

AN ACT concerning employment.

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

Section 5. The Safety Inspection and Education Act is amended by changing Section 0.2, changing and resectioning Section 2, and adding Sections 2.2, 2.5, 2.6, 2.7, and 2.9 as follows:

(820 ILCS 220/.02) (from Ch. 48, par. 59.02)

Sec. .02. Definitions. As used in this Act:

"Department" means the Department of Labor.

"Director" means the Director of Labor.

"Division" means the Division of Safety Inspection and Education of the Department of Labor.

(Source: P.A. 87-245.)

(820 ILCS 220/2) (from 820 ILCS 220/2, in part)

Sec. 2. Powers and duties; inspections.

(a) The Director of Labor shall enforce the occupational safety and health standards and rules promulgated under the Health and Safety Act and any occupational health and safety laws relating to inspection of places of employment, and shall visit and inspect, as often as practicable, the places of employment covered by this Act.

(b) The Director of Labor or his or her authorized representatives upon presenting appropriate credentials to the owner, operator or agent in charge is authorized to have the right of entry and inspections of all places of all employment in the State as follows:

(1) ~~1.~~ To enter without delay and at reasonable times any factory, plant, establishment, construction site, or other area, workplace or environment where work is performed by an employee of a public ~~an~~ employer in order

to enforce such occupational safety and health standards.

(2) If the public employer refuses entry upon being presented proper credentials or allows entry but then refuses to permit or hinders the inspection in some way, the inspector shall leave the premises and immediately report the refusal to authorized management. Authorized management shall notify the Director of Labor to initiate the compulsory legal process or obtain a warrant for entry, or both.

(3) ~~2.~~ To inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any such place of employment and all pertinent conditions, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any such employer, owner, operator, agent or employee.

(4) ~~3.~~ The owner, operator, manager or lessees of any place affected by the provisions of this Act and his or her agent, superintendent, subordinate or employee, and any employer affected by such provisions shall when requested by the Division of Safety Inspection and Education, or any duly authorized agent thereof, furnish any information in his or her possession or under his control which the Department of Labor is authorized to require, and shall answer truthfully all questions required to be put to him, and shall cooperate in the making of a proper inspection.

(5) A person who gives advance notice of an inspection to be conducted under the authority of this Act without authority from the Director of Labor, or his or her authorized representative, commits a Class B misdemeanor.

(6) ~~4.~~ Subject to regulations issued by the Director of Labor, a representative of the employer and a representative authorized by his or her employees shall be given an opportunity to accompany the Director of Labor or his or her authorized representative during the physical inspection of any workplace under this Section for the

purpose of aiding such inspection. Where there is no authorized employee representative the Director of Labor or his or her authorized agent shall consult with a reasonable number of employees concerning matters of health and safety in the workplace.

(7) (A) Whenever and as soon as an inspector concludes that an imminent danger exists in any place of employment, the inspector shall inform the affected employees or their authorized representatives and employers of the danger and that the inspector is recommending to the Director of Labor that relief be sought.

(B) Whenever the Director is of the opinion that imminent danger exists in the working conditions of any public employee in this State, which condition may reasonably be expected to cause death or serious physical harm, the Director may file a complaint in the circuit court for appropriate relief against an employer and employee, including an order directing the employer or employee to cease and desist from the practice creating the imminent danger and to obtain immediate abatement of the hazard.

(C) If the Director of Labor arbitrarily or capriciously fails to seek relief under this Section, any employee who may be injured by reason of such failure, or the representative of the employee, may bring an action against the Director of Labor in the circuit court for the circuit in which the imminent danger is alleged to exist or the employer has his or her principal office, for relief by mandamus to compel the Director of Labor to seek such an order and for such further relief as may be appropriate.

(Source: P.A. 86-820; 87-245.)

(820 ILCS 220/2.1 new) (from 820 ILCS 220/2, in part)

Sec. 2.1. Complaint inspection procedures.

(a) 5. Any employees or representatives of employees who believe that a violation of a safety or health standard exists

or that an imminent danger exists, may request an inspection by submitting a written complaint to the Director of Labor or his or her authorized representative setting forth with reasonable particularity the grounds for the complaint, and signed by the employees or representative of employees.

(b) If the Director of Labor or the Director's authorized representative determines there are no reasonable grounds to believe that a violation or danger exists, he or she shall notify the employees or representatives of the employees in writing of such determination.

(c) If, upon receipt of such complaint, the Director of Labor or his or her authorized representative determines there are reasonable grounds to believe that such violation or danger exists, he or she shall make a special inspection of the workplace in accordance with the provisions of this Act as soon as practicable, to determine if such violation or danger exists.

