

SB3326



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB3326

Introduced 2/10/2010, by Sen. Randall M. Hultgren

SYNOPSIS AS INTRODUCED:

820 ILCS 305/8

from Ch. 48, par. 138.8

Amends the Workers' Compensation Act. Makes a technical change to a Section concerning compensation.

LRB096 20517 WGH 36202 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 ~~The~~ amount of compensation which shall be paid
8 to the employee for an accidental injury not resulting in death
9 is:

10 (a) The employer shall provide and pay the negotiated rate,
11 if applicable, or the lesser of the health care provider's
12 actual charges or according to a fee schedule, subject to
13 Section 8.2, in effect at the time the service was rendered for
14 all the necessary first aid, medical and surgical services, and
15 all necessary medical, surgical and hospital services
16 thereafter incurred, limited, however, to that which is
17 reasonably required to cure or relieve from the effects of the
18 accidental injury. If the employer does not dispute payment of
19 first aid, medical, surgical, and hospital services, the
20 employer shall make such payment to the provider on behalf of
21 the employee. The employer shall also pay for treatment,
22 instruction and training necessary for the physical, mental and
23 vocational rehabilitation of the employee, including all

1 maintenance costs and expenses incidental thereto. If as a
2 result of the injury the employee is unable to be
3 self-sufficient the employer shall further pay for such
4 maintenance or institutional care as shall be required.

5 The employee may at any time elect to secure his own
6 physician, surgeon and hospital services at the employer's
7 expense, or,

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

1 field for which treatment is required. If the employee refuses
2 to make such change the Commission may relieve the employer of
3 his obligation to pay the doctor's charges from the date of
4 refusal to the date of compliance.

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

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

21 When the employee is working light duty on a part-time
22 basis or full-time basis and earns less than he or she would be
23 earning if employed in the full capacity of the job or jobs,
24 then the employee shall be entitled to temporary partial
25 disability benefits. Temporary partial disability benefits
26 shall be equal to two-thirds of the difference between the

1 average amount that the employee would be able to earn in the
2 full performance of his or her duties in the occupation in
3 which he or she was engaged at the time of accident and the net
4 amount which he or she is earning in the modified job provided
5 to the employee by the employer or in any other job that the
6 employee is working.

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

14 Notwithstanding the foregoing, the employer's liability to
15 pay for such medical services selected by the employee shall be
16 limited to:

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

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

25 (3) all medical, surgical and hospital services
26 provided by any second physician, surgeon or hospital

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

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

26 Where the accidental injury results in the amputation of an

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

15 The furnishing by the employer of any such services or
16 appliances is not an admission of liability on the part of the
17 employer to pay compensation.

18 The furnishing of any such services or appliances or the
19 servicing thereof by the employer is not the payment of
20 compensation.

21 (b) If the period of temporary total incapacity for work
22 lasts more than 3 working days, weekly compensation as
23 hereinafter provided shall be paid beginning on the 4th day of
24 such temporary total incapacity and continuing as long as the
25 total temporary incapacity lasts. In cases where the temporary
26 total incapacity for work continues for a period of 14 days or

1 more from the day of the accident compensation shall commence
2 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, whichever
10 is more, multiplied by 40 hours. This percentage rate shall
11 be increased by 10% for each spouse and child, not to
12 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 under
21 paragraph (e), of this Section shall be equal to 66 2/3% of
22 the employee's average weekly wage computed in accordance
23 with the provisions of Section 10, provided that it shall
24 be not less than 66 2/3% of the sum of the Federal minimum
25 wage under the Fair Labor Standards Act, or the Illinois
26 minimum wage under the Minimum Wage Law, whichever is more,

1 multiplied by 40 hours. This percentage rate shall be
2 increased by 10% for each spouse and child, not to exceed
3 100% 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,

20 nor exceed the employee's average weekly wage computed in
21 accordance with the provisions of Section 10, whichever is
22 less.

