

# SB3125



## 103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB3125

Introduced 2/2/2024, by Sen. Neil Anderson

### SYNOPSIS AS INTRODUCED:

820 ILCS 305/8

from Ch. 48, par. 138.8

Amends the Workers' Compensation Act. Provides that in the case of an employee who is a volunteer, paid-on-call, or part-time firefighter, an emergency medical technician, or a paramedic, compensation for temporary total incapacity shall commence on the day after the accident. Effective immediately.

LRB103 38041 SPS 68173 b

A BILL FOR

1 AN ACT concerning employment.

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

4 Section 5. The Workers' Compensation Act is amended by  
5 changing Section 8 as follows:

6 (820 ILCS 305/8) (from Ch. 48, par. 138.8)

7 Sec. 8. The amount of compensation which shall be paid to  
8 the employee for an accidental injury not resulting in death  
9 is:

10 (a) The employer shall provide and pay the negotiated  
11 rate, if applicable, or the lesser of the health care  
12 provider's actual charges or according to a fee schedule,  
13 subject to Section 8.2, in effect at the time the service was  
14 rendered for all the necessary first aid, medical and surgical  
15 services, and all necessary medical, surgical and hospital  
16 services thereafter incurred, limited, however, to that which  
17 is reasonably required to cure or relieve from the effects of  
18 the accidental injury, even if a health care provider sells,  
19 transfers, or otherwise assigns an account receivable for  
20 procedures, treatments, or services covered under this Act. If  
21 the employer does not dispute payment of first aid, medical,  
22 surgical, and hospital services, the employer shall make such  
23 payment to the provider on behalf of the employee. The

1 employer shall also pay for treatment, instruction and  
2 training necessary for the physical, mental and vocational  
3 rehabilitation of the employee, including all maintenance  
4 costs and expenses incidental thereto. If as a result of the  
5 injury the employee is unable to be self-sufficient the  
6 employer shall further pay for such maintenance or  
7 institutional care as shall be required.

8 The employee may at any time elect to secure his own  
9 physician, surgeon and hospital services at the employer's  
10 expense, or,

11 Upon agreement between the employer and the employees, or  
12 the employees' exclusive representative, and subject to the  
13 approval of the Illinois Workers' Compensation Commission, the  
14 employer shall maintain a list of physicians, to be known as a  
15 Panel of Physicians, who are accessible to the employees. The  
16 employer shall post this list in a place or places easily  
17 accessible to his employees. The employee shall have the right  
18 to make an alternative choice of physician from such Panel if  
19 he is not satisfied with the physician first selected. If, due  
20 to the nature of the injury or its occurrence away from the  
21 employer's place of business, the employee is unable to make a  
22 selection from the Panel, the selection process from the Panel  
23 shall not apply. The physician selected from the Panel may  
24 arrange for any consultation, referral or other specialized  
25 medical services outside the Panel at the employer's expense.  
26 Provided that, in the event the Commission shall find that a

1 doctor selected by the employee is rendering improper or  
2 inadequate care, the Commission may order the employee to  
3 select another doctor certified or qualified in the medical  
4 field for which treatment is required. If the employee refuses  
5 to make such change the Commission may relieve the employer of  
6 his obligation to pay the doctor's charges from the date of  
7 refusal to the date of compliance.

8 Any vocational rehabilitation counselors who provide  
9 service under this Act shall have appropriate certifications  
10 which designate the counselor as qualified to render opinions  
11 relating to vocational rehabilitation. Vocational  
12 rehabilitation may include, but is not limited to, counseling  
13 for job searches, supervising a job search program, and  
14 vocational retraining including education at an accredited  
15 learning institution. The employee or employer may petition to  
16 the Commission to decide disputes relating to vocational  
17 rehabilitation and the Commission shall resolve any such  
18 dispute, including payment of the vocational rehabilitation  
19 program by the employer.