(d) A copy of the complaint shall be provided the employer or his or her agent by the Director of Labor or his or her authorized representative at the time of inspection, except that, upon the request of the person making such complaint, his name and the name of individual employees referred to therein, shall not appear in such copy or on any record published, released, or made available by the Director of Labor or his or her authorized representative.

(e) Nonformal complaints shall be handled by an authorized representative of the Director of Labor and, based upon the severity and legitimacy of the complaint, the authorized representative of the Director of Labor shall either schedule a complaint inspection or issue a letter to the public employer stating the concern. ~~If upon receipt of such complaint, the Director of Labor or his or her authorized representative determines there are reasonable grounds to believe that such violation or danger exists, he or she shall make a special inspection of the workplace in accordance with the provisions of this Act as soon as practicable, to determine if such~~

~~violation or danger exists. If the Director of Labor or his or her authorized representative determines there are no reasonable grounds to believe that a violation or danger exists, he or she shall notify the employees or representatives of the employees in writing of such determination.~~

~~(c) Any person who shall give advance notice of any inspection to be conducted under the authority of this Act without authority from the Director of Labor, or his or her authorized representative, upon conviction, shall be guilty of a Class B misdemeanor.~~

(Source: P.A. 86-820; 87-245.)

(820 ILCS 220/2.2 new)

Sec. 2.2. Discrimination prohibited.

(a) A person may not discharge or in any way discriminate against any employee because the employee has filed a complaint or instituted or caused to be instituted any proceeding under or related to this Act or the Health and Safety Act or has testified or is about to testify in any such proceeding or because of the exercise by the employee on behalf of himself or herself or others of any right afforded by this Act or the Health and Safety Act.

(b) Any employee who believes that he or she has been discharged or otherwise discriminated against by any person in violation of this Section may, within 30 calendar days after the violation occurs, file a complaint with the Director of Labor alleging the discrimination. Upon request, the Director of Labor shall withhold the name of the complainant from the employer. Upon receipt of the complaint, the Director of Labor shall cause such investigation to be made as the Director deems appropriate. If, after the investigation, the Director of Labor determines that the provisions of this Section have been violated, the Director shall, within 120 days after receipt of the complaint, bring an action in the circuit court for appropriate relief, including rehiring or reinstatement of the employee to his or her former position with back pay, after

taking into account any interim earnings of the employee.

(c) Within 90 days of the receipt of a complaint filed under this Section, the Director of Labor shall notify the complainant of the Director's determination under subsection (b) of this Section.

(820 ILCS 220/2.3 new) (from 820 ILCS 220/2, in part)

Sec. 2.3. Methods of compelling compliance.

(a) Citations. ~~(d) 1.~~

(1) If, upon inspection or investigation, the Director of Labor or his or her authorized representative believes that an employer has violated a requirement of ~~Section 3~~ of the Health and Safety Act, or a standard, rule, regulation or order promulgated pursuant to this Act or the Health and Safety Act, he or she shall with reasonable promptness issue a citation to the employer. Each citation shall be in writing; describe with particularity the nature of the violation and include a reference to the provision of the Act, standard, rule, regulation, or order alleged to have been violated; and fix a reasonable time for the abatement of the violation.

(2) The Director of Labor may prescribe procedures for the issuance of a notice of de minimis violations which have no direct or immediate relationship to safety or health.

(3) Each citation issued under this Section, or a copy or copies thereof, shall be prominently posted as prescribed in regulations issued by the Director of Labor at or near the place at which the violation occurred.

(4) ~~2.~~ Citations shall be served on the employer, owner, operator, manager, or agent by delivering an exact copy to the person upon whom the service is to be had, or by leaving a copy at his or her usual place of business or abode, or by sending a copy thereof by registered mail to his place of business.

~~3. Each citation issued under this Section, or a copy~~

~~or copies thereof, shall be prominently posted as prescribed in regulations issued by the Director of Labor at or near the place the violation occurred.~~

(5) ~~4.~~ No citation may be issued under this Section after the expiration of 6 months following the occurrence of any violation.

(6) ~~5.~~ If, after an inspection, the Director of Labor issues a citation, he or she shall within 5 days after the issuance of the citation, notify the employer by certified mail of the penalty, if any, proposed to be assessed for the violation set forth in the citation.

(7) ~~6.~~ If the Director of Labor has reason to believe that an employer has failed to correct a violation for which a citation has been issued within the period permitted for its correction, the Director of Labor shall notify the employer by certified mail of such failure and of the monetary penalty proposed to be assessed by reason of such failure.