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

1 the employee stood in loco parentis, and who at the time of
2 the accident was under 18 years of age and not emancipated.
3 The term "children" means the plural of "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, 1975,
8 except as hereinafter provided, shall be 100% of the
9 State's average weekly wage in covered industries under the
10 Unemployment Insurance Act, that being the wage that most
11 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 weekly
23 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 an
21 eye under paragraph (e) of this Section shall be increased
22 to 133-1/3% of the State's average weekly wage in covered
23 industries under the Unemployment Insurance Act.

24 For injuries occurring on or after February 1, 2006,
25 the maximum weekly benefit under paragraph (d)1 of this
26 Section shall be 100% of the State's average weekly wage in

1 covered industries under the Unemployment Insurance Act.

2 4.1. Any provision herein to the contrary
3 notwithstanding, the weekly compensation rate for
4 compensation payments under subparagraph 18 of paragraph
5 (e) of this Section and under paragraph (f) of this Section
6 and under paragraph (a) of Section 7 and for amputation of
7 a member or enucleation of an eye under paragraph (e) of
8 this Section, shall in no event be less than 50% of the
9 State's average weekly wage in covered industries under the
10 Unemployment Insurance Act.

11 4.2. Any provision to the contrary notwithstanding,
12 the total compensation payable under Section 7 shall not
13 exceed the greater of \$500,000 or 25 years.

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

20 6. The Department of Employment Security of the State
21 shall on or before the first day of December, 1977, and on
22 or before the first day of June, 1978, and on the first day
23 of each December and June of each year thereafter, publish
24 the State's average weekly wage in covered industries under
25 the Unemployment Insurance Act and the Illinois Workers'
26 Compensation Commission shall on the 15th day of January,

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

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

14 (c) For any serious and permanent disfigurement to the
15 hand, head, face, neck, arm, leg below the knee or the chest
16 above the axillary line, the employee is entitled to
17 compensation for such disfigurement, the amount determined by
18 agreement at any time or by arbitration under this Act, at a
19 hearing not less than 6 months after the date of the accidental
20 injury, which amount shall not exceed 150 weeks (if the
21 accidental injury occurs on or after the effective date of this
22 amendatory Act of the 94th General Assembly but before February
23 1, 2006) or 162 weeks (if the accidental injury occurs on or
24 after February 1, 2006) at the applicable rate provided in
25 subparagraph 2.1 of paragraph (b) of this Section.

26 No compensation is payable under this paragraph where

1 compensation is payable under paragraphs (d), (e) or (f) of
2 this Section.

3 A duly appointed member of a fire department in a city, the
4 population of which exceeds 200,000 according to the last
5 federal or State census, is eligible for compensation under
6 this paragraph only where such serious and permanent
7 disfigurement results from burns.

8 (d) 1. If, after the accidental injury has been sustained,
9 the employee as a result thereof becomes partially
10 incapacitated from pursuing his usual and customary line of
11 employment, he shall, except in cases compensated under the
12 specific schedule set forth in paragraph (e) of this Section,
13 receive compensation for the duration of his disability,
14 subject to the limitations as to maximum amounts fixed in
15 paragraph (b) of this Section, equal to 66-2/3% of the
16 difference between the average amount which he would be able to
17 earn in the full performance of his duties in the occupation in
18 which he was engaged at the time of the accident and the
19 average amount which he is earning or is able to earn in some
20 suitable employment or business after the accident.

21 2. If, as a result of the accident, the employee sustains
22 serious and permanent injuries not covered by paragraphs (c)
23 and (e) of this Section or having sustained injuries covered by
24 the aforesaid paragraphs (c) and (e), he shall have sustained
25 in addition thereto other injuries which injuries do not
26 incapacitate him from pursuing the duties of his employment but

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

1 under this Section shall be not less than 10 weeks for each
2 such organ. Compensation awarded under this subparagraph 2
3 shall not take into consideration injuries covered under
4 paragraphs (c) and (e) of this Section and the compensation
5 provided in this paragraph shall not affect the employee's
6 right to compensation payable under paragraphs (b), (c) and (e)
7 of this Section for the disabilities therein covered.

