

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

8 (820 ILCS 220/.02) (from Ch. 48, par. 59.02)

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

10 "Department" means the Department of Labor.

11 "Director" means the Director of Labor.

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

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

15 (820 ILCS 220/2) (from 820 ILCS 220/2, in part)

16 Sec. 2. Powers and duties; inspections.

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

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

28 (1) ~~1.~~ To enter without delay and at reasonable times
29 any factory, plant, establishment, construction site, or
30 other area, workplace or environment where work is
31 performed by an employee of a public ~~an~~ employer in order

1 to enforce such occupational safety and health standards.

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

10 (3) ~~2.~~ To inspect and investigate during regular
11 working hours and at other reasonable times, and within
12 reasonable limits and in a reasonable manner, any such
13 place of employment and all pertinent conditions,
14 structures, machines, apparatus, devices, equipment, and
15 materials therein, and to question privately any such
16 employer, owner, operator, agent or employee.

17 (4) ~~3.~~ The owner, operator, manager or lessees of any
18 place affected by the provisions of this Act and his or her
19 agent, superintendent, subordinate or employee, and any
20 employer affected by such provisions shall when requested
21 by the Division of Safety Inspection and Education, or any
22 duly authorized agent thereof, furnish any information in
23 his or her possession or under his control which the
24 Department of Labor is authorized to require, and shall
25 answer truthfully all questions required to be put to him,
26 and shall cooperate in the making of a proper inspection.

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

31 (6) ~~4.~~ Subject to regulations issued by the Director of
32 Labor, a representative of the employer and a
33 representative authorized by his or her employees shall be
34 given an opportunity to accompany the Director of Labor or
35 his or her authorized representative during the physical
36 inspection of any workplace under this Section for the

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

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

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

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

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

32 (820 ILCS 220/2.1 new) (from 820 ILCS 220/2, in part)

33 Sec. 2.1. Complaint inspection procedures.

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

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

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

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

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

26 (e) Nonformal complaints shall be handled by an authorized
27 representative of the Director of Labor and, based upon the
28 severity and legitimacy of the complaint, the authorized
29 representative of the Director of Labor shall either schedule a
30 complaint inspection or issue a letter to the public employer
31 stating the concern. ~~If upon receipt of such complaint, the~~
32 ~~Director of Labor or his or her authorized representative~~
33 ~~determines there are reasonable grounds to believe that such~~
34 ~~violation or danger exists, he or she shall make a special~~
35 ~~inspection of the workplace in accordance with the provisions~~
36 ~~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

1 taking into account any interim earnings of the employee.

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

6 (820 ILCS 220/2.3 new) (from 820 ILCS 220/2, in part)

7 Sec. 2.3. Methods of compelling compliance.

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

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

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

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

29 (4) ~~2.~~ Citations shall be served on the employer,
30 owner, operator, manager, or agent by delivering an exact
31 copy to the person upon whom the service is to be had, or
32 by leaving a copy at his or her usual place of business or
33 abode, or by sending a copy thereof by registered mail to
34 his place of business.

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

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

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

7 (6) ~~5.~~ If, after an inspection, the Director of Labor
8 issues a citation, he or she shall within 5 days after the
9 issuance of the citation, notify the employer by certified
10 mail of the penalty, if any, proposed to be assessed for
11 the violation set forth in the citation.

12 (7) ~~6.~~ If the Director of Labor has reason to believe
13 that an employer has failed to correct a violation for
14 which a citation has been issued within the period
15 permitted for its correction, the Director of Labor shall
16 notify the employer by certified mail of such failure and
17 of the monetary penalty proposed to be assessed by reason
18 of such failure.

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

25 (b) Proposed violations.

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

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

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

1 ~~serious nature may be assessed a civil penalty of up to~~
2 ~~\$1,000 for each such violation.~~

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

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

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

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

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

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

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

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

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

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

23 (820 ILCS 220/2.4 new) (from 820 ILCS 220/2, in part)

24 Sec. 2.4. Contested cases.

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

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

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

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

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

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

35 **(5) Appeal.**

36 **(A)** Any party adversely affected by a final violation

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

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

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

12 (6) The Director of Labor has the power:

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

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

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

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

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

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

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

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

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

35 ~~If the Director of Labor arbitrarily or capriciously fails~~
36 ~~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.

1 (820 ILCS 220/2.6 new)

2 Sec. 2.6. Other prohibited actions and sanctions.

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

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

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

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

17 (2) Annual Summary of Injuries/Illnesses: an
18 other-than-serious citation and a proposed penalty of
19 \$1,000 even if there are no recordable injuries or
20 illnesses.

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

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

1 (820 ILCS 220/2.7 new)

2 Sec. 2.7. Inspection scheduling system.

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

6 (1) Imminent Danger.

7 (2) Fatality/Catastrophe Investigations.