(8) The public entity may submit in writing data relating to the abatement of a hazard to be considered by an authorized representative of the Director of Labor. The authorized representative of the Director of Labor shall notify the interested parties if such data will be used to modify an abatement order.

(b) Proposed violations.

(1) Civil penalties. ~~7.~~ Civil penalties under subparagraphs (A) through (E) ~~paragraphs A., B., C. and D.~~ may be assessed by the Director of Labor as part of the citation procedure as follows:

(A) Any public employer who repeatedly violates the requirements of the Health and Safety Act or any standard, or rule, or order pursuant to that Act and this Act may be assessed a civil penalty of not more than \$10,000.

~~A. Any employer who has received a citation for violations of any standard, or rule, or order not of a~~

~~serious nature may be assessed a civil penalty of up to \$1,000 for each such violation.~~

(B) B. Any employer who has received a citation for a serious violation of the requirements of ~~Section 3~~ of the Health and Safety Act or any standard, or rule, or order pursuant to that Act and this Act shall be assessed a civil penalty up to \$1,000 for each such violation.

For purposes of this Section, a serious violation shall be deemed to exist in a place of employment if there is a substantial probability that death or serious physical harm could result from a condition which exists, or from one or more practices, means, methods, operations, or processes which have been adopted or are in use in such place of employment unless the employer did not know and could not, with the exercise of reasonable diligence, have known of the presence of the violation as specifically determined.

(C) Any public employer who has received a citation for violations of any standard, or rule, or order not of a serious nature may be assessed a civil penalty of up to \$1,000 for each such violation.

(D) C. Any public employer who fails to correct a violation for which a citation has been issued within the period permitted may be assessed a civil penalty of up to \$1,000 for each day the violation continues.

(E) Any public employer who intentionally violates the requirements of the Health and Safety Act or any standard, or rule, or order pursuant to this Act or demonstrates plain indifference to its requirements shall be issued a willful violation and may be assessed a civil penalty of not more than \$10,000.

(2) Criminal penalty. Any public employer who willfully violates any standard, rule, or order is guilty of a Class 4 felony if that violation causes death to any employee.

(3) Assessment and reduction of penalties. Any penalty may be reduced by the Director of Labor or the Director's authorized representative by as much as 95% depending upon the public employer's "good faith", "size of business", and "history of previous violations". Up to 60% reduction is permitted for size, up to 25% reduction is permitted for good faith, and up to 10% reduction is permitted for history.

~~D. Any employer who willfully or repeatedly violates the requirements of Section 3 of the Health and Safety Act or any standard, or rule, or order pursuant to that Act and this Act may be assessed a civil penalty of not more than \$10,000.~~

~~For purposes of this Section, a serious violation shall be deemed to exist in a place of employment if there is a substantial probability that death or serious physical harm could result from a condition which exists, or from one or more practices, means, methods, operations, or processes which have been adopted or are in use in such place of employment unless the employer did not know and could not, with the exercise of reasonable diligence, have known of the presence of the violation as specifically determined.~~

(Source: P.A. 86-820; 87-245.)

(820 ILCS 220/2.4 new) (from 820 ILCS 220/2, in part)

Sec. 2.4. Contested cases.

(a) ~~§.~~ An employer, firm or corporation, or an agent, manager or superintendent or a person for himself or herself or for other such person, firm or corporation, after receiving a citation, a proposed assessment of penalty, or a notification of failure to correct violation from the Director of Labor or his or her authorized agent that he or she is in violation of this Act, or of any occupational safety or health standard or rule, may within 15 working days from receipt of the notice of citation or penalty request in writing a hearing before the Director for an appeal from the citation order, notice of penalty, or abatement period.

(b) Any employee or representative of an employee may within 15 working days of the issuance of a citation file a request in writing for a hearing before the Director for an appeal from the citation on the ground that the period of time fixed in the citation for the abatement of the violation is unreasonable.

(c) (1) The Director shall schedule a hearing within 15 calendar days after receipt of such request for an appeal from the citation order and shall notify all interested parties of such hearing. Such hearing shall be held no later than 45 calendar days after the date of receipt of such appeal request.

(2) The Director shall afford a hearing to the employer or his or her representatives, at which hearing the employer shall state his or her objections to such citation and provide evidence why such citation shall not stand as entered. The Director of Labor or his or her representative shall be given the opportunity to state his or her reasons for entering such violation citation. Affected employees shall be provided an opportunity to participate as parties to hearings under the rules of procedure prescribed by the Director.

(3) The Director, in consideration of the evidence presented at the formal hearing, shall in accordance with his rules enter a final decision and order no later than 15 calendar days after such hearing affirming, modifying or vacating the Director's citation or proposed penalty, or directing other appropriate relief.

