



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB1594

Introduced 2/19/2009, by Sen. Randall M. Hultgren

SYNOPSIS AS INTRODUCED:

820 ILCS 305/11

from Ch. 48, par. 138.11

Amends the Workers' Compensation Act. Provides that an accidental injury incurred while an employee is under the influence of alcohol or certain drugs not prescribed by a physician, or a combined influence of alcohol and drugs, in violation of a work rule or an applicable provision of an employee policy manual is rebuttably presumed to not arise out of and in the course of the employee's employment and the employee is not entitled to workers' compensation benefits. Provides that evidence of the concentration of alcohol or any concentration of a drug in the employee's blood or breath at the time alleged, as determined by analysis of the employee's blood, urine, breath, or other bodily substance, is admissible in a hearing to determine compensability and serves as prima facie evidence to establish the rebuttable presumption.

LRB096 10497 WGH 20669 b

1 AN ACT concerning employment.

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

4 Section 5. The Workers' Compensation Act is amended by
5 changing Section 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 Act,
11 or of any employer who is not engaged in any such enterprises
12 or businesses, but who has elected to provide and pay
13 compensation for accidental injuries sustained by any employee
14 arising out of and in the course of the employment according to
15 the provisions of this Act, and whose election to continue
16 under this Act, has not been nullified by any action of his
17 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 in
21 the course of the employment even though the employer pays some
22 or all of the cost thereof. This exclusion shall not apply in
23 the event that the injured employee was ordered or assigned by

1 his employer to participate in the program.

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

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

19 Accidental injuries incurred while an employee is under the
20 influence of alcohol or any narcotic drugs, barbiturates, or
21 other stimulants not prescribed by a physician, or by the
22 combined influence of alcohol and any other drug or drugs, in
23 violation of a work rule or an applicable provision of an
24 employee policy manual shall be rebuttably presumed to not
25 arise out of and in the course of the employee's employment and
26 the employee shall not be entitled to benefits pursuant to this

1 Act. Evidence of the concentration of alcohol or any
2 concentration of a drug or combination thereof in the
3 employee's blood or breath at the time alleged, as determined
4 by analysis of the employee's blood, urine, breath, or other
5 bodily substance, shall be admissible in any hearing to
6 determine compensability and shall serve as prima facie
7 evidence to establish the rebuttable presumption.

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