



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

SB3830

Introduced 2/11/2010, 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

Amends the Workers' Compensation Act. 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 no compensation is payable if an injury was caused primarily by the intoxication of the employee or caused by the influence of alcohol or certain drugs that affected the employee to such an extent that the intoxication constituted a departure from employment, and includes provisions regarding evidence, presumptions, and other matters. Makes other changes.

LRB096 19613 WGH 35007 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 Sections 8 and 11 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 net  
4 amount which he or she is earning in the modified job provided  
5 to the employee by the employer or in any other job that the  
6 employee is working.

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

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

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

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

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

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

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

26          Where the accidental injury results in the amputation of an

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

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

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

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

1 more from the day of the accident compensation shall commence  
2 on the day after the accident.

3 1. The compensation rate for temporary total  
4 incapacity under this paragraph (b) of this Section shall  
5 be equal to 66 2/3% of the employee's average weekly wage  
6 computed in accordance with Section 10, provided that it  
7 shall be not less than 66 2/3% of the sum of the Federal  
8 minimum wage under the Fair Labor Standards Act, or the  
9 Illinois minimum wage under the Minimum Wage Law, whichever  
10 is more, multiplied by 40 hours. This percentage rate shall  
11 be increased by 10% for each spouse and child, not to  
12 exceed 100% of the total minimum wage calculation,  
13 nor exceed the employee's average weekly wage computed in  
14 accordance with the provisions of Section 10, whichever is  
15 less.

16 2. The compensation rate in all cases other than for  
17 temporary total disability under this paragraph (b), and  
18 other than for serious and permanent disfigurement under  
19 paragraph (c) and other than for permanent partial  
20 disability under subparagraph (2) of paragraph (d) or under  
21 paragraph (e), of this Section shall be equal to 66 2/3% of  
22 the employee's average weekly wage computed in accordance  
23 with the provisions of Section 10, provided that it shall  
24 be not less than 66 2/3% of the sum of the Federal minimum  
25 wage under the Fair Labor Standards Act, or the Illinois  
26 minimum wage under the Minimum Wage Law, whichever is more,



1 multiplied by 40 hours. This percentage rate shall be  
2 increased by 10% for each spouse and child, not to exceed  
3 100% of the total minimum wage calculation,  
4 nor exceed the employee's average weekly wage computed in  
5 accordance with the provisions of Section 10, whichever is  
6 less.

7 2.1. The compensation rate in all cases of serious and  
8 permanent disfigurement under paragraph (c) and of  
9 permanent partial disability under subparagraph (2) of  
10 paragraph (d) or under paragraph (e) of this Section shall  
11 be equal to 60% of the employee's average weekly wage  
12 computed in accordance with the provisions of Section 10,  
13 provided that it shall be not less than 66 2/3% of the sum  
14 of the Federal minimum wage under the Fair Labor Standards  
15 Act, or the Illinois minimum wage under the Minimum Wage  
16 Law, whichever is more, multiplied by 40 hours. This  
17 percentage rate shall be increased by 10% for each spouse  
18 and child, not to exceed 100% of the total minimum wage  
19 calculation,

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

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

1 the employee stood in loco parentis, and who at the time of  
2 the accident was under 18 years of age and not emancipated.  
3 The term "children" means the plural of "child".

4 4. All weekly compensation rates provided under  
5 subparagraphs 1, 2 and 2.1 of this paragraph (b) of this  
6 Section shall be subject to the following limitations:

7 The maximum weekly compensation rate from July 1, 1975,  
8 except as hereinafter provided, shall be 100% of the  
9 State's average weekly wage in covered industries under the  
10 Unemployment Insurance Act, that being the wage that most  
11 closely approximates the State's average weekly wage.

12 The maximum weekly compensation rate, for the period  
13 July 1, 1984, through June 30, 1987, except as hereinafter  
14 provided, shall be \$293.61. Effective July 1, 1987 and on  
15 July 1 of each year thereafter the maximum weekly  
16 compensation rate, except as hereinafter provided, shall  
17 be determined as follows: if during the preceding 12 month  
18 period there shall have been an increase in the State's  
19 average weekly wage in covered industries under the  
20 Unemployment Insurance Act, the weekly compensation rate  
21 shall be proportionately increased by the same percentage  
22 as the percentage of increase in the State's average weekly  
23 wage in covered industries under the Unemployment  
24 Insurance Act during such period.

