



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB2155

Introduced 2/10/2011, by Sen. Bill Brady

SYNOPSIS AS INTRODUCED:

820 ILCS 305/8	from Ch. 48, par. 138.8
820 ILCS 305/11	from Ch. 48, par. 138.11
820 ILCS 305/19	from Ch. 48, par. 138.19
820 ILCS 305/25.5	

Amends the Workers' Compensation Act. Provides that the maximum weekly benefit if, after the accidental injury, an employee becomes partially incapacitated from pursuing his or her usual and customary line of employment, shall be 66 2/3% of the State's average weekly wage in covered industries under the Unemployment Insurance Act; such awards being known as wage differential awards shall cease when the employee reaches age 67 or 15 years after the accident. Provides that permanent partial or total disability shall be certified by a physician and demonstrated by use of medically defined objective measurements, that subjective complaints shall not be considered unless supported by and clearly related to objective measurements, and that a specified publication shall be applied in determining the level of disability. Provides that temporary total disability payments shall not exceed 104 weeks if the injured employee's medical impairment rating determined as a percentage of the whole person is less than 70%. Provides that the Illinois Workers' Compensation Commission may recall a decision or settlement when fraud has been determined to be committed related to the case. Provides that the fraud and insurance non-compliance unit of the Division of Insurance of the Department of Financial and Professional Regulation shall employ one or more attorneys as special prosecutors who shall initiate and prosecute any necessary criminal or civil actions. Makes numerous changes regarding employee intoxication, the Attorney General and State's Attorney, posting information on the web regarding unlawful acts, and other changes.

LRB097 10093 AEK 50272 b

FISCAL NOTE ACT
MAY APPLY

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 Sections 8, 11, 19, and 25.5 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 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
4 gross ~~net~~ amount which he or she is earning in the modified job
5 provided to the employee by the employer or in any other job
6 that the 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 For injuries occurring on or after the effective date of
3 this amendatory Act of the 97th General Assembly, the
4 maximum weekly benefit under paragraph (d)1 of this Section
5 shall be 66 2/3% of the State's average weekly wage in
6 covered industries under the Unemployment Insurance Act.

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

16 4.2. Any provision to the contrary notwithstanding,
17 the total compensation payable under Section 7 shall not
18 exceed the greater of \$500,000 or 25 years.

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

25 6. The Department of Employment Security of the State
26 shall on or before the first day of December, 1977, and on

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

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

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

1 amendatory Act of the 94th General Assembly but before February
2 1, 2006) or 162 weeks (if the accidental injury occurs on or
3 after February 1, 2006) at the applicable rate provided in
4 subparagraph 2.1 of paragraph (b) of this Section.

5 No compensation is payable under this paragraph where
6 compensation is payable under paragraphs (d), (e) or (f) of
7 this Section.

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

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

1 amendatory Act of the 97th General Assembly, awards made
2 pursuant to this subparagraph shall be known as a wage
3 differential award and shall cease when the employee reaches
4 age 67 or 15 years after the accident, whichever comes first.

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

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

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

1 specified, such compensation for the length of time as follows:

2 1. Thumb-

3 70 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 76 weeks if the accidental injury occurs on or
7 after February 1, 2006.

8 2. First, or index finger-

9 40 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 43 weeks if the accidental injury occurs on or
13 after February 1, 2006.

14 3. Second, or middle finger-

15 35 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.

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

20 4. Third, or ring finger-

21 25 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 27 weeks if the accidental injury occurs on or
25 after February 1, 2006.

26 5. Fourth, or little finger-

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

6 6. Great toe-

7 35 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 38 weeks if the accidental injury occurs on or
11 after February 1, 2006.

12 7. Each toe other than great toe-

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

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

1 9. Hand-

2 190 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.

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

7 The loss of 2 or more digits, or one or more phalanges
8 of 2 or more digits, of a hand may be compensated on the
9 basis of partial loss of use of a hand, provided, further,
10 that the loss of 4 digits, or the loss of use of 4 digits,
11 in the same hand shall constitute the complete loss of a
12 hand.

13 10. Arm-

14 235 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.

17 253 weeks if the accidental injury occurs on or
18 after February 1, 2006.

19 Where an accidental injury results in the amputation of
20 an arm below the elbow, such injury shall be compensated as
21 a loss of an arm. Where an accidental injury results in the
22 amputation of an arm above the elbow, compensation for an
23 additional 15 weeks (if the accidental injury occurs on or
24 after the effective date of this amendatory Act of the 94th
25 General Assembly but before February 1, 2006) or an
26 additional 17 weeks (if the accidental injury occurs on or

1 after February 1, 2006) shall be paid, except where the
2 accidental injury results in the amputation of an arm at
3 the shoulder joint, or so close to shoulder joint that an
4 artificial arm cannot be used, or results in the
5 disarticulation of an arm at the shoulder joint, in which
6 case compensation for an additional 65 weeks (if the
7 accidental injury occurs on or after the effective date of
8 this amendatory Act of the 94th General Assembly but before
9 February 1, 2006) or an additional 70 weeks (if the
10 accidental injury occurs on or after February 1, 2006)
11 shall be paid.

12 11. Foot-

13 155 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.

16 167 weeks if the accidental injury occurs on or
17 after February 1, 2006.

18 12. Leg-

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 Where an accidental injury results in the amputation of
25 a leg below the knee, such injury shall be compensated as
26 loss of a leg. Where an accidental injury results in the

1 amputation of a leg above the knee, compensation for an
2 additional 25 weeks (if the accidental injury occurs on or
3 after the effective date of this amendatory Act of the 94th
4 General Assembly but before February 1, 2006) or an
5 additional 27 weeks (if the accidental injury occurs on or
6 after February 1, 2006) shall be paid, except where the
7 accidental injury results in the amputation of a leg at the
8 hip joint, or so close to the hip joint that an artificial
9 leg cannot be used, or results in the disarticulation of a
10 leg at the hip joint, in which case compensation for an
11 additional 75 weeks (if the accidental injury occurs on or
12 after the effective date of this amendatory Act of the 94th
13 General Assembly but before February 1, 2006) or an
14 additional 81 weeks (if the accidental injury occurs on or
15 after February 1, 2006) shall be paid.

16 13. Eye-

17 150 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.

20 162 weeks if the accidental injury occurs on or
21 after February 1, 2006.

22 Where an accidental injury results in the enucleation
23 of an eye, compensation for an additional 10 weeks (if the
24 accidental injury occurs on or after the effective date of
25 this amendatory Act of the 94th General Assembly but before
26 February 1, 2006) or an additional 11 weeks (if the

1 accidental injury occurs on or after February 1, 2006)
2 shall be paid.

3 14. Loss of hearing of one ear-

4 50 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 54 weeks if the accidental injury occurs on or
8 after February 1, 2006.

9 Total and permanent loss of hearing of both ears-

10 200 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.

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

15 15. Testicle-

16 50 weeks if the accidental injury occurs on or
17 after the effective date of this amendatory Act of the
18 94th General Assembly but before February 1, 2006.

19 54 weeks if the accidental injury occurs on or
20 after February 1, 2006.

21 Both testicles-

22 150 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.

25 162 weeks if the accidental injury occurs on or
26 after February 1, 2006.

1 16. For the permanent partial loss of use of a member
2 or sight of an eye, or hearing of an ear, compensation
3 during that proportion of the number of weeks in the
4 foregoing schedule provided for the loss of such member or
5 sight of an eye, or hearing of an ear, which the partial
6 loss of use thereof bears to the total loss of use of such
7 member, or sight of eye, or hearing of an ear.

8 (a) Loss of hearing for compensation purposes
9 shall be confined to the frequencies of 1,000, 2,000
10 and 3,000 cycles per second. Loss of hearing ability
11 for frequency tones above 3,000 cycles per second are
12 not to be considered as constituting disability for
13 hearing.

14 (b) The percent of hearing loss, for purposes of
15 the determination of compensation claims for
16 occupational deafness, shall be calculated as the
17 average in decibels for the thresholds of hearing for
18 the frequencies of 1,000, 2,000 and 3,000 cycles per
19 second. Pure tone air conduction audiometric
20 instruments, approved by nationally recognized
21 authorities in this field, shall be used for measuring
22 hearing loss. If the losses of hearing average 30
23 decibels or less in the 3 frequencies, such losses of
24 hearing shall not then constitute any compensable
25 hearing disability. If the losses of hearing average 85
26 decibels or more in the 3 frequencies, then the same

1 shall constitute and be total or 100% compensable
2 hearing loss.

3 (c) In measuring hearing impairment, the lowest
4 measured losses in each of the 3 frequencies shall be
5 added together and divided by 3 to determine the
6 average decibel loss. For every decibel of loss
7 exceeding 30 decibels an allowance of 1.82% shall be
8 made up to the maximum of 100% which is reached at 85
9 decibels.

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

15 (e) No consideration shall be given to the question
16 of whether or not the ability of an employee to
17 understand speech is improved by the use of a hearing
18 aid.