(4) An informal review may be conducted by an authorized representative of the Director of Labor who is authorized to change abatement dates, to reclassify violations (such as willful to serious, serious to other-than-serious), and to modify or withdraw a penalty, a citation, or a citation item if the employer presents evidence during the informal conference which convinces the authorized representative of the Director of Labor that the changes are justified.

(5) Appeal.

(A) Any party adversely affected by a final violation

order or determination of the Director may obtain judicial review by filing a complaint for review within 35 days after the entry of the order or other final action complained of, pursuant to the provisions of the Administrative Review Law, all amendments and modifications thereof, and the rules adopted pursuant thereto.

(B) If no appeal is taken within 35 days the order of the Director shall become final.

(C) Judicial reviews filed under this Section shall be heard expeditiously.

(6) The Director of Labor has the power:

(A) To issue subpoenas for and compel the attendance of witnesses and the production of pertinent books, papers, documents or other evidence.

(B) To hear testimony and receive evidence and to take or cause to be taken, depositions of witnesses residing within or without this State in the manner prescribed by law for depositions in civil cases in the circuit court. Subpoenas and commissions to take testimony shall be under seal of the Director of Labor.

Service of subpoenas may be made by any sheriff or any other person. The circuit court for the county where any hearing is pending, upon application of the Director of Labor, may, in the court's discretion, compel the attendance of witnesses, the production of pertinent books, papers, records, or documents and the giving of testimony before the Director of Labor by an attachment proceeding, as for contempt, in the same manner as the production of evidence may be compelled before the court.

~~9. A. No person shall discharge or in any way discriminate against any employee because such employee has filed a complaint or instituted or caused to be instituted any proceeding under or related to this Act or the Health and Safety Act or has testified or is about to testify in any such proceeding or because of the exercise by such employee on~~

~~behalf of himself or herself or others of any right afforded by this Act or the Health and Safety Act.~~

~~B. Any employee who believes that he or she has been discharged or otherwise discriminated against by any person in violation of this Section may, within 30 calendar days after such violation occurs, file a complaint with the Director of Labor alleging such discrimination. Upon request, the Director of Labor shall withhold the name of the complainant from the employer. Upon receipt of such complaint, the Director of Labor shall cause such investigation to be made as he or she deems appropriate. If after such investigation, the Director of Labor determines that the provisions of this Section have been violated, he or she shall, within 120 days after receipt of the complaint, bring an action in the circuit court for appropriate relief, including rehiring, or reinstatement of the employee to his or her former position with back pay, after taking into account any interim earnings of the employee.~~

~~C. Within 90 days of the receipt of a complaint filed under this Section the Director of Labor shall notify the complainant of his or her determination under subparagraph 9B. of this Section.~~

~~(c) Whenever the Director is of the opinion that imminent danger exists in the working conditions of any employee in this State, which condition can reasonably be expected to cause death or serious physical harm, the Director may file a complaint in the circuit court for appropriate relief against an employer and employee, including an order directing the employer or employee to cease and desist from the practice creating the imminent danger.~~

~~Whenever and as soon as an inspector concludes that an imminent danger exists in any place of employment, he or she shall inform the affected employees or their authorized representatives and employers of the danger and that he or she is recommending to the Director of Labor that relief be sought.~~

~~If the Director of Labor arbitrarily or capriciously fails to seek relief under this Section, any employee who may be~~

~~injured by reason of such failure, or the representative of such employees, may bring an action against the Director of Labor in the circuit court for the circuit in which the imminent danger is alleged to exist or the employer has his or her principal office, for relief by mandamus to compel the Director of Labor to seek such an order and for such further relief as may be appropriate.~~

(Source: P.A. 86-820; 87-245.)

(820 ILCS 220/2.5 new)

Sec. 2.5. Employee access to information.

(a) The Director of Labor shall issue regulations requiring employers to maintain accurate records of employee exposures to potentially toxic materials or harmful physical agents which are required to be monitored or measured under the Health and Safety Act.

(1) The regulations shall provide employees or their representatives with an opportunity to observe such monitoring or measuring, and to have access to the records thereof.

(2) The regulations shall also make appropriate provisions for each employee or former employee to have access to such records as will indicate his or her own exposure to toxic materials or harmful physical agents.

(3) Each employer shall promptly notify any employee who has been or is being exposed to toxic materials or harmful physical agents in concentrations or at levels which exceed those prescribed by an occupational safety and health standard and shall inform any employee who is being thus exposed of the corrective action being taken.

(b) The Director of Labor shall also issue regulations requiring that employers, through posting of notices or other appropriate means, keep their employees informed of their protections and obligations under these Acts, including the provisions of applicable standards.