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

18 1. Thumb-

19 70 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 76 weeks if the accidental injury occurs on or
23 after February 1, 2006.

24 2. First, or index finger-

25 40 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 43 weeks if the accidental injury occurs on or
3 after February 1, 2006.

4 3. Second, or middle finger-

5 35 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 38 weeks if the accidental injury occurs on or
9 after February 1, 2006.

10 4. Third, or ring finger-

11 25 weeks if the accidental injury occurs on or
12 after the effective date of this amendatory Act of the
13 94th General Assembly but before February 1, 2006.

14 27 weeks if the accidental injury occurs on or
15 after February 1, 2006.

16 5. Fourth, or little finger-

17 20 weeks if the accidental injury occurs on or
18 after the effective date of this amendatory Act of the
19 94th General Assembly but before February 1, 2006.

20 22 weeks if the accidental injury occurs on or
21 after February 1, 2006.

22 6. Great toe-

23 35 weeks if the accidental injury occurs on or
24 after the effective date of this amendatory Act of the
25 94th General Assembly but before February 1, 2006.

26 38 weeks if the accidental injury occurs on or

1 after February 1, 2006.

2 7. Each toe other than great toe-

3 12 weeks if the accidental injury occurs on or
4 after the effective date of this amendatory Act of the
5 94th General Assembly but before February 1, 2006.

6 13 weeks if the accidental injury occurs on or
7 after February 1, 2006.

8 8. The loss of the first or distal phalanx of the thumb
9 or of any finger or toe shall be considered to be equal to
10 the loss of one-half of such thumb, finger or toe and the
11 compensation payable shall be one-half of the amount above
12 specified. The loss of more than one phalanx shall be
13 considered as the loss of the entire thumb, finger or toe.
14 In no case shall the amount received for more than one
15 finger exceed the amount provided in this schedule for the
16 loss of a hand.

17 9. Hand-

18 190 weeks if the accidental injury occurs on or
19 after the effective date of this amendatory Act of the
20 94th General Assembly but before February 1, 2006.

21 205 weeks if the accidental injury occurs on or
22 after February 1, 2006.

23 The loss of 2 or more digits, or one or more phalanges
24 of 2 or more digits, of a hand may be compensated on the
25 basis of partial loss of use of a hand, provided, further,
26 that the loss of 4 digits, or the loss of use of 4 digits,

1 in the same hand shall constitute the complete loss of a
2 hand.

3 10. Arm-

4 235 weeks if the accidental injury occurs on or
5 after the effective date of this amendatory Act of the
6 94th General Assembly but before February 1, 2006.

7 253 weeks if the accidental injury occurs on or
8 after February 1, 2006.

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

1 shall be paid.

2 11. Foot-

3 155 weeks if the accidental injury occurs on or
4 after the effective date of this amendatory Act of the
5 94th General Assembly but before February 1, 2006.

6 167 weeks if the accidental injury occurs on or
7 after February 1, 2006.

8 12. Leg-

9 200 weeks if the accidental injury occurs on or
10 after the effective date of this amendatory Act of the
11 94th General Assembly but before February 1, 2006.

12 215 weeks if the accidental injury occurs on or
13 after February 1, 2006.

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

1 additional 75 weeks (if the accidental injury occurs on or
2 after the effective date of this amendatory Act of the 94th
3 General Assembly but before February 1, 2006) or an
4 additional 81 weeks (if the accidental injury occurs on or
5 after February 1, 2006) shall be paid.

6 13. Eye-

7 150 weeks if the accidental injury occurs on or
8 after the effective date of this amendatory Act of the
9 94th General Assembly but before February 1, 2006.

10 162 weeks if the accidental injury occurs on or
11 after February 1, 2006.

12 Where an accidental injury results in the enucleation
13 of an eye, compensation for an additional 10 weeks (if the
14 accidental injury occurs on or after the effective date of
15 this amendatory Act of the 94th General Assembly but before
16 February 1, 2006) or an additional 11 weeks (if the
17 accidental injury occurs on or after February 1, 2006)
18 shall be paid.