19 (f) No claim for loss of hearing due to industrial
20 noise shall be brought against an employer or allowed
21 unless the employee has been exposed for a period of
22 time sufficient to cause permanent impairment to noise
23 levels in excess of the following:

24 Sound Level DBA

25 Slow Response

Hours Per Day

26 90

8

1	92	6
2	95	4
3	97	3
4	100	2
5	102	1-1/2
6	105	1
7	110	1/2
8	115	1/4

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

11 17. In computing the compensation to be paid to any
12 employee who, before the accident for which he claims
13 compensation, had before that time sustained an injury
14 resulting in the loss by amputation or partial loss by
15 amputation of any member, including hand, arm, thumb or
16 fingers, leg, foot or any toes, such loss or partial loss
17 of any such member shall be deducted from any award made
18 for the subsequent injury. For the permanent loss of use or
19 the permanent partial loss of use of any such member or the
20 partial loss of sight of an eye, for which compensation has
21 been paid, then such loss shall be taken into consideration
22 and deducted from any award for the subsequent injury.

23 18. The specific case of loss of both hands, both arms,
24 or both feet, or both legs, or both eyes, or of any two
25 thereof, or the permanent and complete loss of the use
26 thereof, constitutes total and permanent disability, to be

1 compensated according to the compensation fixed by
2 paragraph (f) of this Section. These specific cases of
3 total and permanent disability do not exclude other cases.

4 Any employee who has previously suffered the loss or
5 permanent and complete loss of the use of any of such
6 members, and in a subsequent independent accident loses
7 another or suffers the permanent and complete loss of the
8 use of any one of such members the employer for whom the
9 injured employee is working at the time of the last
10 independent accident is liable to pay compensation only for
11 the loss or permanent and complete loss of the use of the
12 member occasioned by the last independent accident.

13 19. In a case of specific loss and the subsequent death
14 of such injured employee from other causes than such injury
15 leaving a widow, widower, or dependents surviving before
16 payment or payment in full for such injury, then the amount
17 due for such injury is payable to the widow or widower and,
18 if there be no widow or widower, then to such dependents,
19 in the proportion which such dependency bears to total
20 dependency.

21 Beginning July 1, 1980, and every 6 months thereafter, the
22 Commission shall examine the Second Injury Fund and when, after
23 deducting all advances or loans made to such Fund, the amount
24 therein is \$500,000 then the amount required to be paid by
25 employers pursuant to paragraph (f) of Section 7 shall be
26 reduced by one-half. When the Second Injury Fund reaches the

1 sum of \$600,000 then the payments shall cease entirely.
2 However, when the Second Injury Fund has been reduced to
3 \$400,000, payment of one-half of the amounts required by
4 paragraph (f) of Section 7 shall be resumed, in the manner
5 herein provided, and when the Second Injury Fund has been
6 reduced to \$300,000, payment of the full amounts required by
7 paragraph (f) of Section 7 shall be resumed, in the manner
8 herein provided. The Commission shall make the changes in
9 payment effective by general order, and the changes in payment
10 become immediately effective for all cases coming before the
11 Commission thereafter either by settlement agreement or final
12 order, irrespective of the date of the accidental injury.

13 On August 1, 1996 and on February 1 and August 1 of each
14 subsequent year, the Commission shall examine the special fund
15 designated as the "Rate Adjustment Fund" and when, after
16 deducting all advances or loans made to said fund, the amount
17 therein is \$4,000,000, the amount required to be paid by
18 employers pursuant to paragraph (f) of Section 7 shall be
19 reduced by one-half. When the Rate Adjustment Fund reaches the
20 sum of \$5,000,000 the payment therein shall cease entirely.
21 However, when said Rate Adjustment Fund has been reduced to
22 \$3,000,000 the amounts required by paragraph (f) of Section 7
23 shall be resumed in the manner herein provided.

24 (f) In case of complete disability, which renders the
25 employee wholly and permanently incapable of work, or in the
26 specific case of total and permanent disability as provided in

1 subparagraph 18 of paragraph (e) of this Section, compensation
2 shall be payable at the rate provided in subparagraph 2 of
3 paragraph (b) of this Section for life.

4 An employee entitled to benefits under paragraph (f) of
5 this Section shall also be entitled to receive from the Rate
6 Adjustment Fund provided in paragraph (f) of Section 7 of the
7 supplementary benefits provided in paragraph (g) of this
8 Section 8.

9 If any employee who receives an award under this paragraph
10 afterwards returns to work or is able to do so, and earns or is
11 able to earn as much as before the accident, payments under
12 such award shall cease. If such employee returns to work, or is
13 able to do so, and earns or is able to earn part but not as much
14 as before the accident, such award shall be modified so as to
15 conform to an award under paragraph (d) of this Section. If
16 such award is terminated or reduced under the provisions of
17 this paragraph, such employees have the right at any time
18 within 30 months after the date of such termination or
19 reduction to file petition with the Commission for the purpose
20 of determining whether any disability exists as a result of the
21 original accidental injury and the extent thereof.

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

24 If an employee who had previously incurred loss or the
25 permanent and complete loss of use of one member, through the
26 loss or the permanent and complete loss of the use of one hand,

1 one arm, one foot, one leg, or one eye, incurs permanent and
2 complete disability through the loss or the permanent and
3 complete loss of the use of another member, he shall receive,
4 in addition to the compensation payable by the employer and
5 after such payments have ceased, an amount from the Second
6 Injury Fund provided for in paragraph (f) of Section 7, which,
7 together with the compensation payable from the employer in
8 whose employ he was when the last accidental injury was
9 incurred, will equal the amount payable for permanent and
10 complete disability as provided in this paragraph of this
11 Section.

12 The custodian of the Second Injury Fund provided for in
13 paragraph (f) of Section 7 shall be joined with the employer as
14 a party respondent in the application for adjustment of claim.
15 The application for adjustment of claim shall state briefly and
16 in general terms the approximate time and place and manner of
17 the loss of the first member.

18 In its award the Commission or the Arbitrator shall
19 specifically find the amount the injured employee shall be
20 weekly paid, the number of weeks compensation which shall be
21 paid by the employer, the date upon which payments begin out of
22 the Second Injury Fund provided for in paragraph (f) of Section
23 7 of this Act, the length of time the weekly payments continue,
24 the date upon which the pension payments commence and the
25 monthly amount of the payments. The Commission shall 30 days
26 after the date upon which payments out of the Second Injury

1 Fund have begun as provided in the award, and every month
2 thereafter, prepare and submit to the State Comptroller a
3 voucher for payment for all compensation accrued to that date
4 at the rate fixed by the Commission. The State Comptroller
5 shall draw a warrant to the injured employee along with a
6 receipt to be executed by the injured employee and returned to
7 the Commission. The endorsed warrant and receipt is a full and
8 complete acquittance to the Commission for the payment out of
9 the Second Injury Fund. No other appropriation or warrant is
10 necessary for payment out of the Second Injury Fund. The Second
11 Injury Fund is appropriated for the purpose of making payments
12 according to the terms of the awards.

13 As of July 1, 1980 to July 1, 1982, all claims against and
14 obligations of the Second Injury Fund shall become claims
15 against and obligations of the Rate Adjustment Fund to the
16 extent there is insufficient money in the Second Injury Fund to
17 pay such claims and obligations. In that case, all references
18 to "Second Injury Fund" in this Section shall also include the
19 Rate Adjustment Fund.

20 (g) Every award for permanent total disability entered by
21 the Commission on and after July 1, 1965 under which
22 compensation payments shall become due and payable after the
23 effective date of this amendatory Act, and every award for
24 death benefits or permanent total disability entered by the
25 Commission on and after the effective date of this amendatory
26 Act shall be subject to annual adjustments as to the amount of

1 the compensation rate therein provided. Such adjustments shall
2 first be made on July 15, 1977, and all awards made and entered
3 prior to July 1, 1975 and on July 15 of each year thereafter.
4 In all other cases such adjustment shall be made on July 15 of
5 the second year next following the date of the entry of the
6 award and shall further be made on July 15 annually thereafter.
7 If during the intervening period from the date of the entry of
8 the award, or the last periodic adjustment, there shall have
9 been an increase in the State's average weekly wage in covered
10 industries under the Unemployment Insurance Act, the weekly
11 compensation rate shall be proportionately increased by the
12 same percentage as the percentage of increase in the State's
13 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.
18 Such increase shall be paid in the same manner as herein
19 provided for payments under the Second Injury Fund to the
20 injured employee, or his dependents, as the case may be, out of
21 the Rate Adjustment Fund provided in paragraph (f) of Section 7
22 of this Act. Payments shall be made at the same intervals as
23 provided in the award or, at the option of the Commission, may
24 be made in quarterly payment on the 15th day of January, April,
25 July and October of each year. In the event of a decrease in
26 such average weekly wage there shall be no change in the then

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

7 Provided, that in cases of awards entered by the Commission
8 for injuries occurring before July 1, 1975, the increases in
9 the compensation rate adjusted under the foregoing provision of
10 this paragraph (g) shall be limited to increases in the State's
11 average weekly wage in covered industries under the
12 Unemployment Insurance Act occurring after July 1, 1975.