(820 ILCS 220/2.6 new)

Sec. 2.6. Other prohibited actions and sanctions.

(a) Advance notice. A person who gives advance notice of any inspection to be conducted under the authority of this Act without authority from the Director of Labor, or his or her authorized representative, commits a Class B misdemeanor.

(b) False statements. A person who knowingly makes a false statement, representation, or certification in any application, record, report, plan, or other document required pursuant to this Act commits a Class 4 felony.

(c) Violation of posting requirements. A public employer who violates any of the required posting requirements is subject to the following citations and proposed penalty structure:

(1) Job Safety & Health Poster: an other-than-serious citation with a proposed penalty of \$1,000.

(2) Annual Summary of Injuries/Illnesses: an other-than-serious citation and a proposed penalty of \$1,000 even if there are no recordable injuries or illnesses.

(3) Citation: an other-than-serious citation and a proposed penalty of \$1,000.

(d) All information reported to or otherwise obtained by the Director of Labor or the Director's authorized representative in connection with any inspection or proceeding under this Act or the Health and Safety Act which contains or might reveal a trade secret shall be considered confidential, except that such information may be disclosed confidentially to other officers or employees concerned with carrying out this Act or the Health and Safety Act or when relevant to any proceeding under this Act. In any such proceeding, the Director of Labor or the court shall issue such orders as may be appropriate, including the impoundment of files or portions of files, to protect the confidentiality of trade secrets. A person who violates the confidentiality of trade secrets commits a Class B misdemeanor.

(820 ILCS 220/2.7 new)

Sec. 2.7. Inspection scheduling system.

(a) In general, the priority of accomplishment and assignment of staff resources for inspection categories shall be as follows:

(1) Imminent Danger.

(2) Fatality/Catastrophe Investigations.

(3) Complaints/Referrals Investigation.

(4) Programmed Inspections - general, advisory, monitoring and follow-up.

(b) The priority for assignment of staff resources for hazard categories shall be the responsibility of an authorized representative of the Director of Labor based upon the inspection category, the type of hazard, the perceived severity of hazard, and the availability of resources.

(820 ILCS 220/2.8 new) (from 820 ILCS 220/2, in part)

Sec. 2.8. Voluntary compliance program.

~~(f) The Department through the employees of the Division shall foster and promote safety practices.~~

(a) ~~(g)~~ The Department shall encourage employers and organizations and groups of employees to institute and maintain safety education programs for employees and promote the observation of safety practices.

(b) The Department shall provide and conduct qualified and quality educational programs specifically designed to meet the regulatory requirements and the needs of the public employer.

(c) The educational programs and advisory inspections shall be scheduled secondary to the unprogrammed inspections by priority.

(d) Regular public information programs shall be conducted to inform the public employers of changes to the regulations or updates as necessary.

(e) The Department shall provide support services for any public employer who needs assistance with the public employer's

~~self-inspection programs. The Department may furnish safety education material and literature and may advise and cooperate with employers and organizations and groups of employees in the conduct of safety education programs and in the observation of safety practices. The Department shall through the Division enforce the provisions of this Act, and any other law relating to the inspection of places of employment in the State.~~

(Source: P.A. 86-820; 87-245.)

(820 ILCS 220/2.9 new)

Sec. 2.9. Laboratory services. The Department shall enlist the services of certified laboratories to provide analysis and interpretation of results via contractual services.

(820 ILCS 220/2.10 new) (from 820 ILCS 220/2, in part)

Sec. 2.10. Adoption of rules; designation of personnel to hear evidence in disputed matters.

(a) The Director of Labor shall adopt such rules and regulations as he or she may deem necessary to implement the provisions of this Act, including, but not limited to, rules and regulations dealing with: (1) the inspection of an employer's establishment and (2) the designation of proper parties, pleadings, notice, discovery, the issuance of subpoenas, transcripts, and oral argument.

~~All information reported to or otherwise obtained by the Director of Labor or his or her authorized representative in connection with any inspection or proceeding under this Act or the Health and Safety Act, which contains or might reveal a trade secret shall be considered confidential, except that such information may be disclosed confidentially to other officers or employees concerned with carrying out this Act or the Health and Safety Act or when relevant to any proceeding under this Act. In any such proceeding, the Director of Labor or the court shall issue such orders as may be appropriate, including the impoundment of files, or portions of files, to protect the confidentiality of trade secrets.~~

~~Any person who shall violate the confidentiality of trade secrets shall be guilty of a Class B misdemeanor.~~

(b) The Director of Labor may designate personnel to hear evidence in disputed matters.