19 14. Loss of hearing of one ear-

20 50 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 54 weeks if the accidental injury occurs on or
24 after February 1, 2006.

25 Total and permanent loss of hearing of both ears-

26 200 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.

3 215 weeks if the accidental injury occurs on or
4 after February 1, 2006.

5 15. Testicle-

6 50 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 54 weeks if the accidental injury occurs on or
10 after February 1, 2006.

11 Both testicles-

12 150 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.

15 162 weeks if the accidental injury occurs on or
16 after February 1, 2006.

17 16. For the permanent partial loss of use of a member
18 or sight of an eye, or hearing of an ear, compensation
19 during that proportion of the number of weeks in the
20 foregoing schedule provided for the loss of such member or
21 sight of an eye, or hearing of an ear, which the partial
22 loss of use thereof bears to the total loss of use of such
23 member, or sight of eye, or hearing of an ear.

24 (a) Loss of hearing for compensation purposes
25 shall be confined to the frequencies of 1,000, 2,000
26 and 3,000 cycles per second. Loss of hearing ability

1 for frequency tones above 3,000 cycles per second are
2 not to be considered as constituting disability for
3 hearing.

4 (b) The percent of hearing loss, for purposes of
5 the determination of compensation claims for
6 occupational deafness, shall be calculated as the
7 average in decibels for the thresholds of hearing for
8 the frequencies of 1,000, 2,000 and 3,000 cycles per
9 second. Pure tone air conduction audiometric
10 instruments, approved by nationally recognized
11 authorities in this field, shall be used for measuring
12 hearing loss. If the losses of hearing average 30
13 decibels or less in the 3 frequencies, such losses of
14 hearing shall not then constitute any compensable
15 hearing disability. If the losses of hearing average 85
16 decibels or more in the 3 frequencies, then the same
17 shall constitute and be total or 100% compensable
18 hearing loss.

19 (c) In measuring hearing impairment, the lowest
20 measured losses in each of the 3 frequencies shall be
21 added together and divided by 3 to determine the
22 average decibel loss. For every decibel of loss
23 exceeding 30 decibels an allowance of 1.82% shall be
24 made up to the maximum of 100% which is reached at 85
25 decibels.

26 (d) If a hearing loss is established to have

1 existed on July 1, 1975 by audiometric testing the
2 employer shall not be liable for the previous loss so
3 established nor shall he be liable for any loss for
4 which compensation has been paid or awarded.

5 (e) No consideration shall be given to the question
6 of whether or not the ability of an employee to
7 understand speech is improved by the use of a hearing
8 aid.

9 (f) No claim for loss of hearing due to industrial
10 noise shall be brought against an employer or allowed
11 unless the employee has been exposed for a period of
12 time sufficient to cause permanent impairment to noise
13 levels in excess of the following:

14 Sound Level DBA

15	Slow Response	Hours Per Day
16	90	8
17	92	6
18	95	4
19	97	3
20	100	2
21	102	1-1/2
22	105	1
23	110	1/2
24	115	1/4

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

1 17. In computing the compensation to be paid to any
2 employee who, before the accident for which he claims
3 compensation, had before that time sustained an injury
4 resulting in the loss by amputation or partial loss by
5 amputation of any member, including hand, arm, thumb or
6 fingers, leg, foot or any toes, such loss or partial loss
7 of any such member shall be deducted from any award made
8 for the subsequent injury. For the permanent loss of use or
9 the permanent partial loss of use of any such member or the
10 partial loss of sight of an eye, for which compensation has
11 been paid, then such loss shall be taken into consideration
12 and deducted from any award for the subsequent injury.

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

20 Any employee who has previously suffered the loss or
21 permanent and complete loss of the use of any of such
22 members, and in a subsequent independent accident loses
23 another or suffers the permanent and complete loss of the
24 use of any one of such members the employer for whom the
25 injured employee is working at the time of the last
26 independent accident is liable to pay compensation only for

1 the loss or permanent and complete loss of the use of the
2 member occasioned by the last independent accident.

