

1 AN ACT concerning workplace health.

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

4 Section 5. The Workers' Compensation Act is amended by  
5 changing Section 11 as follows:

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

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

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

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

29 Any injury to or death of an employee arising from the  
30 administration of a vaccine, including without limitation  
31 smallpox vaccine, to prepare for, or as a response to, a

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

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

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

13 (820 ILCS 310/1) (from Ch. 48, par. 172.36)

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

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

18 1. The State and each county, city, town, township,  
 19 incorporated village, school district, body politic, or  
 20 municipal corporation therein.

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

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

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

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

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

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

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

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

1 or his or her dependents under this Act who shall have a  
2 cause of action by reason of an occupational disease,  
3 disablement or death arising out of and in the course of his  
4 or her employment may elect or pursue his or her remedy in  
5 the State where the disease was contracted, or in the State  
6 where the contract of hire is made, or in the State where the  
7 employment is principally localized.

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

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

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

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

1 such exposures whenever and to the extent that the records  
2 are on file with the Department of Public Health or the  
3 agency.

4 Any disease or death of an employee arising from the  
5 administration of a vaccine, including without limitation  
6 smallpox vaccine, to prepare for, or as a response to, a  
7 threatened or potential bioterrorist incident to the employee  
8 as part of a voluntary inoculation program in connection with  
9 the person's employment or in connection with any  
10 governmental program or recommendation for the inoculation of  
11 workers in the employee's occupation, geographical area, or  
12 other category that includes the employee is deemed to arise  
13 out of and in the course of employment for all purposes under  
14 this Act. This amendatory Act of the 93rd General Assembly is  
15 declarative of existing law and is not a new enactment.

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

32 If a deceased miner was employed for 10 years or more in  
33 one or more coal mines and died from a respirable disease  
34 there shall, effective July 1, 1973, be a rebuttable

1 presumption that his or her death was due to pneumoconiosis.

2 The insurance carrier liable shall be the carrier whose  
3 policy was in effect covering the employer liable on the last  
4 day of the exposure rendering such employer liable in  
5 accordance with the provisions of this Act.

6 (e) "Disablement" means an impairment or partial  
7 impairment, temporary or permanent, in the function of the  
8 body or any of the members of the body, or the event of  
9 becoming disabled from earning full wages at the work in  
10 which the employee was engaged when last exposed to the  
11 hazards of the occupational disease by the employer from whom  
12 he or she claims compensation, or equal wages in other  
13 suitable employment; and "disability" means the state of  
14 being so incapacitated.

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

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

28 Section 99. Effective date. This Act takes effect upon  
29 becoming law.