20 The maintenance benefit shall not be less than the  
21 temporary total disability rate determined for the employee.  
22 In addition, maintenance shall include costs and expenses  
23 incidental to the vocational rehabilitation program.

24 When the employee is working light duty on a part-time  
25 basis or full-time basis and earns less than he or she would be  
26 earning if employed in the full capacity of the job or jobs,

1 then the employee shall be entitled to temporary partial  
2 disability benefits. Temporary partial disability benefits  
3 shall be equal to two-thirds of the difference between the  
4 average amount that the employee would be able to earn in the  
5 full performance of his or her duties in the occupation in  
6 which he or she was engaged at the time of accident and the  
7 gross amount which he or she is earning in the modified job  
8 provided to the employee by the employer or in any other job  
9 that the employee is working.

10 Every hospital, physician, surgeon or other person  
11 rendering treatment or services in accordance with the  
12 provisions of this Section shall upon written request furnish  
13 full and complete reports thereof to, and permit their records  
14 to be copied by, the employer, the employee or his dependents,  
15 as the case may be, or any other party to any proceeding for  
16 compensation before the Commission, or their attorneys.

17 Notwithstanding the foregoing, the employer's liability to  
18 pay for such medical services selected by the employee shall  
19 be limited to:

20 (1) all first aid and emergency treatment; plus

21 (2) all medical, surgical and hospital services  
22 provided by the physician, surgeon or hospital initially  
23 chosen by the employee or by any other physician,  
24 consultant, expert, institution or other provider of  
25 services recommended by said initial service provider or  
26 any subsequent provider of medical services in the chain

1 of referrals from said initial service provider; plus

2 (3) all medical, surgical and hospital services  
3 provided by any second physician, surgeon or hospital  
4 subsequently chosen by the employee or by any other  
5 physician, consultant, expert, institution or other  
6 provider of services recommended by said second service  
7 provider or any subsequent provider of medical services in  
8 the chain of referrals from said second service provider.  
9 Thereafter the employer shall select and pay for all  
10 necessary medical, surgical and hospital treatment and the  
11 employee may not select a provider of medical services at  
12 the employer's expense unless the employer agrees to such  
13 selection. At any time the employee may obtain any medical  
14 treatment he desires at his own expense. This paragraph  
15 shall not affect the duty to pay for rehabilitation  
16 referred to above.

17 (4) The following shall apply for injuries occurring  
18 on or after June 28, 2011 (the effective date of Public Act  
19 97-18) and only when an employer has an approved preferred  
20 provider program pursuant to Section 8.1a on the date the  
21 employee sustained his or her accidental injuries:

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

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

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

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

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

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

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

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

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

18 (b) If the period of temporary total incapacity for work  
19 lasts more than 3 working days, weekly compensation as  
20 hereinafter provided shall be paid beginning on the 4th day of  
21 such temporary total incapacity and continuing as long as the  
22 total temporary incapacity lasts. Notwithstanding the  
23 preceding sentence, in the case of an employee who is employed  
24 as a volunteer, paid-on-call, or part-time firefighter, an  
25 emergency medical technician, or a paramedic or in ~~in~~ cases  
26 where the temporary total incapacity for work continues for a



1 period of 14 days or more from the day of the accident,  
2 compensation shall commence on the day after the accident.

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

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

1           whichever is more, multiplied by 40 hours. This percentage  
2           rate shall be increased by 10% for each spouse and child,  
3           not to exceed 100% of the total minimum wage calculation,  
4           nor exceed the employee's average weekly wage computed in  
5           accordance with the provisions of Section 10, whichever is  
6           less.