25 The maximum weekly compensation rate, for the period  
26 January 1, 1981 through December 31, 1983, except as

1 hereinafter provided, shall be 100% of the State's average  
2 weekly wage in covered industries under the Unemployment  
3 Insurance Act in effect on January 1, 1981. Effective  
4 January 1, 1984 and on January 1, of each year thereafter  
5 the maximum weekly compensation rate, except as  
6 hereinafter provided, shall be determined as follows: if  
7 during the preceding 12 month period there shall have been  
8 an increase in the State's average weekly wage in covered  
9 industries under the Unemployment Insurance Act, the  
10 weekly compensation rate shall be proportionately  
11 increased by the same percentage as the percentage of  
12 increase in the State's average weekly wage in covered  
13 industries under the Unemployment Insurance Act during  
14 such period.

15 From July 1, 1977 and thereafter such maximum weekly  
16 compensation rate in death cases under Section 7, and  
17 permanent total disability cases under paragraph (f) or  
18 subparagraph 18 of paragraph (3) of this Section and for  
19 temporary total disability under paragraph (b) of this  
20 Section and for amputation of a member or enucleation of an  
21 eye under paragraph (e) of this Section shall be increased  
22 to 133-1/3% of the State's average weekly wage in covered  
23 industries under the Unemployment Insurance Act.

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

1 covered industries under the Unemployment Insurance Act.

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

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

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

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

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

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

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

26 No compensation is payable under this paragraph where

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

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

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

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

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

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

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

18 1. Thumb-

19 70 weeks if the accidental injury occurs on or  
20 after the effective date of this amendatory Act of the  
21 94th General Assembly but before February 1, 2006.

22 76 weeks if the accidental injury occurs on or  
23 after February 1, 2006.

24 2. First, or index finger-

25 40 weeks if the accidental injury occurs on or  
26 after the effective date of this amendatory Act of the



1 94th General Assembly but before February 1, 2006.

2 43 weeks if the accidental injury occurs on or  
3 after February 1, 2006.

4 3. Second, or middle finger-

5 35 weeks if the accidental injury occurs on or  
6 after the effective date of this amendatory Act of the  
7 94th General Assembly but before February 1, 2006.

8 38 weeks if the accidental injury occurs on or  
9 after February 1, 2006.

10 4. Third, or ring finger-

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

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

16 5. Fourth, or little finger-

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

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

22 6. Great toe-

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

26 38 weeks if the accidental injury occurs on or

1 after February 1, 2006.

2 7. Each toe other than great toe-

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

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

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

17 9. Hand-

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

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

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

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

3 10. Arm-

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

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

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

1 shall be paid.

2 11. Foot-

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

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

8 12. Leg-

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

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

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

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

6 13. Eye-

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

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

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

19 14. Loss of hearing of one ear-

20 50 weeks if the accidental injury occurs on or  
21 after the effective date of this amendatory Act of the  
22 94th General Assembly but before February 1, 2006.

23 54 weeks if the accidental injury occurs on or  
24 after February 1, 2006.

25 Total and permanent loss of hearing of both ears-

26 200 weeks if the accidental injury occurs on or

1 after the effective date of this amendatory Act of the  
2 94th General Assembly but before February 1, 2006.

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

5 15. Testicle-

6 50 weeks if the accidental injury occurs on or  
7 after the effective date of this amendatory Act of the  
8 94th General Assembly but before February 1, 2006.

9 54 weeks if the accidental injury occurs on or  
10 after February 1, 2006.

11 Both testicles-

12 150 weeks if the accidental injury occurs on or  
13 after the effective date of this amendatory Act of the  
14 94th General Assembly but before February 1, 2006.

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 Section.