3 19. In a case of specific loss and the subsequent death
4 of such injured employee from other causes than such injury
5 leaving a widow, widower, or dependents surviving before
6 payment or payment in full for such injury, then the amount
7 due for such injury is payable to the widow or widower and,
8 if there be no widow or widower, then to such dependents,
9 in the proportion which such dependency bears to total
10 dependency.

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

1 Commission thereafter either by settlement agreement or final
2 order, irrespective of the date of the accidental injury.

3 On August 1, 1996 and on February 1 and August 1 of each
4 subsequent year, the Commission shall examine the special fund
5 designated as the "Rate Adjustment Fund" and when, after
6 deducting all advances or loans made to said fund, the amount
7 therein is \$4,000,000, the amount required to be paid by
8 employers pursuant to paragraph (f) of Section 7 shall be
9 reduced by one-half. When the Rate Adjustment Fund reaches the
10 sum of \$5,000,000 the payment therein shall cease entirely.
11 However, when said Rate Adjustment Fund has been reduced to
12 \$3,000,000 the amounts required by paragraph (f) of Section 7
13 shall be resumed in the manner herein provided.

14 (f) In case of complete disability, which renders the
15 employee wholly and permanently incapable of work, or in the
16 specific case of total and permanent disability as provided in
17 subparagraph 18 of paragraph (e) of this Section, compensation
18 shall be payable at the rate provided in subparagraph 2 of
19 paragraph (b) of this Section for life.

20 An employee entitled to benefits under paragraph (f) of
21 this Section shall also be entitled to receive from the Rate
22 Adjustment Fund provided in paragraph (f) of Section 7 of the
23 supplementary benefits provided in paragraph (g) of this
24 Section 8.

25 If any employee who receives an award under this paragraph
26 afterwards returns to work or is able to do so, and earns or is

1 able to earn as much as before the accident, payments under
2 such award shall cease. If such employee returns to work, or is
3 able to do so, and earns or is able to earn part but not as much
4 as before the accident, such award shall be modified so as to
5 conform to an award under paragraph (d) of this Section. If
6 such award is terminated or reduced under the provisions of
7 this paragraph, such employees have the right at any time
8 within 30 months after the date of such termination or
9 reduction to file petition with the Commission for the purpose
10 of determining whether any disability exists as a result of the
11 original accidental injury and the extent thereof.

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

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

1 Section.

2 The custodian of the Second Injury Fund provided for in
3 paragraph (f) of Section 7 shall be joined with the employer as
4 a party respondent in the application for adjustment of claim.
5 The application for adjustment of claim shall state briefly and
6 in general terms the approximate time and place and manner of
7 the loss of the first member.

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

1 Injury Fund is appropriated for the purpose of making payments
2 according to the terms of the awards.

3 As of July 1, 1980 to July 1, 1982, all claims against and
4 obligations of the Second Injury Fund shall become claims
5 against and obligations of the Rate Adjustment Fund to the
6 extent there is insufficient money in the Second Injury Fund to
7 pay such claims and obligations. In that case, all references
8 to "Second Injury Fund" in this Section shall also include the
9 Rate Adjustment Fund.

10 (g) Every award for permanent total disability entered by
11 the Commission on and after July 1, 1965 under which
12 compensation payments shall become due and payable after the
13 effective date of this amendatory Act, and every award for
14 death benefits or permanent total disability entered by the
15 Commission on and after the effective date of this amendatory
16 Act shall be subject to annual adjustments as to the amount of
17 the compensation rate therein provided. Such adjustments shall
18 first be made on July 15, 1977, and all awards made and entered
19 prior to July 1, 1975 and on July 15 of each year thereafter.
20 In all other cases such adjustment shall be made on July 15 of
21 the second year next following the date of the entry of the
22 award and shall further be made on July 15 annually thereafter.
23 If during the intervening period from the date of the entry of
24 the award, or the last periodic adjustment, there shall have
25 been an increase in the State's average weekly wage in covered
26 industries under the Unemployment Insurance Act, the weekly

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

23 Provided, that in cases of awards entered by the Commission
24 for injuries occurring before July 1, 1975, the increases in
25 the compensation rate adjusted under the foregoing provision of
26 this paragraph (g) shall be limited to increases in the State's

1 average weekly wage in covered industries under the
2 Unemployment Insurance Act occurring after July 1, 1975.