13 For every accident occurring on or after July 20, 2005 but
14 before the effective date of this amendatory Act of the 94th
15 General Assembly (Senate Bill 1283 of the 94th General
16 Assembly), the annual adjustments to the compensation rate in
17 awards for death benefits or permanent total disability, as
18 provided in this Act, shall be paid by the employer. The
19 adjustment shall be made by the employer on July 15 of the
20 second year next following the date of the entry of the award
21 and shall further be made on July 15 annually thereafter. If
22 during the intervening period from the date of the entry of the
23 award, or the last periodic adjustment, there shall have been
24 an increase in the State's average weekly wage in covered
25 industries under the Unemployment Insurance Act, the employer
26 shall increase the weekly compensation rate proportionately by

1 the same percentage as the percentage of increase in the
2 State's average weekly wage in covered industries under the
3 Unemployment Insurance Act. The increase in the compensation
4 rate under this paragraph shall in no event bring the total
5 compensation rate to an amount greater than the prevailing
6 maximum rate at the time that the annual adjustment is made. In
7 the event of a decrease in such average weekly wage there shall
8 be no change in the then existing compensation rate. Such
9 increase shall be paid by the employer in the same manner and
10 at the same intervals as the payment of compensation in the
11 award. This paragraph shall not apply to cases where there is
12 disputed liability and in which a compromise lump sum
13 settlement between the employer and the injured employee, or
14 his or her dependents, as the case may be, has been duly
15 approved by the Illinois Workers' Compensation Commission.

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

23 (h) In case death occurs from any cause before the total
24 compensation to which the employee would have been entitled has
25 been paid, then in case the employee leaves any widow, widower,
26 child, parent (or any grandchild, grandparent or other lineal

1 heir or any collateral heir dependent at the time of the
2 accident upon the earnings of the employee to the extent of 50%
3 or more of total dependency) such compensation shall be paid to
4 the beneficiaries of the deceased employee and distributed as
5 provided in paragraph (g) of Section 7.

6 (h-1) In case an injured employee is under legal disability
7 at the time when any right or privilege accrues to him or her
8 under this Act, a guardian may be appointed pursuant to law,
9 and may, on behalf of such person under legal disability, claim
10 and exercise any such right or privilege with the same effect
11 as if the employee himself or herself had claimed or exercised
12 the right or privilege. No limitations of time provided by this
13 Act run so long as the employee who is under legal disability
14 is without a conservator or guardian.

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

19 However, where an employer has on file an employment
20 certificate issued pursuant to the Child Labor Law or work
21 permit issued pursuant to the Federal Fair Labor Standards Act,
22 as amended, or a birth certificate properly and duly issued,
23 such certificate, permit or birth certificate is conclusive
24 evidence as to the age of the injured minor employee for the
25 purposes of this Section.

26 Nothing herein contained repeals or amends the provisions

1 of the Child Labor Law relating to the employment of minors
2 under the age of 16 years.

3 (j) 1. In the event the injured employee receives benefits,
4 including medical, surgical or hospital benefits under any
5 group plan covering non-occupational disabilities contributed
6 to wholly or partially by the employer, which benefits should
7 not have been payable if any rights of recovery existed under
8 this Act, then such amounts so paid to the employee from any
9 such group plan as shall be consistent with, and limited to,
10 the provisions of paragraph 2 hereof, shall be credited to or
11 against any compensation payment for temporary total
12 incapacity for work or any medical, surgical or hospital
13 benefits made or to be made under this Act. In such event, the
14 period of time for giving notice of accidental injury and
15 filing application for adjustment of claim does not commence to
16 run until the termination of such payments. This paragraph does
17 not apply to payments made under any group plan which would
18 have been payable irrespective of an accidental injury under
19 this Act. Any employer receiving such credit shall keep such
20 employee safe and harmless from any and all claims or
21 liabilities that may be made against him by reason of having
22 received such payments only to the extent of such credit.

23 Any excess benefits paid to or on behalf of a State
24 employee by the State Employees' Retirement System under
25 Article 14 of the Illinois Pension Code on a death claim or
26 disputed disability claim shall be credited against any

1 payments made or to be made by the State of Illinois to or on
2 behalf of such employee under this Act, except for payments for
3 medical expenses which have already been incurred at the time
4 of the award. The State of Illinois shall directly reimburse
5 the State Employees' Retirement System to the extent of such
6 credit.

7 2. Nothing contained in this Act shall be construed to give
8 the employer or the insurance carrier the right to credit for
9 any benefits or payments received by the employee other than
10 compensation payments provided by this Act, and where the
11 employee receives payments other than compensation payments,
12 whether as full or partial salary, group insurance benefits,
13 bonuses, annuities or any other payments, the employer or
14 insurance carrier shall receive credit for each such payment
15 only to the extent of the compensation that would have been
16 payable during the period covered by such payment.

17 3. The extension of time for the filing of an Application
18 for Adjustment of Claim as provided in paragraph 1 above shall
19 not apply to those cases where the time for such filing had
20 expired prior to the date on which payments or benefits
21 enumerated herein have been initiated or resumed. Provided
22 however that this paragraph 3 shall apply only to cases wherein
23 the payments or benefits hereinabove enumerated shall be
24 received after July 1, 1969.

25 (k) For accidental injuries that occur on or after the
26 effective date of this amendatory Act of the 97th General

1 Assembly, permanent partial or total disability shall be
2 certified by a physician and demonstrated by use of medically
3 defined objective measurements that include, but are not
4 limited to: loss of range of motion; loss of strength; and
5 measured atrophy of tissue mass consistent with the injury. In
6 determining the impairment, subjective complaints shall not be
7 considered unless supported by and clearly related to objective
8 measurements. The then-current edition of the American Medical
9 Association's "Guides to the Evaluation of Permanent
10 Impairment" shall be applied in determining the level of
11 disability under this Act.

12 (1) Notwithstanding any other provision of this Act, for
13 accidental injuries that occur on or after the effective date
14 of this amendatory Act of the 97th General Assembly, temporary
15 total disability payments shall not exceed 104 weeks if the
16 injured employee's medical impairment rating determined as a
17 percentage of the whole person based on the then-current
18 edition of the American Medical Association's "Guides to the
19 Evaluation of Permanent Impairment" is less than 70%. This
20 subsection (1) does not apply if the injured employee's medical
21 impairment rating determined as a percentage of the whole
22 person based on the then-current edition of the American
23 Medical Association's "Guides to the Evaluation of Permanent
24 Impairment" is 70% or more.

25 (Source: P.A. 93-721, eff. 1-1-05; 94-277, eff. 7-20-05;
26 94-695, eff. 11-16-05.)

1 (820 ILCS 305/11) (from Ch. 48, par. 138.11)

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

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

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

24 Any injury to or disease or death of an employee arising
25 from the administration of a vaccine, including without

1 limitation smallpox vaccine, to prepare for, or as a response
2 to, a threatened or potential bioterrorist incident to the
3 employee as part of a voluntary inoculation program in
4 connection with the person's employment or in connection with
5 any governmental program or recommendation for the inoculation
6 of workers in the employee's occupation, geographical area, or
7 other category that includes the employee is deemed to arise
8 out of and in the course of the employment for all purposes
9 under this Act. This paragraph added by this amendatory Act of
10 the 93rd General Assembly is declarative of existing law and is
11 not a new enactment.

12 There shall be a rebuttable presumption that no benefits
13 under this Act shall be payable if (i) the employee's
14 intoxication is the proximate cause of the employee's
15 accidental injury or (ii) at the time the employee incurred
16 accidental injury, the employee was so intoxicated that the
17 intoxication constituted a departure from the employment.
18 Admissible evidence of the concentration of (1) alcohol, (2)
19 cannabis as defined in the Cannabis Control Act, (3) a
20 controlled substance listed in the Illinois Controlled
21 Substances Act, or (4) an intoxicating compound listed in the
22 Use of Intoxicating Compounds Act in the employee's blood,
23 breath, or urine at the time the employee incurred the
24 accidental injury shall be considered in any hearing under this
25 Act to determine whether the employee was intoxicated at the
26 time the employee incurred the accidental injuries.

1 Intoxication shall be defined as 0.08% or more by weight of
2 alcohol in the employee's blood, breath, or urine or if there
3 is any evidence of impairment due to the unlawful or
4 unauthorized use of (1) cannabis as defined in the Cannabis
5 Control Act, (2) a controlled substance listed in the Illinois
6 Controlled Substances Act, or (3) an intoxicating compound
7 listed in the Use of Intoxicating Compounds Act. If the
8 employee refuses to submit to testing of blood, breath, or
9 urine as soon as practical after the accident, he or she shall
10 be considered to have been intoxicated at the time of the
11 accident. Percentage by weight of alcohol in the blood shall be
12 based on grams of alcohol per 100 milliliters of blood.
13 Percentage by weight of alcohol in the breath shall be based
14 upon grams of alcohol per 210 liters of breath. Any testing
15 that has not been performed by an accredited or certified
16 testing laboratory shall not be admissible in any hearing under
17 this Act to determine whether the employee was intoxicated at
18 the time the employee incurred the accidental injury.