7           2.1. The compensation rate in all cases of serious and  
8           permanent disfigurement under paragraph (c) and of  
9           permanent partial disability under subparagraph (2) of  
10          paragraph (d) or under paragraph (e) of this Section shall  
11          be equal to 60% of the employee's average weekly wage  
12          computed in accordance with the provisions of Section 10,  
13          provided that it shall be not less than 66 2/3% of the sum  
14          of the Federal minimum wage under the Fair Labor Standards  
15          Act, or the Illinois minimum wage under the Minimum Wage  
16          Law, whichever is more, multiplied by 40 hours. This  
17          percentage rate shall be increased by 10% for each spouse  
18          and child, not to exceed 100% of the total minimum wage  
19          calculation, nor exceed the employee's average weekly wage  
20          computed in accordance with the provisions of Section 10,  
21          whichever is less.

22          3. As used in this Section the term "child" means a  
23          child of the employee including any child legally adopted  
24          before the accident or whom at the time of the accident the  
25          employee was under legal obligation to support or to whom  
26          the employee stood in loco parentis, and who at the time of

1 the accident was under 18 years of age and not  
2 emancipated. The term "children" means the plural of  
3 "child".

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

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

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

25 The maximum weekly compensation rate, for the period  
26 January 1, 1981 through December 31, 1983, except as

1 hereinafter provided, shall be 100% of the State's average  
2 weekly wage in covered industries under the Unemployment  
3 Insurance Act in effect on January 1, 1981. Effective  
4 January 1, 1984 and on January 1, of each year thereafter  
5 the maximum weekly compensation rate, except as  
6 hereinafter provided, shall be determined as follows: if  
7 during the preceding 12 month period there shall have been  
8 an increase in the State's average weekly wage in covered  
9 industries under the Unemployment Insurance Act, the  
10 weekly compensation rate shall be proportionately  
11 increased by the same percentage as the percentage of  
12 increase in the State's average weekly wage in covered  
13 industries under the Unemployment Insurance Act during  
14 such period.

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

25 For injuries occurring on or after February 1, 2006,  
26 the maximum weekly benefit under paragraph (d)1 of this

1 Section shall be 100% of the State's average weekly wage  
2 in covered industries under the Unemployment Insurance  
3 Act.

4 4.1. Any provision herein to the contrary  
5 notwithstanding, the weekly compensation rate for  
6 compensation payments under subparagraph 18 of paragraph  
7 (e) of this Section and under paragraph (f) of this  
8 Section and under paragraph (a) of Section 7 and for  
9 amputation of a member or enucleation of an eye under  
10 paragraph (e) of this Section, shall in no event be less  
11 than 50% of the State's average weekly wage in covered  
12 industries under the Unemployment Insurance Act.

13 4.2. Any provision to the contrary notwithstanding,  
14 the total compensation payable under Section 7 shall not  
15 exceed the greater of \$500,000 or 25 years.

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

22 6. The Department of Employment Security of the State  
23 shall on or before the first day of December, 1977, and on  
24 or before the first day of June, 1978, and on the first day  
25 of each December and June of each year thereafter, publish  
26 the State's average weekly wage in covered industries

1 under the Unemployment Insurance Act and the Illinois  
2 Workers' Compensation Commission shall on the 15th day of  
3 January, 1978 and on the 15th day of July, 1978 and on the  
4 15th day of each January and July of each year thereafter,  
5 post and publish the State's average weekly wage in  
6 covered industries under the Unemployment Insurance Act as  
7 last determined and published by the Department of  
8 Employment Security. The amount when so posted and  
9 published shall be conclusive and shall be applicable as  
10 the basis of computation of compensation rates until the  
11 next posting and publication as aforesaid.

12 7. The payment of compensation by an employer or his  
13 insurance carrier to an injured employee shall not  
14 constitute an admission of the employer's liability to pay  
15 compensation.

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

1 provided in subparagraph 2.1 of paragraph (b) of this Section.

2 No compensation is payable under this paragraph where  
3 compensation is payable under paragraphs (d), (e) or (f) of  
4 this Section.

