20 the only employer liable shall be the last employer in whose
21 employment the employee was last exposed during a period of
22 60 days or more after the effective date of this Act, to the
23 hazard of such occupational disease, and, in such cases, an
24 exposure during a period of less than 60 days, after the
25 effective date of this Act, shall not be deemed a last
26 exposure. If a miner who is suffering or suffered from
27 pneumoconiosis was employed for 10 years or more in one or
28 more coal mines there shall, effective July 1, 1973 be a
29 rebuttable presumption that his or her pneumoconiosis arose
30 out of such employment.

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

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

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

26 (Source: P.A. 81-992.)

27 Section 99. Effective date. This Act takes effect upon
28 becoming law.