19 All sample collection and testing for alcohol and drugs
20 under this Section shall be performed in accordance with rules
21 to be adopted by the Commission. These rules shall ensure:

22 (1) compliance with the National Labor Relations Act
23 regarding collective bargaining agreements or regulations
24 promulgated by the United States Department of
25 Transportation;

26 (2) that samples are collected and tested in

1 conformance with national and State legal and regulatory
2 standards for the privacy of the individual being tested,
3 and in a manner reasonably calculated to prevent
4 substitutions or interference with the collection or
5 testing of reliable sample;

6 (3) that split testing procedures are utilized;

7 (4) sample collection is documented, and the
8 documentation procedures include:

9 (A) the labeling of samples in a manner so as to
10 reasonably preclude the probability of erroneous
11 identification of test result; and

12 (B) an opportunity for the employee to provide
13 notification of any information which he or she
14 considers relevant to the test, including
15 identification of currently or recently used
16 prescription or nonprescription drugs and other
17 relevant medical information;

18 (5) that sample collection, storage, and
19 transportation to the place of testing is performed in a
20 manner so as to reasonably preclude the probability of
21 sample contamination or adulteration; and

22 (6) that chemical analyses of blood, urine, breath, or
23 other bodily substance are performed according to
24 nationally scientifically accepted analytical methods and
25 procedures.

26 (Source: P.A. 93-829, eff. 7-28-04.)

1 (820 ILCS 305/19) (from Ch. 48, par. 138.19)

2 Sec. 19. Any disputed questions of law or fact shall be
3 determined as herein provided.

4 (a) It shall be the duty of the Commission upon
5 notification that the parties have failed to reach an
6 agreement, to designate an Arbitrator.

7 1. Whenever any claimant misconceives his remedy and
8 files an application for adjustment of claim under this Act
9 and it is subsequently discovered, at any time before final
10 disposition of such cause, that the claim for disability or
11 death which was the basis for such application should
12 properly have been made under the Workers' Occupational
13 Diseases Act, then the provisions of Section 19, paragraph
14 (a-1) of the Workers' Occupational Diseases Act having
15 reference to such application shall apply.

16 2. Whenever any claimant misconceives his remedy and
17 files an application for adjustment of claim under the
18 Workers' Occupational Diseases Act and it is subsequently
19 discovered, at any time before final disposition of such
20 cause that the claim for injury or death which was the
21 basis for such application should properly have been made
22 under this Act, then the application so filed under the
23 Workers' Occupational Diseases Act may be amended in form,
24 substance or both to assert claim for such disability or
25 death under this Act and it shall be deemed to have been so

1 filed as amended on the date of the original filing
2 thereof, and such compensation may be awarded as is
3 warranted by the whole evidence pursuant to this Act. When
4 such amendment is submitted, further or additional
5 evidence may be heard by the Arbitrator or Commission when
6 deemed necessary. Nothing in this Section contained shall
7 be construed to be or permit a waiver of any provisions of
8 this Act with reference to notice but notice if given shall
9 be deemed to be a notice under the provisions of this Act
10 if given within the time required herein.

11 (b) The Arbitrator shall make such inquiries and
12 investigations as he or they shall deem necessary and may
13 examine and inspect all books, papers, records, places, or
14 premises relating to the questions in dispute and hear such
15 proper evidence as the parties may submit.

16 The hearings before the Arbitrator shall be held in the
17 vicinity where the injury occurred after 10 days' notice of the
18 time and place of such hearing shall have been given to each of
19 the parties or their attorneys of record.

20 The Arbitrator may find that the disabling condition is
21 temporary and has not yet reached a permanent condition and may
22 order the payment of compensation up to the date of the
23 hearing, which award shall be reviewable and enforceable in the
24 same manner as other awards, and in no instance be a bar to a
25 further hearing and determination of a further amount of
26 temporary total compensation or of compensation for permanent

1 disability, but shall be conclusive as to all other questions
2 except the nature and extent of said disability.

3 The decision of the Arbitrator shall be filed with the
4 Commission which Commission shall immediately send to each
5 party or his attorney a copy of such decision, together with a
6 notification of the time when it was filed. As of the effective
7 date of this amendatory Act of the 94th General Assembly, all
8 decisions of the Arbitrator shall set forth in writing findings
9 of fact and conclusions of law, separately stated, if requested
10 by either party. Unless a petition for review is filed by
11 either party within 30 days after the receipt by such party of
12 the copy of the decision and notification of time when filed,
13 and unless such party petitioning for a review shall within 35
14 days after the receipt by him of the copy of the decision, file
15 with the Commission either an agreed statement of the facts
16 appearing upon the hearing before the Arbitrator, or if such
17 party shall so elect a correct transcript of evidence of the
18 proceedings at such hearings, then the decision shall become
19 the decision of the Commission and in the absence of fraud
20 shall be conclusive. The Petition for Review shall contain a
21 statement of the petitioning party's specific exceptions to the
22 decision of the arbitrator. The jurisdiction of the Commission
23 to review the decision of the arbitrator shall not be limited
24 to the exceptions stated in the Petition for Review. The
25 Commission, or any member thereof, may grant further time not
26 exceeding 30 days, in which to file such agreed statement or

1 transcript of evidence. Such agreed statement of facts or
2 correct transcript of evidence, as the case may be, shall be
3 authenticated by the signatures of the parties or their
4 attorneys, and in the event they do not agree as to the
5 correctness of the transcript of evidence it shall be
6 authenticated by the signature of the Arbitrator designated by
7 the Commission.

8 Whether the employee is working or not, if the employee is
9 not receiving or has not received medical, surgical, or
10 hospital services or other services or compensation as provided
11 in paragraph (a) of Section 8, or compensation as provided in
12 paragraph (b) of Section 8, the employee may at any time
13 petition for an expedited hearing by an Arbitrator on the issue
14 of whether or not he or she is entitled to receive payment of
15 the services or compensation. Provided the employer continues
16 to pay compensation pursuant to paragraph (b) of Section 8, the
17 employer may at any time petition for an expedited hearing on
18 the issue of whether or not the employee is entitled to receive
19 medical, surgical, or hospital services or other services or
20 compensation as provided in paragraph (a) of Section 8, or
21 compensation as provided in paragraph (b) of Section 8. When an
22 employer has petitioned for an expedited hearing, the employer
23 shall continue to pay compensation as provided in paragraph (b)
24 of Section 8 unless the arbitrator renders a decision that the
25 employee is not entitled to the benefits that are the subject
26 of the expedited hearing or unless the employee's treating

1 physician has released the employee to return to work at his or
2 her regular job with the employer or the employee actually
3 returns to work at any other job. If the arbitrator renders a
4 decision that the employee is not entitled to the benefits that
5 are the subject of the expedited hearing, a petition for review
6 filed by the employee shall receive the same priority as if the
7 employee had filed a petition for an expedited hearing by an
8 Arbitrator. Neither party shall be entitled to an expedited
9 hearing when the employee has returned to work and the sole
10 issue in dispute amounts to less than 12 weeks of unpaid
11 compensation pursuant to paragraph (b) of Section 8.

12 Expedited hearings shall have priority over all other
13 petitions and shall be heard by the Arbitrator and Commission
14 with all convenient speed. Any party requesting an expedited
15 hearing shall give notice of a request for an expedited hearing
16 under this paragraph. A copy of the Application for Adjustment
17 of Claim shall be attached to the notice. The Commission shall
18 adopt rules and procedures under which the final decision of
19 the Commission under this paragraph is filed not later than 180
20 days from the date that the Petition for Review is filed with
21 the Commission.

22 Where 2 or more insurance carriers, private self-insureds,
23 or a group workers' compensation pool under Article V 3/4 of
24 the Illinois Insurance Code dispute coverage for the same
25 injury, any such insurance carrier, private self-insured, or
26 group workers' compensation pool may request an expedited

1 hearing pursuant to this paragraph to determine the issue of
2 coverage, provided coverage is the only issue in dispute and
3 all other issues are stipulated and agreed to and further
4 provided that all compensation benefits including medical
5 benefits pursuant to Section 8(a) continue to be paid to or on
6 behalf of petitioner. Any insurance carrier, private
7 self-insured, or group workers' compensation pool that is
8 determined to be liable for coverage for the injury in issue
9 shall reimburse any insurance carrier, private self-insured,
10 or group workers' compensation pool that has paid benefits to
11 or on behalf of petitioner for the injury.

12 (b-1) If the employee is not receiving medical, surgical or
13 hospital services as provided in paragraph (a) of Section 8 or
14 compensation as provided in paragraph (b) of Section 8, the
15 employee, in accordance with Commission Rules, may file a
16 petition for an emergency hearing by an Arbitrator on the issue
17 of whether or not he is entitled to receive payment of such
18 compensation or services as provided therein. Such petition
19 shall have priority over all other petitions and shall be heard
20 by the Arbitrator and Commission with all convenient speed.