8 (3) Complaints/Referrals Investigation.

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

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

16 (820 ILCS 220/2.8 new) (from 820 ILCS 220/2, in part)

17 Sec. 2.8. Voluntary compliance program.

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

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

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

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

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

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

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

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

9 (820 ILCS 220/2.9 new)

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

13 (820 ILCS 220/2.10 new) (from 820 ILCS 220/2, in part)

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

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

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

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

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

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

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

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

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

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

35 Section 10. The Health and Safety Act is amended by

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

3 (820 ILCS 225/2) (from Ch. 48, par. 137.2)

4 Sec. 2.

5 This Act shall apply to all public employers engaged in any
6 occupation, business or enterprise in this State, and their
7 employees, including the State of Illinois and its employees
8 and all political subdivisions and its employees, except that
9 nothing in this Act shall apply to working conditions of
10 employees with respect to which Federal agencies, and State
11 agencies acting under Section 274 of the Atomic Energy Act of
12 1954, as amended (42 U.S.C. 2021), exercise statutory authority
13 to prescribe or enforce standards or regulations affecting
14 occupational safety and health. Any regulations in excess of
15 applicable Federal standards shall, before being promulgated,
16 be the subject of hearings as required by this Act.

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

18 (820 ILCS 225/4) (from 820 ILCS 225/4, in part)

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

21 (a) The Director shall prescribe rules requiring employers
22 to maintain accurate records of, and to make reports on,
23 work-related deaths, injuries and illnesses, other than minor
24 injuries requiring only first aid treatment which do not
25 involve medical treatment, loss of consciousness, restriction
26 of work or motion, or transfer to another job. Such rules shall
27 specifically include all of the reporting provisions of Section
28 6 of the Workers' Compensation Act and Section 6 of the
29 Workers' Occupational Diseases Act.

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

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

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

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

7 (820 ILCS 225/4.1 new) (from 820 ILCS 225/4, in part)

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

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

22 (1) Expert technical knowledge.

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

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

1 not become effective until the following requirements have been
2 met:

3 (1) The Department shall within 45 days after the
4 federal effective date of such rule, ~~publish in the~~
5 ~~"Illinois Occupational Safety and Health Bulletin" the~~
6 ~~provisions of such rule and in addition thereto shall~~ file
7 with the office of the Secretary of State in Springfield,
8 Illinois, a certified copy of such rule as provided in "The
9 Illinois Administrative Procedure Act", approved August
10 22, 1975, as amended; or

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

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

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

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

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

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

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

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

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

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

36 (5) Development of standards under this subsection shall be

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

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

11 (820 ILCS 225/4.2 new) (from 820 ILCS 225/4, in part)

12 Sec. 4.2. Variances.

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

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

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

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

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

35 (C) that he has an effective program for coming

1 into compliance with a standard as quickly as
2 practicable.

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

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

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

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

27 (5) ~~(1)~~ An application for a temporary order as herein
28 provided shall contain:

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

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

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

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

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

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

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

16 (6) ~~(2)~~ The Director of Labor is authorized to grant a
17 variance from any standard or portion thereof whenever the
18 Director of Labor determines that such variance is
19 necessary to permit an employer to participate in an
20 experiment approved by the Director of Labor designed to
21 demonstrate or validate new and improved techniques to
22 safeguard the health or safety of workers.

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

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

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

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

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

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

~~1 technological procedures to be used in connection with such
2 hazards and shall provide for a monitoring or measuring
3 employee exposure at such locations and intervals, and in such
4 manner as may be necessary for the protection of employees. In
5 addition, where appropriate, any such standard shall prescribe
6 the type and frequency of medical examinations or other tests
7 which shall be made available, by the employer or at his cost,
8 to employees exposed to such hazards in order to most
9 effectively determine whether the health of such employees is
10 adversely affected by such exposure. The results of such
11 examinations or tests shall be furnished by the employer only
12 to the Department of Labor, or at the direction of the
13 Department to authorized medical personnel and at the request
14 of the employee to his physician. The Director of Labor, in
15 promulgating standards dealing with toxic materials or harmful
16 physical agents under this subsection, shall set the standard
17 which most adequately assures, to the extent feasible, on the
18 basis of the best available evidence, that no employee will
19 suffer material impairment of health or functional capacity
20 even if such employee has regular exposure to the hazard dealt
21 with by such standard for the period of his working life.
22 Development of standards under this subsection shall be based
23 upon research, demonstrations, experiments, and such other
24 information as may be appropriate. In addition to the
25 attainment of the highest degree of health and safety
26 protection for the employee, other considerations shall be the
27 latest available scientific data in the field, the feasibility
28 of the standards, and experience gained under this and other
29 health and safety laws. Whenever practicable, the standard
30 promulgated shall be expressed in terms of objective criteria
31 and of the performance desired.~~

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