3 For every accident occurring on or after July 20, 2005 but
4 before the effective date of this amendatory Act of the 94th
5 General Assembly (Senate Bill 1283 of the 94th General
6 Assembly), the annual adjustments to the compensation rate in
7 awards for death benefits or permanent total disability, as
8 provided in this Act, shall be paid by the employer. The
9 adjustment shall be made by the employer on July 15 of the
10 second year next following the date of the entry of the award
11 and shall further be made on July 15 annually thereafter. If
12 during the intervening period from the date of the entry of the
13 award, or the last periodic adjustment, there shall have been
14 an increase in the State's average weekly wage in covered
15 industries under the Unemployment Insurance Act, the employer
16 shall increase the weekly compensation rate proportionately by
17 the same percentage as the percentage of increase in the
18 State's average weekly wage in covered industries under the
19 Unemployment Insurance Act. The increase in the compensation
20 rate under this paragraph shall in no event bring the total
21 compensation rate to an amount greater than the prevailing
22 maximum rate at the time that the annual adjustment is made. In
23 the event of a decrease in such average weekly wage there shall
24 be no change in the then existing compensation rate. Such
25 increase shall be paid by the employer in the same manner and
26 at the same intervals as the payment of compensation in the

1 award. This paragraph shall not apply to cases where there is
2 disputed liability and in which a compromise lump sum
3 settlement between the employer and the injured employee, or
4 his or her dependents, as the case may be, has been duly
5 approved by the Illinois Workers' Compensation Commission.

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

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

22 (h-1) In case an injured employee is under legal disability
23 at the time when any right or privilege accrues to him or her
24 under this Act, a guardian may be appointed pursuant to law,
25 and may, on behalf of such person under legal disability, claim
26 and exercise any such right or privilege with the same effect

1 as if the employee himself or herself had claimed or exercised
2 the right or privilege. No limitations of time provided by this
3 Act run so long as the employee who is under legal disability
4 is without a conservator or guardian.

5 (i) In case the injured employee is under 16 years of age
6 at the time of the accident and is illegally employed, the
7 amount of compensation payable under paragraphs (b), (c), (d),
8 (e) and (f) of this Section is increased 50%.

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

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

19 (j) 1. In the event the injured employee receives benefits,
20 including medical, surgical or hospital benefits under any
21 group plan covering non-occupational disabilities contributed
22 to wholly or partially by the employer, which benefits should
23 not have been payable if any rights of recovery existed under
24 this Act, then such amounts so paid to the employee from any
25 such group plan as shall be consistent with, and limited to,
26 the provisions of paragraph 2 hereof, shall be credited to or

1 against any compensation payment for temporary total
2 incapacity for work or any medical, surgical or hospital
3 benefits made or to be made under this Act. In such event, the
4 period of time for giving notice of accidental injury and
5 filing application for adjustment of claim does not commence to
6 run until the termination of such payments. This paragraph does
7 not apply to payments made under any group plan which would
8 have been payable irrespective of an accidental injury under
9 this Act. Any employer receiving such credit shall keep such
10 employee safe and harmless from any and all claims or
11 liabilities that may be made against him by reason of having
12 received such payments only to the extent of such credit.

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

23 2. Nothing contained in this Act shall be construed to give
24 the employer or the insurance carrier the right to credit for
25 any benefits or payments received by the employee other than
26 compensation payments provided by this Act, and where the

1 employee receives payments other than compensation payments,
2 whether as full or partial salary, group insurance benefits,
3 bonuses, annuities or any other payments, the employer or
4 insurance carrier shall receive credit for each such payment
5 only to the extent of the compensation that would have been
6 payable during the period covered by such payment.

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

15 (Source: P.A. 93-721, eff. 1-1-05; 94-277, eff. 7-20-05;
16 94-695, eff. 11-16-05.)