21 Such petition shall contain the following information and
22 shall be served on the employer at least 15 days before it is
23 filed:

- 24 (i) the date and approximate time of accident;
25 (ii) the approximate location of the accident;
26 (iii) a description of the accident;

1 (iv) the nature of the injury incurred by the employee;

2 (v) the identity of the person, if known, to whom the
3 accident was reported and the date on which it was
4 reported;

5 (vi) the name and title of the person, if known,
6 representing the employer with whom the employee conferred
7 in any effort to obtain compensation pursuant to paragraph
8 (b) of Section 8 of this Act or medical, surgical or
9 hospital services pursuant to paragraph (a) of Section 8 of
10 this Act and the date of such conference;

11 (vii) a statement that the employer has refused to pay
12 compensation pursuant to paragraph (b) of Section 8 of this
13 Act or for medical, surgical or hospital services pursuant
14 to paragraph (a) of Section 8 of this Act;

15 (viii) the name and address, if known, of each witness
16 to the accident and of each other person upon whom the
17 employee will rely to support his allegations;

18 (ix) the dates of treatment related to the accident by
19 medical practitioners, and the names and addresses of such
20 practitioners, including the dates of treatment related to
21 the accident at any hospitals and the names and addresses
22 of such hospitals, and a signed authorization permitting
23 the employer to examine all medical records of all
24 practitioners and hospitals named pursuant to this
25 paragraph;

26 (x) a copy of a signed report by a medical

1 practitioner, relating to the employee's current inability
2 to return to work because of the injuries incurred as a
3 result of the accident or such other documents or
4 affidavits which show that the employee is entitled to
5 receive compensation pursuant to paragraph (b) of Section 8
6 of this Act or medical, surgical or hospital services
7 pursuant to paragraph (a) of Section 8 of this Act. Such
8 reports, documents or affidavits shall state, if possible,
9 the history of the accident given by the employee, and
10 describe the injury and medical diagnosis, the medical
11 services for such injury which the employee has received
12 and is receiving, the physical activities which the
13 employee cannot currently perform as a result of any
14 impairment or disability due to such injury, and the
15 prognosis for recovery;

16 (xi) complete copies of any reports, records,
17 documents and affidavits in the possession of the employee
18 on which the employee will rely to support his allegations,
19 provided that the employer shall pay the reasonable cost of
20 reproduction thereof;

21 (xii) a list of any reports, records, documents and
22 affidavits which the employee has demanded by subpoena and
23 on which he intends to rely to support his allegations;

24 (xiii) a certification signed by the employee or his
25 representative that the employer has received the petition
26 with the required information 15 days before filing.

1 Fifteen days after receipt by the employer of the petition
2 with the required information the employee may file said
3 petition and required information and shall serve notice of the
4 filing upon the employer. The employer may file a motion
5 addressed to the sufficiency of the petition. If an objection
6 has been filed to the sufficiency of the petition, the
7 arbitrator shall rule on the objection within 2 working days.
8 If such an objection is filed, the time for filing the final
9 decision of the Commission as provided in this paragraph shall
10 be tolled until the arbitrator has determined that the petition
11 is sufficient.

12 The employer shall, within 15 days after receipt of the
13 notice that such petition is filed, file with the Commission
14 and serve on the employee or his representative a written
15 response to each claim set forth in the petition, including the
16 legal and factual basis for each disputed allegation and the
17 following information: (i) complete copies of any reports,
18 records, documents and affidavits in the possession of the
19 employer on which the employer intends to rely in support of
20 his response, (ii) a list of any reports, records, documents
21 and affidavits which the employer has demanded by subpoena and
22 on which the employer intends to rely in support of his
23 response, (iii) the name and address of each witness on whom
24 the employer will rely to support his response, and (iv) the
25 names and addresses of any medical practitioners selected by
26 the employer pursuant to Section 12 of this Act and the time

1 and place of any examination scheduled to be made pursuant to
2 such Section.

3 Any employer who does not timely file and serve a written
4 response without good cause may not introduce any evidence to
5 dispute any claim of the employee but may cross examine the
6 employee or any witness brought by the employee and otherwise
7 be heard.

8 No document or other evidence not previously identified by
9 either party with the petition or written response, or by any
10 other means before the hearing, may be introduced into evidence
11 without good cause. If, at the hearing, material information is
12 discovered which was not previously disclosed, the Arbitrator
13 may extend the time for closing proof on the motion of a party
14 for a reasonable period of time which may be more than 30 days.
15 No evidence may be introduced pursuant to this paragraph as to
16 permanent disability. No award may be entered for permanent
17 disability pursuant to this paragraph. Either party may
18 introduce into evidence the testimony taken by deposition of
19 any medical practitioner.

20 The Commission shall adopt rules, regulations and
21 procedures whereby the final decision of the Commission is
22 filed not later than 90 days from the date the petition for
23 review is filed but in no event later than 180 days from the
24 date the petition for an emergency hearing is filed with the
25 Illinois Workers' Compensation Commission.

26 All service required pursuant to this paragraph (b-1) must

1 be by personal service or by certified mail and with evidence
2 of receipt. In addition for the purposes of this paragraph, all
3 service on the employer must be at the premises where the
4 accident occurred if the premises are owned or operated by the
5 employer. Otherwise service must be at the employee's principal
6 place of employment by the employer. If service on the employer
7 is not possible at either of the above, then service shall be
8 at the employer's principal place of business. After initial
9 service in each case, service shall be made on the employer's
10 attorney or designated representative.

11 (c) (1) At a reasonable time in advance of and in
12 connection with the hearing under Section 19(e) or 19(h), the
13 Commission may on its own motion order an impartial physical or
14 mental examination of a petitioner whose mental or physical
15 condition is in issue, when in the Commission's discretion it
16 appears that such an examination will materially aid in the
17 just determination of the case. The examination shall be made
18 by a member or members of a panel of physicians chosen for
19 their special qualifications by the Illinois State Medical
20 Society. The Commission shall establish procedures by which a
21 physician shall be selected from such list.

22 (2) Should the Commission at any time during the hearing
23 find that compelling considerations make it advisable to have
24 an examination and report at that time, the commission may in
25 its discretion so order.

26 (3) A copy of the report of examination shall be given to

1 the Commission and to the attorneys for the parties.

2 (4) Either party or the Commission may call the examining
3 physician or physicians to testify. Any physician so called
4 shall be subject to cross-examination.

5 (5) The examination shall be made, and the physician or
6 physicians, if called, shall testify, without cost to the
7 parties. The Commission shall determine the compensation and
8 the pay of the physician or physicians. The compensation for
9 this service shall not exceed the usual and customary amount
10 for such service.

11 (6) The fees and payment thereof of all attorneys and
12 physicians for services authorized by the Commission under this
13 Act shall, upon request of either the employer or the employee
14 or the beneficiary affected, be subject to the review and
15 decision of the Commission.

16 (d) If any employee shall persist in insanitary or
17 injurious practices which tend to either imperil or retard his
18 recovery or shall refuse to submit to such medical, surgical,
19 or hospital treatment as is reasonably essential to promote his
20 recovery, the Commission may, in its discretion, reduce or
21 suspend the compensation of any such injured employee. However,
22 when an employer and employee so agree in writing, the
23 foregoing provision shall not be construed to authorize the
24 reduction or suspension of compensation of an employee who is
25 relying in good faith, on treatment by prayer or spiritual
26 means alone, in accordance with the tenets and practice of a

1 recognized church or religious denomination, by a duly
2 accredited practitioner thereof.

3 (e) This paragraph shall apply to all hearings before the
4 Commission. Such hearings may be held in its office or
5 elsewhere as the Commission may deem advisable. The taking of
6 testimony on such hearings may be had before any member of the
7 Commission. If a petition for review and agreed statement of
8 facts or transcript of evidence is filed, as provided herein,
9 the Commission shall promptly review the decision of the
10 Arbitrator and all questions of law or fact which appear from
11 the statement of facts or transcript of evidence.

12 In all cases in which the hearing before the arbitrator is
13 held after December 18, 1989, no additional evidence shall be
14 introduced by the parties before the Commission on review of
15 the decision of the Arbitrator. In reviewing decisions of an
16 arbitrator the Commission shall award such temporary
17 compensation, permanent compensation and other payments as are
18 due under this Act. The Commission shall file in its office its
19 decision thereon, and shall immediately send to each party or
20 his attorney a copy of such decision and a notification of the
21 time when it was filed. Decisions shall be filed within 60 days
22 after the Statement of Exceptions and Supporting Brief and
23 Response thereto are required to be filed or oral argument
24 whichever is later.

25 In the event either party requests oral argument, such
26 argument shall be had before a panel of 3 members of the

1 Commission (or before all available members pursuant to the
2 determination of 7 members of the Commission that such argument
3 be held before all available members of the Commission)
4 pursuant to the rules and regulations of the Commission. A
5 panel of 3 members, which shall be comprised of not more than
6 one representative citizen of the employing class and not more
7 than one representative citizen of the employee class, shall
8 hear the argument; provided that if all the issues in dispute
9 are solely the nature and extent of the permanent partial
10 disability, if any, a majority of the panel may deny the
11 request for such argument and such argument shall not be held;
12 and provided further that 7 members of the Commission may
13 determine that the argument be held before all available
14 members of the Commission. A decision of the Commission shall
15 be approved by a majority of Commissioners present at such
16 hearing if any; provided, if no such hearing is held, a
17 decision of the Commission shall be approved by a majority of a
18 panel of 3 members of the Commission as described in this
19 Section. The Commission shall give 10 days' notice to the
20 parties or their attorneys of the time and place of such taking
21 of testimony and of such argument.