5 A duly appointed member of a fire department in a city, the  
6 population of which exceeds 500,000 according to the last  
7 federal or State census, is eligible for compensation under  
8 this paragraph only where such serious and permanent  
9 disfigurement results from burns.

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

1 later.

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



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

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

1 1. Thumb-

2 70 weeks if the accidental injury occurs on or  
3 after the effective date of this amendatory Act of the  
4 94th General Assembly but before February 1, 2006.

5 76 weeks if the accidental injury occurs on or  
6 after February 1, 2006.

7 2. First, or index finger-

8 40 weeks if the accidental injury occurs on or  
9 after the effective date of this amendatory Act of the  
10 94th General Assembly but before February 1, 2006.

11 43 weeks if the accidental injury occurs on or  
12 after February 1, 2006.

13 3. Second, or middle finger-

14 35 weeks if the accidental injury occurs on or  
15 after the effective date of this amendatory Act of the  
16 94th General Assembly but before February 1, 2006.

17 38 weeks if the accidental injury occurs on or  
18 after February 1, 2006.

19 4. Third, or ring finger-

20 25 weeks if the accidental injury occurs on or  
21 after the effective date of this amendatory Act of the  
22 94th General Assembly but before February 1, 2006.

23 27 weeks if the accidental injury occurs on or  
24 after February 1, 2006.

25 5. Fourth, or little finger-

26 20 weeks if the accidental injury occurs on or

1 after the effective date of this amendatory Act of the  
2 94th General Assembly but before February 1, 2006.

3 22 weeks if the accidental injury occurs on or  
4 after February 1, 2006.

5 6. Great toe-

6 35 weeks if the accidental injury occurs on or  
7 after the effective date of this amendatory Act of the  
8 94th General Assembly but before February 1, 2006.

9 38 weeks if the accidental injury occurs on or  
10 after February 1, 2006.

11 7. Each toe other than great toe-

12 12 weeks if the accidental injury occurs on or  
13 after the effective date of this amendatory Act of the  
14 94th General Assembly but before February 1, 2006.

15 13 weeks if the accidental injury occurs on or  
16 after February 1, 2006.

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

26 9. Hand-

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

4           205 weeks if the accidental injury occurs on or  
5 after February 1, 2006.

6           190 weeks if the accidental injury occurs on or  
7 after June 28, 2011 (the effective date of Public Act  
8 97-18) and if the accidental injury involves carpal  
9 tunnel syndrome due to repetitive or cumulative  
10 trauma, in which case the permanent partial disability  
11 shall not exceed 15% loss of use of the hand, except  
12 for cause shown by clear and convincing evidence and  
13 in which case the award shall not exceed 30% loss of  
14 use of the hand.

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

21           10. Arm-

22           235 weeks if the accidental injury occurs on or  
23 after the effective date of this amendatory Act of the  
24 94th General Assembly but before February 1, 2006.

25           253 weeks if the accidental injury occurs on or  
26 after February 1, 2006.

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

20           11. Foot-

21                   155 weeks if the accidental injury occurs on or  
22                   after the effective date of this amendatory Act of the  
23                   94th General Assembly but before February 1, 2006.

24                   167 weeks if the accidental injury occurs on or  
25                   after February 1, 2006.

26           12. Leg-

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

4           215 weeks if the accidental injury occurs on or  
5           after February 1, 2006.

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

25          13. Eye-

26          150 weeks if the accidental injury occurs on or

1 after the effective date of this amendatory Act of the  
2 94th General Assembly but before February 1, 2006.

3 162 weeks if the accidental injury occurs on or  
4 after February 1, 2006.

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

12 14. Loss of hearing of one ear-

13 50 weeks if the accidental injury occurs on or  
14 after the effective date of this amendatory Act of the  
15 94th General Assembly but before February 1, 2006.

16 54 weeks if the accidental injury occurs on or  
17 after February 1, 2006.