~~(h) Any employer who willfully violates any standard, rule or order, if that violation caused death to any employee, shall be guilty of a Class 4 felony.~~

~~(i) Whoever knowingly makes a false statement, representation, or certification in any application, record, report, plan or other document required pursuant to this Act, shall be guilty of a Class 4 felony.~~

~~(j) The Director of Labor shall also issue regulations requiring that employers, through posting of notices or other appropriate means, keep their employees informed of their protections and obligations under these Acts, including the provisions of applicable standards.~~

~~(k) The Director of Labor shall issue regulations requiring employers to maintain accurate records of employee exposures to potentially toxic material or harmful physical agents which are required to be monitored or measured under the Health and Safety Act. Such regulations shall provide employees or their representatives with an opportunity to observe such monitoring or measuring, and to have access to the records thereof. Such regulations shall also make appropriate provisions for each employee or former employee to have access to such records as will indicate his or her own exposure to toxic materials or harmful physical agents. Each employer shall promptly notify any employee who has been or is being exposed to toxic materials or harmful physical agents in concentrations or at levels which exceed those prescribed by an Illinois occupational safety and health standard and shall inform any employee who is being thus exposed of the corrective action being taken.~~

(Source: P.A. 86-820; 87-245.)

Section 10. The Health and Safety Act is amended by

changing Section 2 and changing and resectioning Section 4 as follows:

(820 ILCS 225/2) (from Ch. 48, par. 137.2)

Sec. 2.

This Act shall apply to all public employers engaged in any occupation, business or enterprise in this State, and their employees, including the State of Illinois and its employees and all political subdivisions and its employees, except that nothing in this Act shall apply to working conditions of employees with respect to which Federal agencies, and State agencies acting under Section 274 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2021), exercise statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health. Any regulations in excess of applicable Federal standards shall, before being promulgated, be the subject of hearings as required by this Act.

(Source: P.A. 78-867.)

(820 ILCS 225/4) (from 820 ILCS 225/4, in part)

Sec. 4. Records and reports; work-related deaths, injuries, and illnesses.

(a) The Director shall prescribe rules requiring employers to maintain accurate records of, and to make reports on, work-related deaths, injuries and illnesses, other than minor injuries requiring only first aid treatment which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job. Such rules shall specifically include all of the reporting provisions of Section 6 of the Workers' Compensation Act and Section 6 of the Workers' Occupational Diseases Act.

(b) Such records shall be available to any State agency requiring such information.

(c) All reports filed hereunder shall be confidential and any person having access to such records filed with the Director as herein required, who shall release any information

therein contained including the names or otherwise identify any persons sustaining injuries or disabilities, or give access to such information to any unauthorized person, shall be subject to discipline or discharge, and in addition shall be guilty of a Class B misdemeanor.

(Source: P.A. 87-245.)

(820 ILCS 225/4.1 new) (from 820 ILCS 225/4, in part)

Sec. 4.1. Adoption of federal safety and health standards as rules.

(a) ~~(d)~~ All federal occupational safety and health standards which the United States Secretary of Labor has heretofore promulgated, modified or revoked in accordance with the Federal Occupational Safety and Health Act of 1970, shall be and are hereby made rules of the Director unless the Director shall make, promulgate, and publish an alternate rule at least as effective in providing safe and healthful employment and places of employment as a federal standard. Prior to the development and promulgation of alternate standards or the modification or revocation of existing standards, the Director must consider factual information including:

(1) Expert technical knowledge.

(2) Input from interested persons including employers, employees, recognized standards-producing organizations, and the public.

(b) All federal occupational safety and health standards which the United States Secretary of Labor shall hereafter promulgate, modify or revoke in accordance with the Federal Occupational Safety and Health Act of 1970 shall become the rules of the Department 6 months ~~60 days~~ after their federal effective date, unless there shall have been in effect in this State at the time of the promulgation, modification or revocation of such rule an alternate State rule at least as effective in providing safe and healthful employment and places of employment as a federal standard. However, such rule shall

not become effective until the following requirements have been met:

(1) The Department shall within 45 days after the federal effective date of such rule, ~~publish in the "Illinois Occupational Safety and Health Bulletin" the provisions of such rule and in addition thereto shall~~ file with the office of the Secretary of State in Springfield, Illinois, a certified copy of such rule as provided in "The Illinois Administrative Procedure Act", approved August 22, 1975, as amended; or

(2) In the event of the Department's failure to ~~publish~~ ~~or~~ file a certified copy with the Secretary of State, any resident of the State of Illinois may upon 5 days written notice to the Director publish such rule in one or more newspapers of general circulation and file a certified copy thereof with the office of the Secretary of State in Springfield, Illinois, whereupon such rule shall become effective provided that in no event shall such effective date be less than 60 days after the federal effective date.