22 In any case the Commission in its decision may find
23 specially upon any question or questions of law or fact which
24 shall be submitted in writing by either party whether ultimate
25 or otherwise; provided that on issues other than nature and
26 extent of the disability, if any, the Commission in its

1 decision shall find specially upon any question or questions of
2 law or fact, whether ultimate or otherwise, which are submitted
3 in writing by either party; provided further that not more than
4 5 such questions may be submitted by either party. Any party
5 may, within 20 days after receipt of notice of the Commission's
6 decision, or within such further time, not exceeding 30 days,
7 as the Commission may grant, file with the Commission either an
8 agreed statement of the facts appearing upon the hearing, or,
9 if such party shall so elect, a correct transcript of evidence
10 of the additional proceedings presented before the Commission,
11 in which report the party may embody a correct statement of
12 such other proceedings in the case as such party may desire to
13 have reviewed, such statement of facts or transcript of
14 evidence to be authenticated by the signature of the parties or
15 their attorneys, and in the event that they do not agree, then
16 the authentication of such transcript of evidence shall be by
17 the signature of any member of the Commission.

18 If a reporter does not for any reason furnish a transcript
19 of the proceedings before the Arbitrator in any case for use on
20 a hearing for review before the Commission, within the
21 limitations of time as fixed in this Section, the Commission
22 may, in its discretion, order a trial de novo before the
23 Commission in such case upon application of either party. The
24 applications for adjustment of claim and other documents in the
25 nature of pleadings filed by either party, together with the
26 decisions of the Arbitrator and of the Commission and the

1 statement of facts or transcript of evidence hereinbefore
2 provided for in paragraphs (b) and (c) shall be the record of
3 the proceedings of the Commission, and shall be subject to
4 review as hereinafter provided.

5 At the request of either party or on its own motion, the
6 Commission shall set forth in writing the reasons for the
7 decision, including findings of fact and conclusions of law
8 separately stated. The Commission shall by rule adopt a format
9 for written decisions for the Commission and arbitrators. The
10 written decisions shall be concise and shall succinctly state
11 the facts and reasons for the decision. The Commission may
12 adopt in whole or in part, the decision of the arbitrator as
13 the decision of the Commission. When the Commission does so
14 adopt the decision of the arbitrator, it shall do so by order.
15 Whenever the Commission adopts part of the arbitrator's
16 decision, but not all, it shall include in the order the
17 reasons for not adopting all of the arbitrator's decision. When
18 a majority of a panel, after deliberation, has arrived at its
19 decision, the decision shall be filed as provided in this
20 Section without unnecessary delay, and without regard to the
21 fact that a member of the panel has expressed an intention to
22 dissent. Any member of the panel may file a dissent. Any
23 dissent shall be filed no later than 10 days after the decision
24 of the majority has been filed.

25 Decisions rendered by the Commission and dissents, if any,
26 shall be published together by the Commission. The conclusions

1 of law set out in such decisions shall be regarded as
2 precedents by arbitrators for the purpose of achieving a more
3 uniform administration of this Act.

4 (f) The decision of the Commission acting within its
5 powers, according to the provisions of paragraph (e) of this
6 Section shall, in the absence of fraud, be conclusive unless
7 reviewed as in this paragraph hereinafter provided. However,
8 the Arbitrator or the Commission may on his or its own motion,
9 or on the motion of either party, correct any clerical error or
10 errors in computation within 15 days after the date of receipt
11 of any award by such Arbitrator or any decision on review of
12 the Commission and shall have the power to recall the original
13 award on arbitration or decision on review, and issue in lieu
14 thereof such corrected award or decision. Where such correction
15 is made the time for review herein specified shall begin to run
16 from the date of the receipt of the corrected award or
17 decision.

18 The Commission may recall a decision or settlement when
19 fraud has been determined to be committed related to the case.
20 The Commission shall implement a rule to establish a process
21 for recalling a decision or settlement that is subject to
22 recall due to fraud.

23 (1) Except in cases of claims against the State of
24 Illinois, in which case the decision of the Commission
25 shall not be subject to judicial review, the Circuit Court
26 of the county where any of the parties defendant may be

1 found, or if none of the parties defendant can be found in
2 this State then the Circuit Court of the county where the
3 accident occurred, shall by summons to the Commission have
4 power to review all questions of law and fact presented by
5 such record.

6 A proceeding for review shall be commenced within 20
7 days of the receipt of notice of the decision of the
8 Commission. The summons shall be issued by the clerk of
9 such court upon written request returnable on a designated
10 return day, not less than 10 or more than 60 days from the
11 date of issuance thereof, and the written request shall
12 contain the last known address of other parties in interest
13 and their attorneys of record who are to be served by
14 summons. Service upon any member of the Commission or the
15 Secretary or the Assistant Secretary thereof shall be
16 service upon the Commission, and service upon other parties
17 in interest and their attorneys of record shall be by
18 summons, and such service shall be made upon the Commission
19 and other parties in interest by mailing notices of the
20 commencement of the proceedings and the return day of the
21 summons to the office of the Commission and to the last
22 known place of residence of other parties in interest or
23 their attorney or attorneys of record. The clerk of the
24 court issuing the summons shall on the day of issue mail
25 notice of the commencement of the proceedings which shall
26 be done by mailing a copy of the summons to the office of

1 the Commission, and a copy of the summons to the other
2 parties in interest or their attorney or attorneys of
3 record and the clerk of the court shall make certificate
4 that he has so sent said notices in pursuance of this
5 Section, which shall be evidence of service on the
6 Commission and other parties in interest.

7 The Commission shall not be required to certify the
8 record of their proceedings to the Circuit Court, unless
9 the party commencing the proceedings for review in the
10 Circuit Court as above provided, shall pay to the
11 Commission the sum of 80¢ per page of testimony taken
12 before the Commission, and 35¢ per page of all other
13 matters contained in such record, except as otherwise
14 provided by Section 20 of this Act. Payment for photostatic
15 copies of exhibit shall be extra. It shall be the duty of
16 the Commission upon such payment, or failure to pay as
17 permitted under Section 20 of this Act, to prepare a true
18 and correct typewritten copy of such testimony and a true
19 and correct copy of all other matters contained in such
20 record and certified to by the Secretary or Assistant
21 Secretary thereof.

22 In its decision on review the Commission shall
23 determine in each particular case the amount of the
24 probable cost of the record to be filed as a part of the
25 summons in that case and no request for a summons may be
26 filed and no summons shall issue unless the party seeking

1 to review the decision of the Commission shall exhibit to
2 the clerk of the Circuit Court proof of payment by filing a
3 receipt showing payment or an affidavit of the attorney
4 setting forth that payment has been made of the sums so
5 determined to the Secretary or Assistant Secretary of the
6 Commission, except as otherwise provided by Section 20 of
7 this Act.

8 (2) No such summons shall issue unless the one against
9 whom the Commission shall have rendered an award for the
10 payment of money shall upon the filing of his written
11 request for such summons file with the clerk of the court a
12 bond conditioned that if he shall not successfully
13 prosecute the review, he will pay the award and the costs
14 of the proceedings in the courts. The amount of the bond
15 shall be fixed by any member of the Commission and the
16 surety or sureties of the bond shall be approved by the
17 clerk of the court. The acceptance of the bond by the clerk
18 of the court shall constitute evidence of his approval of
19 the bond.

20 Every county, city, town, township, incorporated
21 village, school district, body politic or municipal
22 corporation against whom the Commission shall have
23 rendered an award for the payment of money shall not be
24 required to file a bond to secure the payment of the award
25 and the costs of the proceedings in the court to authorize
26 the court to issue such summons.

1 The court may confirm or set aside the decision of the
2 Commission. If the decision is set aside and the facts
3 found in the proceedings before the Commission are
4 sufficient, the court may enter such decision as is
5 justified by law, or may remand the cause to the Commission
6 for further proceedings and may state the questions
7 requiring further hearing, and give such other
8 instructions as may be proper. Appeals shall be taken to
9 the Appellate Court in accordance with Supreme Court Rules
10 22(g) and 303. Appeals shall be taken from the Appellate
11 Court to the Supreme Court in accordance with Supreme Court
12 Rule 315.

13 It shall be the duty of the clerk of any court
14 rendering a decision affecting or affirming an award of the
15 Commission to promptly furnish the Commission with a copy
16 of such decision, without charge.

17 The decision of a majority of the members of the panel
18 of the Commission, shall be considered the decision of the
19 Commission.

20 (g) Except in the case of a claim against the State of
21 Illinois, either party may present a certified copy of the
22 award of the Arbitrator, or a certified copy of the decision of
23 the Commission when the same has become final, when no
24 proceedings for review are pending, providing for the payment
25 of compensation according to this Act, to the Circuit Court of
26 the county in which such accident occurred or either of the

1 parties are residents, whereupon the court shall enter a
2 judgment in accordance therewith. In a case where the employer
3 refuses to pay compensation according to such final award or
4 such final decision upon which such judgment is entered the
5 court shall in entering judgment thereon, tax as costs against
6 him the reasonable costs and attorney fees in the arbitration
7 proceedings and in the court entering the judgment for the
8 person in whose favor the judgment is entered, which judgment
9 and costs taxed as therein provided shall, until and unless set
10 aside, have the same effect as though duly entered in an action
11 duly tried and determined by the court, and shall with like
12 effect, be entered and docketed. The Circuit Court shall have
13 power at any time upon application to make any such judgment
14 conform to any modification required by any subsequent decision
15 of the Supreme Court upon appeal, or as the result of any
16 subsequent proceedings for review, as provided in this Act.