18 Total and permanent loss of hearing of both ears-

19 200 weeks if the accidental injury occurs on or  
20 after the effective date of this amendatory Act of the  
21 94th General Assembly but before February 1, 2006.

22 215 weeks if the accidental injury occurs on or  
23 after February 1, 2006.

24 15. Testicle-

25 50 weeks if the accidental injury occurs on or  
26 after the effective date of this amendatory Act of the

1 94th General Assembly but before February 1, 2006.

2 54 weeks if the accidental injury occurs on or  
3 after February 1, 2006.

4 Both testicles-

5 150 weeks if the accidental injury occurs on or  
6 after the effective date of this amendatory Act of the  
7 94th General Assembly but before February 1, 2006.

8 162 weeks if the accidental injury occurs on or  
9 after February 1, 2006.

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

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

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



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

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

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

24 (e) No consideration shall be given to the  
25 question of whether or not the ability of an employee  
26 to understand speech is improved by the use of a

1 hearing aid.

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

7 Sound Level DBA

8 Slow Response Hours Per Day

9 90 8

10 92 6

11 95 4

12 97 3

13 100 2

14 102 1-1/2

15 105 1

16 110 1/2

17 115 1/4

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 of the loss of the first member.

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

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

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

4 (g) Every award for permanent total disability entered by  
5 the Commission on and after July 1, 1965 under which  
6 compensation payments shall become due and payable after the  
7 effective date of this amendatory Act, and every award for  
8 death benefits or permanent total disability entered by the  
9 Commission on and after the effective date of this amendatory  
10 Act shall be subject to annual adjustments as to the amount of  
11 the compensation rate therein provided. Such adjustments shall  
12 first be made on July 15, 1977, and all awards made and entered  
13 prior to July 1, 1975 and on July 15 of each year thereafter.  
14 In all other cases such adjustment shall be made on July 15 of  
15 the second year next following the date of the entry of the  
16 award and shall further be made on July 15 annually  
17 thereafter. If during the intervening period from the date of  
18 the entry of the award, or the last periodic adjustment, there  
19 shall have been an increase in the State's average weekly wage  
20 in covered industries under the Unemployment Insurance Act,  
21 the weekly compensation rate shall be proportionately  
22 increased by the same percentage as the percentage of increase  
23 in the State's average weekly wage in covered industries under  
24 the Unemployment Insurance Act. The increase in the  
25 compensation rate under this paragraph shall in no event bring  
26 the total compensation rate to an amount greater than the



1 prevailing maximum rate at the time that the annual adjustment  
2 is made. Such increase shall be paid in the same manner as  
3 herein provided for payments under the Second Injury Fund to  
4 the injured employee, or his dependents, as the case may be,  
5 out of the Rate Adjustment Fund provided in paragraph (f) of  
6 Section 7 of this Act. Payments shall be made at the same  
7 intervals as provided in the award or, at the option of the  
8 Commission, may be made in quarterly payment on the 15th day of  
9 January, April, July and October of each year. In the event of  
10 a decrease in such average weekly wage there shall be no change  
11 in the then existing compensation rate. The within paragraph  
12 shall not apply to cases where there is disputed liability and  
13 in which a compromise lump sum settlement between the employer  
14 and the injured employee, or his dependents, as the case may  
15 be, has been duly approved by the Illinois Workers'  
16 Compensation Commission.

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

24 For every accident occurring on or after July 20, 2005 but  
25 before the effective date of this amendatory Act of the 94th  
26 General Assembly (Senate Bill 1283 of the 94th General

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

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

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

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

26           (i) In case the injured employee is under 16 years of age

1 at the time of the accident and is illegally employed, the  
2 amount of compensation payable under paragraphs (b), (c), (d),  
3 (e) and (f) of this Section is increased 50%.

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

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

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

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

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

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

1 only to the extent of the compensation that would have been  
2 payable during the period covered by such payment.

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

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

13 Section 99. Effective date. This Act takes effect upon  
14 becoming law.