

1 AN ACT concerning workplace health.

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 11 as follows:

6 (820 ILCS 305/11) (from Ch. 48, par. 138.11)

7 Sec. 11. The compensation herein provided, together with
8 the provisions of this Act, shall be the measure of the
9 responsibility of any employer engaged in any of the
10 enterprises or businesses enumerated in Section 3 of this
11 Act, or of any employer who is not engaged in any such
12 enterprises or businesses, but who has elected to provide and
13 pay compensation for accidental injuries sustained by any
14 employee arising out of and in the course of the employment
15 according to the provisions of this Act, and whose election
16 to continue under this Act, has not been nullified by any
17 action of his employees as provided for in this Act.

18 Accidental injuries incurred while participating in
19 voluntary recreational programs including but not limited to
20 athletic events, parties and picnics do not arise out of and
21 in the course of the employment even though the employer pays
22 some or all of the cost thereof. This exclusion shall not
23 apply in the event that the injured employee was ordered or
24 assigned by his employer to participate in the program.

25 Accidental injuries incurred while participating as a
26 patient in a drug or alcohol rehabilitation program do not
27 arise out of and in the course of employment even though the
28 employer pays some or all of the costs thereof.

29 Any injury to or death of an employee arising from the
30 administration of a vaccine to the employee as part of a
31 voluntary inoculation program sponsored or recommended by the

1 employee's employer or in connection with any governmental
2 program or recommendation for the inoculation of workers in
3 the employee's occupation, geographical area, or other
4 category that includes the employee is deemed to arise out of
5 and in the course of employment for all purposes under this
6 Act.

7 (Source: P.A. 81-1482.)

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

10 (820 ILCS 310/1) (from Ch. 48, par. 172.36)

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

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

15 1. The State and each county, city, town, township,
16 incorporated village, school district, body politic, or
17 municipal corporation therein.

18 2. Every person, firm, public or private corporation,
19 including hospitals, public service, eleemosynary, religious
20 or charitable corporations or associations, who has any
21 person in service or under any contract for hire, express or
22 implied, oral or written.

23 3. Where an employer operating under and subject to the
24 provisions of this Act loans an employee to another such
25 employer and such loaned employee sustains a compensable
26 occupational disease in the employment of such borrowing
27 employer and where such borrowing employer does not provide
28 or pay the benefits or payments due such employee, such
29 loaning employer shall be liable to provide or pay all
30 benefits or payments due such employee under this Act and as
31 to such employee the liability of such loaning and borrowing
32 employers shall be joint and several, provided that such

1 loaning employer shall in the absence of agreement to the
2 contrary be entitled to receive from such borrowing employer
3 full reimbursement for all sums paid or incurred pursuant to
4 this paragraph together with reasonable attorneys' fees and
5 expenses in any hearings before the Industrial Commission or
6 in any action to secure such reimbursement. Where any
7 benefit is provided or paid by such loaning employer, the
8 employee shall have the duty of rendering reasonable
9 co-operation in any hearings, trials or proceedings in the
10 case, including such proceedings for reimbursement.

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

24 An employer whose business or enterprise or a substantial
25 part thereof consists of hiring, procuring or furnishing
26 employees to or for other employers operating under and
27 subject to the provisions of this Act for the performance of
28 the work of such other employers and who pays such employees
29 their salary or wage notwithstanding that they are doing the
30 work of such other employers shall be deemed a loaning
31 employer within the meaning and provisions of this Section.

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

34 1. Every person in the service of the State, county,

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

19 2. Every person in the service of another under any
20 contract of hire, express or implied, oral or written, who
21 contracts an occupational disease while working in the State
22 of Illinois, or who contracts an occupational disease while
23 working outside of the State of Illinois but where the
24 contract of hire is made within the State of Illinois, and
25 any person whose employment is principally localized within
26 the State of Illinois, regardless of the place where the
27 disease was contracted or place where the contract of hire
28 was made, including aliens, and minors who, for the purpose
29 of this Act, except Section 3 hereof, shall be considered the
30 same and have the same power to contract, receive payments
31 and give quittances therefor, as adult employees. An employee
32 or his or her dependents under this Act who shall have a
33 cause of action by reason of an occupational disease,
34 disablement or death arising out of and in the course of his

1 or her employment may elect or pursue his or her remedy in
2 the State where the disease was contracted, or in the State
3 where the contract of hire is made, or in the State where the
4 employment is principally localized.

5 (c) "Commission" means the Industrial Commission created
6 by the Workers' Compensation Act, approved July 9, 1951, as
7 amended.

8 (d) In this Act the term "Occupational Disease" means a
9 disease arising out of and in the course of the employment or
10 which has become aggravated and rendered disabling as a
11 result of the exposure of the employment. Such aggravation
12 shall arise out of a risk peculiar to or increased by the
13 employment and not common to the general public.

14 A disease shall be deemed to arise out of the employment
15 if there is apparent to the rational mind, upon consideration
16 of all the circumstances, a causal connection between the
17 conditions under which the work is performed and the
18 occupational disease. The disease need not to have been
19 foreseen or expected but after its contraction it must appear
20 to have had its origin or aggravation in a risk connected
21 with the employment and to have flowed from that source as a
22 rational consequence.

23 An employee shall be conclusively deemed to have been
24 exposed to the hazards of an occupational disease when, for
25 any length of time however short, he or she is employed in an
26 occupation or process in which the hazard of the disease
27 exists; provided however, that in a claim of exposure to
28 atomic radiation, the fact of such exposure must be verified
29 by the records of the central registry of radiation exposure
30 maintained by the Department of Public Health or by some
31 other recognized governmental agency maintaining records of
32 such exposures whenever and to the extent that the records
33 are on file with the Department of Public Health or the
34 agency.

1 Any disease or death of an employee arising from the
2 administration of a vaccine to the employee as part of a
3 voluntary inoculation program sponsored or recommended by the
4 employee's employer or in connection with any governmental
5 program or recommendation for the inoculation of workers in
6 the employee's occupation, geographical area, or other
7 category that includes the employee is deemed to arise out of
8 and in the course of employment for all purposes under this
9 Act.

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

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

30 The insurance carrier liable shall be the carrier whose
31 policy was in effect covering the employer liable on the last
32 day of the exposure rendering such employer liable in
33 accordance with the provisions of this Act.

34 (e) "Disablement" means an impairment or partial

1 impairment, temporary or permanent, in the function of the
2 body or any of the members of the body, or the event of
3 becoming disabled from earning full wages at the work in
4 which the employee was engaged when last exposed to the
5 hazards of the occupational disease by the employer from whom
6 he or she claims compensation, or equal wages in other
7 suitable employment; and "disability" means the state of
8 being so incapacitated.

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

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

22 Section 99. Effective date. This Act takes effect upon
23 becoming law.