17 Judgment shall not be entered until 15 days' notice of the
18 time and place of the application for the entry of judgment
19 shall be served upon the employer by filing such notice with
20 the Commission, which Commission shall, in case it has on file
21 the address of the employer or the name and address of its
22 agent upon whom notices may be served, immediately send a copy
23 of the notice to the employer or such designated agent.

24 (h) An agreement or award under this Act providing for
25 compensation in installments, may at any time within 18 months
26 after such agreement or award be reviewed by the Commission at

1 the request of either the employer or the employee, on the
2 ground that the disability of the employee has subsequently
3 recurred, increased, diminished or ended.

4 However, as to accidents occurring subsequent to July 1,
5 1955, which are covered by any agreement or award under this
6 Act providing for compensation in installments made as a result
7 of such accident, such agreement or award may at any time
8 within 30 months, or 60 months in the case of an award under
9 Section 8(d)1, after such agreement or award be reviewed by the
10 Commission at the request of either the employer or the
11 employee on the ground that the disability of the employee has
12 subsequently recurred, increased, diminished or ended.

13 On such review, compensation payments may be
14 re-established, increased, diminished or ended. The Commission
15 shall give 15 days' notice to the parties of the hearing for
16 review. Any employee, upon any petition for such review being
17 filed by the employer, shall be entitled to one day's notice
18 for each 100 miles necessary to be traveled by him in attending
19 the hearing of the Commission upon the petition, and 3 days in
20 addition thereto. Such employee shall, at the discretion of the
21 Commission, also be entitled to 5 cents per mile necessarily
22 traveled by him within the State of Illinois in attending such
23 hearing, not to exceed a distance of 300 miles, to be taxed by
24 the Commission as costs and deposited with the petition of the
25 employer.

26 When compensation which is payable in accordance with an

1 award or settlement contract approved by the Commission, is
2 ordered paid in a lump sum by the Commission, no review shall
3 be had as in this paragraph mentioned.

4 (i) Each party, upon taking any proceedings or steps
5 whatsoever before any Arbitrator, Commission or court, shall
6 file with the Commission his address, or the name and address
7 of any agent upon whom all notices to be given to such party
8 shall be served, either personally or by registered mail,
9 addressed to such party or agent at the last address so filed
10 with the Commission. In the event such party has not filed his
11 address, or the name and address of an agent as above provided,
12 service of any notice may be had by filing such notice with the
13 Commission.

14 (j) Whenever in any proceeding testimony has been taken or
15 a final decision has been rendered and after the taking of such
16 testimony or after such decision has become final, the injured
17 employee dies, then in any subsequent proceedings brought by
18 the personal representative or beneficiaries of the deceased
19 employee, such testimony in the former proceeding may be
20 introduced with the same force and effect as though the witness
21 having so testified were present in person in such subsequent
22 proceedings and such final decision, if any, shall be taken as
23 final adjudication of any of the issues which are the same in
24 both proceedings.

25 (k) In case where there has been any unreasonable or
26 vexatious delay of payment or intentional underpayment of

1 compensation, or proceedings have been instituted or carried on
2 by the one liable to pay the compensation, which do not present
3 a real controversy, but are merely frivolous or for delay, then
4 the Commission may award compensation additional to that
5 otherwise payable under this Act equal to 50% of the amount
6 payable at the time of such award. Failure to pay compensation
7 in accordance with the provisions of Section 8, paragraph (b)
8 of this Act, shall be considered unreasonable delay.

9 When determining whether this subsection (k) shall apply,
10 the Commission shall consider whether an Arbitrator has
11 determined that the claim is not compensable or whether the
12 employer has made payments under Section 8(j).

13 (l) If the employee has made written demand for payment of
14 benefits under Section 8(a) or Section 8(b), the employer shall
15 have 14 days after receipt of the demand to set forth in
16 writing the reason for the delay. In the case of demand for
17 payment of medical benefits under Section 8(a), the time for
18 the employer to respond shall not commence until the expiration
19 of the allotted 60 days specified under Section 8.2(d). In case
20 the employer or his or her insurance carrier shall without good
21 and just cause fail, neglect, refuse, or unreasonably delay the
22 payment of benefits under Section 8(a) or Section 8(b), the
23 Arbitrator or the Commission shall allow to the employee
24 additional compensation in the sum of \$30 per day for each day
25 that the benefits under Section 8(a) or Section 8(b) have been
26 so withheld or refused, not to exceed \$10,000. A delay in

1 payment of 14 days or more shall create a rebuttable
2 presumption of unreasonable delay.

3 (m) If the commission finds that an accidental injury was
4 directly and proximately caused by the employer's wilful
5 violation of a health and safety standard under the Health and
6 Safety Act in force at the time of the accident, the arbitrator
7 or the Commission shall allow to the injured employee or his
8 dependents, as the case may be, additional compensation equal
9 to 25% of the amount which otherwise would be payable under the
10 provisions of this Act exclusive of this paragraph. The
11 additional compensation herein provided shall be allowed by an
12 appropriate increase in the applicable weekly compensation
13 rate.

14 (n) After June 30, 1984, decisions of the Illinois Workers'
15 Compensation Commission reviewing an award of an arbitrator of
16 the Commission shall draw interest at a rate equal to the yield
17 on indebtedness issued by the United States Government with a
18 26-week maturity next previously auctioned on the day on which
19 the decision is filed. Said rate of interest shall be set forth
20 in the Arbitrator's Decision. Interest shall be drawn from the
21 date of the arbitrator's award on all accrued compensation due
22 the employee through the day prior to the date of payments.
23 However, when an employee appeals an award of an Arbitrator or
24 the Commission, and the appeal results in no change or a
25 decrease in the award, interest shall not further accrue from
26 the date of such appeal.

1 The employer or his insurance carrier may tender the
2 payments due under the award to stop the further accrual of
3 interest on such award notwithstanding the prosecution by
4 either party of review, certiorari, appeal to the Supreme Court
5 or other steps to reverse, vacate or modify the award.

6 (o) By the 15th day of each month each insurer providing
7 coverage for losses under this Act shall notify each insured
8 employer of any compensable claim incurred during the preceding
9 month and the amounts paid or reserved on the claim including a
10 summary of the claim and a brief statement of the reasons for
11 compensability. A cumulative report of all claims incurred
12 during a calendar year or continued from the previous year
13 shall be furnished to the insured employer by the insurer
14 within 30 days after the end of that calendar year.

15 The insured employer may challenge, in proceeding before
16 the Commission, payments made by the insurer without
17 arbitration and payments made after a case is determined to be
18 noncompensable. If the Commission finds that the case was not
19 compensable, the insurer shall purge its records as to that
20 employer of any loss or expense associated with the claim,
21 reimburse the employer for attorneys' fees arising from the
22 challenge and for any payment required of the employer to the
23 Rate Adjustment Fund or the Second Injury Fund, and may not
24 reflect the loss or expense for rate making purposes. The
25 employee shall not be required to refund the challenged
26 payment. The decision of the Commission may be reviewed in the

1 same manner as in arbitrated cases. No challenge may be
2 initiated under this paragraph more than 3 years after the
3 payment is made. An employer may waive the right of challenge
4 under this paragraph on a case by case basis.

5 (p) After filing an application for adjustment of claim but
6 prior to the hearing on arbitration the parties may voluntarily
7 agree to submit such application for adjustment of claim for
8 decision by an arbitrator under this subsection (p) where such
9 application for adjustment of claim raises only a dispute over
10 temporary total disability, permanent partial disability or
11 medical expenses. Such agreement shall be in writing in such
12 form as provided by the Commission. Applications for adjustment
13 of claim submitted for decision by an arbitrator under this
14 subsection (p) shall proceed according to rule as established
15 by the Commission. The Commission shall promulgate rules
16 including, but not limited to, rules to ensure that the parties
17 are adequately informed of their rights under this subsection
18 (p) and of the voluntary nature of proceedings under this
19 subsection (p). The findings of fact made by an arbitrator
20 acting within his or her powers under this subsection (p) in
21 the absence of fraud shall be conclusive. However, the
22 arbitrator may on his own motion, or the motion of either
23 party, correct any clerical errors or errors in computation
24 within 15 days after the date of receipt of such award of the
25 arbitrator and shall have the power to recall the original
26 award on arbitration, and issue in lieu thereof such corrected

1 award. The decision of the arbitrator under this subsection (p)
2 shall be considered the decision of the Commission and
3 proceedings for review of questions of law arising from the
4 decision may be commenced by either party pursuant to
5 subsection (f) of Section 19. The Advisory Board established
6 under Section 13.1 shall compile a list of certified Commission
7 arbitrators, each of whom shall be approved by at least 7
8 members of the Advisory Board. The chairman shall select 5
9 persons from such list to serve as arbitrators under this
10 subsection (p). By agreement, the parties shall select one
11 arbitrator from among the 5 persons selected by the chairman
12 except that if the parties do not agree on an arbitrator from
13 among the 5 persons, the parties may, by agreement, select an
14 arbitrator of the American Arbitration Association, whose fee
15 shall be paid by the State in accordance with rules promulgated
16 by the Commission. Arbitration under this subsection (p) shall
17 be voluntary.

18 (Source: P.A. 93-721, eff. 1-1-05; 94-277, eff. 7-20-05.)