(c) The Director of Labor may promulgate emergency temporary standards or rules to take effect immediately by filing such rule or rules with the Illinois Secretary of State providing that the Director of Labor shall first expressly determine:

(1) that the employees are exposed to grave danger from exposure to substances or agents determined to be toxic or physically harmful or from new hazards; and

(2) that such emergency standard is necessary to protect employees from such danger.

The Director of Labor shall adopt emergency temporary standards promulgated by the federal Occupational Safety and Health Administration within 30 days of federal notice. Such temporary emergency standards shall be effective until superseded by a permanent standard but in no event for more than 6 months from the date of its publication. The publication of such temporary emergency standards shall be deemed to be a

petition to the Director of Labor for the promulgation of a permanent standard and shall be deemed to be filed with the Director of Labor on the date of its publication and the proceeding for the permanent promulgation of the rule shall be pursued in accordance with the provisions of this Act.

(d) (1) Any standard promulgated under this Act shall prescribe the use of labels or other appropriate forms of warning as are necessary to ensure that employees are apprised of all hazards to which they are exposed, relevant symptoms and appropriate emergency treatment, and proper conditions and precautions of safe use or exposure.

(2) Where appropriate, such standard shall also prescribe suitable protective equipment and control or technological procedures to be used in connection with such hazards and shall provide for monitoring or measuring employee exposure at such locations and intervals, and in such manner as may be necessary for the protection of employees.

(3) In addition, where appropriate, any such standard shall prescribe the type and frequency of medical examinations or other tests which shall be made available, by the employer or at the employer's cost, to employees exposed to such hazards in order to most effectively determine whether the health of such employees is adversely affected by such exposure. The results of such examinations or tests shall be furnished by the employer only to the Department of Labor, or at the direction of the Department to authorized medical personnel and at the request of the employee to the employee's physician.

(4) The Director of Labor, in promulgating standards dealing with toxic materials or harmful physical agents under this subsection, shall set the standard which most adequately ensures, to the extent feasible, on the basis of the best available evidence, that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to the hazard dealt with by such standard for the period of the employee's working life.

(5) Development of standards under this subsection shall be

based upon research, demonstrations, experiments, and such other information as may be appropriate. In addition to the attainment of the highest degree of health and safety protection for the employee, other considerations shall be the latest available scientific data in the field, the feasibility of the standards, and experience gained under this and other health and safety laws. Whenever practicable, the standard promulgated shall be expressed in terms of objective criteria and of the performance desired.

(Source: P.A. 87-245.)

(820 ILCS 225/4.2 new) (from 820 ILCS 225/4, in part)

Sec. 4.2. Variances.

(a) The Director of Labor has the authority to grant either temporary or permanent variances from any of the State standards upon application by a public employer. Any variance from a State health and safety standard may have only future effect.

(b) ~~(e)~~ Any public employer may apply to the Director of Labor for a temporary order granting a variance from a standard or any provision thereof promulgated under this Act.

(1) Such temporary order shall be granted only if the employer files an application which meets the requirements of ~~paragraph (1)~~ of this subsection (b) ~~(e)~~ and establishes:

(A) that he is unable to comply with a standard by its effective date because of unavailability of professional or technical personnel or of materials and equipment needed to come into compliance with the standard or because necessary construction or alteration of facilities cannot be completed by the effective date;

(B) that he is taking all available steps to safeguard his employees against the hazards covered by the standard; and

(C) that he has an effective program for coming

into compliance with a standard as quickly as practicable.

Any temporary order issued under this Section shall prescribe the practices, means, methods, operations and processes which the employer must adopt and use while the order is in effect and state in detail his program for coming into compliance with the standard.

(2) Such a temporary order may be granted only after notice to employees and an opportunity for a hearing. However, in cases involving only documentary evidence in support of the application for a temporary variance and in which no objection is made or hearing requested by the employees or their representative, the Director of Labor may issue a temporary variance in accordance with this Act.

(3) In the event the application is contested or a hearing requested, the application shall be heard and determined by the Director.

(4) No order for a temporary variance may be in effect for longer than the period needed by the employer to achieve compliance with the standard or one year, whichever is shorter, except that such an order may be renewed not more than twice, so long as the requirements of this paragraph are met and if an application for renewal is filed at least 90 days prior to the expiration date of the order. No interim renewal of an order may remain in effect for longer than 180 days.

(5) ~~(1)~~ An application for a temporary order as herein provided shall contain:

(A) ~~a.~~ a specification of the standard or portion thereof from which the employer seeks a variance;

(B) ~~b.~~ a representation by the employer, supported by representations from qualified persons having first-hand knowledge of the facts represented, that he is unable to comply with a standard or portion thereof and a detailed statement of the reasons therefor;

(C) ~~c.~~ a statement of the steps he has taken and

will take (with specific dates) to protect employees against a hazard covered by the standard;

(D) ~~a statement of when~~ ~~d. the date by which~~ he expects to be able to comply with the standard ~~and what steps he has taken and will take~~ (with dates specified) ~~to comply with the standard;~~ and

(E) ~~e.~~ a certification that he has informed his employees of the application by giving a copy thereof to their authorized representatives, posting a statement summarizing the application and specifying where employees may examine a copy of such application.

A description of how employees have been informed shall be contained in the certification. The information to employees shall also inform them of their right to petition the Director for a hearing.

(6) ~~(2)~~ The Director of Labor is authorized to grant a variance from any standard or portion thereof whenever the Director of Labor determines that such variance is necessary to permit an employer to participate in an experiment approved by the Director of Labor designed to demonstrate or validate new and improved techniques to safeguard the health or safety of workers.

(c) ~~(f)~~ Any affected employer may apply to the Director of Labor for a rule or order for a permanent variance ~~other than a temporary variance~~ from a standard promulgated under this Act. Affected employees shall be given notice of each such application and an opportunity to participate in a hearing. The Director of Labor shall issue such rule or order if he determines on the record, after opportunity for an inspection where appropriate and a hearing, that the proponent of the variance has demonstrated by a preponderance of the evidence that the conditions, practices, means, methods, operations or processes used or proposed to be used by an employer will provide employment and places of employment to his employees which are as safe and healthful as those which would prevail if he complied with the standard. The rule or order so issued

shall prescribe the conditions the employer must maintain, and the practices, means, methods, operations, and processes which he must adopt and utilize to the extent they differ from the standard in question. Such a rule or order may be modified or revoked upon application by an employer, ~~or employees,~~ or by the Director of Labor on his own motion, in the manner prescribed for its issuance under this Section at any time after 6 months from its issuance.

~~(g) The Director of Labor may promulgate emergency temporary standards or rules to take effect immediately by filing such rule or rules with the Illinois Secretary of State and publishing them in the "Illinois Occupational Safety and Health Bulletin" or if that is not available, in one or more newspapers of general circulation providing that the Director of Labor shall first expressly determine (1) that the employees are exposed to grave danger from exposure to substances or agents determined to be toxic or physically harmful or from new hazards, and (2) that such emergency standard is necessary to protect employees from such danger.~~

~~Such temporary emergency standard shall be effective until superseded by a permanent standard but in no event for more than 6 months from the date of its publication.~~

~~The publication of such temporary emergency standard shall be deemed to be a petition to the Director of Labor for the promulgation of a permanent standard and shall be deemed to be filed with the Director of Labor on the date of its publication and the proceeding for the permanent promulgation of the rule shall be pursued in accordance with the provisions of Section 7 of this Act.~~

~~(h) Any standard promulgated under this Act shall prescribe the use of labels or other appropriate forms of warning as are necessary to insure that employees are apprised of all hazards to which they are exposed, relevant symptoms and appropriate emergency treatment, and proper conditions and precautions of safe use or exposure. Where appropriate, such standard shall also prescribe suitable protective equipment and control or~~

~~technological procedures to be used in connection with such hazards and shall provide for a monitoring or measuring employee exposure at such locations and intervals, and in such manner as may be necessary for the protection of employees. In addition, where appropriate, any such standard shall prescribe the type and frequency of medical examinations or other tests which shall be made available, by the employer or at his cost, to employees exposed to such hazards in order to most effectively determine whether the health of such employees is adversely affected by such exposure. The results of such examinations or tests shall be furnished by the employer only to the Department of Labor, or at the direction of the Department to authorized medical personnel and at the request of the employee to his physician. The Director of Labor, in promulgating standards dealing with toxic materials or harmful physical agents under this subsection, shall set the standard which most adequately assures, to the extent feasible, on the basis of the best available evidence, that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to the hazard dealt with by such standard for the period of his working life. Development of standards under this subsection shall be based upon research, demonstrations, experiments, and such other information as may be appropriate. In addition to the attainment of the highest degree of health and safety protection for the employee, other considerations shall be the latest available scientific data in the field, the feasibility of the standards, and experience gained under this and other health and safety laws. Whenever practicable, the standard promulgated shall be expressed in terms of objective criteria and of the performance desired.~~

(Source: P.A. 87-245.)