19 (820 ILCS 305/25.5)

20 Sec. 25.5. Unlawful acts; penalties.

21 (a) It is unlawful for any person, company, corporation,
22 insurance carrier, healthcare provider, or other entity to:

23 (1) Intentionally present or cause to be presented any
24 false or fraudulent claim for the payment of any workers'
25 compensation benefit.

1 (2) Intentionally make or cause to be made any false or
2 fraudulent material statement or material representation
3 for the purpose of obtaining or denying any workers'
4 compensation benefit.

5 (3) Intentionally make or cause to be made any false or
6 fraudulent statements with regard to entitlement to
7 workers' compensation benefits with the intent to prevent
8 an injured worker from making a legitimate claim for any
9 workers' compensation benefits.

10 (4) Intentionally prepare or provide an invalid,
11 false, or counterfeit certificate of insurance as proof of
12 workers' compensation insurance.

13 (5) Intentionally make or cause to be made any false or
14 fraudulent material statement or material representation
15 for the purpose of obtaining workers' compensation
16 insurance at less than the proper rate for that insurance.

17 (6) Intentionally make or cause to be made any false or
18 fraudulent material statement or material representation
19 on an initial or renewal self-insurance application or
20 accompanying financial statement for the purpose of
21 obtaining self-insurance status or reducing the amount of
22 security that may be required to be furnished pursuant to
23 Section 4 of this Act.

24 (7) Intentionally make or cause to be made any false or
25 fraudulent material statement to the Division of
26 Insurance's fraud and insurance non-compliance unit in the

1 course of an investigation of fraud or insurance
2 non-compliance.

3 (8) Intentionally assist, abet, solicit, or conspire
4 with any person, company, or other entity to commit any of
5 the acts in paragraph (1), (2), (3), (4), (5), (6), or (7)
6 of this subsection (a).

7 For the purposes of paragraphs (2), (3), (5), (6), and (7),
8 the term "statement" includes any writing, notice, proof of
9 injury, bill for services, hospital or doctor records and
10 reports, or X-ray and test results.

11 (b) Any person violating subsection (a) is guilty of a
12 Class 4 felony. Any person or entity convicted of any violation
13 of this Section shall be ordered to pay complete restitution to
14 any person or entity so defrauded in addition to any fine or
15 sentence imposed as a result of the conviction.

16 (c) The Division of Insurance of the Department of
17 Financial and Professional Regulation shall establish a fraud
18 and insurance non-compliance unit responsible for
19 investigating incidences of fraud and insurance non-compliance
20 pursuant to this Section. The size of the staff of the unit
21 shall be subject to appropriation by the General Assembly. It
22 shall be the duty of the fraud and insurance non-compliance
23 unit to determine the identity of insurance carriers,
24 employers, employees, or other persons or entities who have
25 violated the fraud and insurance non-compliance provisions of
26 this Section and any prosecution thereof. The fraud and

1 insurance non-compliance unit shall report violations of the
2 fraud and insurance non-compliance provisions of this Section
3 to the Attorney General or to the State's Attorney of the
4 county in which the offense allegedly occurred, either of whom
5 has the authority to prosecute violations under this Section.

6 The fraud and insurance non-compliance unit shall employ
7 one or more attorneys licensed to practice law in Illinois as
8 special prosecutors who shall initiate and prosecute any
9 necessary criminal or civil actions in any court or tribunal of
10 competent jurisdiction in this State. The special prosecutors
11 may also assist State's Attorneys in prosecuting violations of
12 this Section, without charge to the county.

13 With respect to the subject of any investigation being
14 conducted, the fraud and insurance non-compliance unit shall
15 have the general power of subpoena of the Division of
16 Insurance.

17 (d) Any person may report allegations of insurance
18 non-compliance and fraud pursuant to this Section to the
19 Division of Insurance's fraud and insurance non-compliance
20 unit whose duty it shall be to investigate the report. The unit
21 shall notify the Commission of reports of insurance
22 non-compliance. Any person reporting an allegation of
23 insurance non-compliance or fraud against either an employee or
24 employer under this Section must identify himself. Except as
25 provided in this subsection and in subsection (e), all reports
26 shall remain confidential except to refer an investigation to

1 the Attorney General or State's Attorney for prosecution or if
2 the fraud and insurance non-compliance unit's investigation
3 reveals that the conduct reported may be in violation of other
4 laws or regulations of the State of Illinois, the unit may
5 report such conduct to the appropriate governmental agency
6 charged with administering such laws and regulations. Any
7 person who intentionally makes a false report under this
8 Section to the fraud and insurance non-compliance unit is
9 guilty of a Class A misdemeanor.

10 (e) In order for the fraud and insurance non-compliance
11 unit to investigate a report of fraud by an employee, (i) the
12 employee must have filed with the Commission an Application for
13 Adjustment of Claim and the employee must have either received
14 or attempted to receive benefits under this Act that are
15 related to the reported fraud or (ii) the employee must have
16 made a written demand for the payment of benefits that are
17 related to the reported fraud. Upon receipt of a report of
18 fraud, the employee or employer shall receive immediate notice
19 of the reported conduct, ~~including the verified name and~~
20 ~~address of the complainant if that complainant is connected to~~
21 ~~the case and the nature of the reported conduct.~~ The fraud and
22 insurance non-compliance unit shall resolve all reports of
23 fraud against employees or employers within 120 days of receipt
24 of the report. There shall be no immunity, under this Act or
25 otherwise, for any person who files a false report or who files
26 a report without good and just cause. Confidentiality of

1 medical information shall be strictly maintained.
2 Investigations that are not referred for prosecution shall be
3 immediately expunged and shall not be disclosed except that the
4 employee or employer who was the subject of the report and the
5 person making the report shall be notified that the
6 investigation is being closed, at which time the name of any
7 complainant not connected to the case shall be disclosed to the
8 employee or the employer. When an investigation is referred for
9 prosecution the employee or employer who was the subject of the
10 report and the person making the report shall immediately be
11 notified that the investigation has been referred for
12 prosecution. It is unlawful for any employer, insurance
13 carrier, or service adjustment company to file or threaten to
14 file a report of fraud against an employee because of the
15 exercise by the employee of the rights and remedies granted to
16 the employee by this Act.

17 When the Attorney General or a State's Attorney declines to
18 prosecute a referral from the fraud and insurance
19 non-compliance unit of an alleged violation of this Section,
20 the Attorney General or the State's Attorney declining
21 prosecution shall provide in writing a response to the unit
22 within 30 days of such decision setting forth the reasons and
23 basis for the decision. The unit shall provide the response to
24 the employer.

25 For purposes of this subsection (e), "employer" means any
26 employer, insurance carrier, third party administrator,

1 self-insured, or similar entity.

2 For purposes of this subsection (e), "complainant" refers
3 to the person contacting the fraud and insurance non-compliance
4 unit to initiate the complaint.

5 (f) Any person convicted of fraud related to workers'
6 compensation pursuant to this Section shall be subject to the
7 penalties prescribed in the Criminal Code of 1961 and shall be
8 ineligible to receive or retain any compensation, disability,
9 or medical benefits as defined in this Act if the compensation,
10 disability, or medical benefits were owed or received as a
11 result of fraud for which the recipient of the compensation,
12 disability, or medical benefit was convicted. This subsection
13 applies to accidental injuries or diseases that occur on or
14 after the effective date of this amendatory Act of the 94th
15 General Assembly.

16 (f-1) The Department of Insurance shall post all of the
17 following information on its Internet Web site for each person
18 convicted of a violation of the unlawful actions provided in
19 this Section:

20 (1) The name, case number, county or court, and other
21 identifying information with respect to the case.

22 (2) The full name of the defendant.

23 (3) The city and county of the defendant's last known
24 residence or business address.

25 (4) The date of conviction.

26 (5) A description of the offense.

1 (6) The amount of money alleged to have been defrauded.

2 (7) A description of the punishment imposed, including
3 the length of any sentence of imprisonment and the amount
4 of any fine imposed.

5 The information required to be posted under this subsection
6 shall be maintained on the Department's Web site for a period
7 of 5 years from the date of conviction or until the Department
8 is notified in writing by the person that the conviction has
9 been reversed or expunged.

10 (g) Civil liability. Any person convicted of fraud who
11 knowingly obtains, attempts to obtain, or causes to be obtained
12 any benefits under this Act by the making of a false claim or
13 who knowingly misrepresents any material fact shall be civilly
14 liable to the payor of benefits or the insurer or the payor's
15 or insurer's subrogee or assignee in an amount equal to 3 times
16 the value of the benefits or insurance coverage wrongfully
17 obtained or twice the value of the benefits or insurance
18 coverage attempted to be obtained, plus reasonable attorney's
19 fees and expenses incurred by the payor or the payor's subrogee
20 or assignee who successfully brings a claim under this
21 subsection. This subsection applies to accidental injuries or
22 diseases that occur on or after the effective date of this
23 amendatory Act of the 94th General Assembly. This subsection
24 shall not bar any plaintiff from attempting to secure civil
25 remedies provided under this Section or any other law.

26 (h) All proceedings under this Section shall be reported by

1 the fraud and insurance non-compliance unit on an annual basis
2 to the Workers' Compensation Advisory Board.

3 (Source: P.A. 94-277, eff. 7-20-05.)