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (k) For accidental injuries that occur on or after the  
16 effective date of this amendatory Act of the 96th General  
17 Assembly, permanent partial or total disability shall be  
18 certified by a physician and demonstrated by use of medically  
19 defined objective measurements that include, but are not  
20 limited to: loss of range of motion; loss of strength; and  
21 measured atrophy of tissue mass consistent with the injury. In  
22 determining the impairment, subjective complaints shall not be  
23 considered unless supported by and clearly related to objective  
24 measurements. The then-current edition of the American Medical  
25 Association's "Guides to the Evaluation of Permanent  
26 Impairment" shall be applied in determining the level of

1 disability under this Act.

2 (1) Notwithstanding any other provision of this Act, for  
3 accidental injuries that occur on or after the effective date  
4 of this amendatory Act of the 96th General Assembly, temporary  
5 total disability payments shall not exceed 104 weeks if the  
6 injured employee's medical impairment rating determined as a  
7 percentage of the whole person based on the then-current  
8 edition of the American Medical Association's "Guides to the  
9 Evaluation of Permanent Impairment" is less than 70%. This  
10 subsection (1) does not apply if the injured employee's medical  
11 impairment rating determined as a percentage of the whole  
12 person based on the then-current edition of the American  
13 Medical Association's "Guides to the Evaluation of Permanent  
14 Impairment" is 70% or more.

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

17 (820 ILCS 305/11) (from Ch. 48, par. 138.11)

18 Sec. 11. The compensation herein provided, together with  
19 the provisions of this Act, shall be the measure of the  
20 responsibility of any employer engaged in any of the  
21 enterprises or businesses enumerated in Section 3 of this Act,  
22 or of any employer who is not engaged in any such enterprises  
23 or businesses, but who has elected to provide and pay  
24 compensation for accidental injuries sustained by any employee  
25 arising out of and in the course of the employment according to

1 the provisions of this Act, and whose election to continue  
2 under this Act, has not been nullified by any action of his  
3 employees as provided for in this Act.

4 Accidental injuries incurred while participating in  
5 voluntary recreational programs including but not limited to  
6 athletic events, parties and picnics do not arise out of and in  
7 the course of the employment even though the employer pays some  
8 or all of the cost thereof. This exclusion shall not apply in  
9 the event that the injured employee was ordered or assigned by  
10 his employer to participate in the program.

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

15 Any injury to or disease or death of an employee arising  
16 from the administration of a vaccine, including without  
17 limitation smallpox vaccine, to prepare for, or as a response  
18 to, a threatened or potential bioterrorist incident to the  
19 employee as part of a voluntary inoculation program in  
20 connection with the person's employment or in connection with  
21 any governmental program or recommendation for the inoculation  
22 of workers in the employee's occupation, geographical area, or  
23 other category that includes the employee is deemed to arise  
24 out of and in the course of the employment for all purposes  
25 under this Act. This paragraph added by this amendatory Act of  
26 the 93rd General Assembly is declarative of existing law and is

1 not a new enactment.

2 No compensation shall be payable if the injury was caused  
3 primarily by the intoxication of the employee, or if the injury  
4 was caused by the influence of alcohol or any narcotic drugs,  
5 barbiturates, or other stimulants not prescribed by a  
6 physician, or by the combined influence of alcohol and any  
7 other drug or drugs that affected the employee to such an  
8 extent that the Commission determines that the intoxication  
9 constituted a departure from employment. Evidence of the  
10 concentration of alcohol or a drug or combination thereof in a  
11 person's blood or breath at the time alleged, as determined by  
12 analysis of the person's blood, urine, breath, or other bodily  
13 substance, shall be admissible in any hearing to determine  
14 compensability. If the employee refuses to submit to such  
15 analysis, it shall be presumed, in the absence of substantial  
16 evidence to the contrary, that the accident was caused by the  
17 intoxication of the employee. If there was at the time of the  
18 injury 0.08% or more by weight of alcohol in the employee's  
19 blood or breath or there is any amount of a drug, substance or  
20 compound in the person's breath, blood, or urine resulting from  
21 the unlawful use or consumption of cannabis listed in the  
22 Cannabis Control Act, a controlled substance listed in the  
23 Illinois Controlled Substances Act, or an intoxicating  
24 compound listed in the Use of Intoxicating Compounds Act, it  
25 shall be presumed, in the absence of substantial evidence to  
26 the contrary, that the injury was caused by the intoxication of

1 the employee. Percentage by weight of alcohol in the blood  
2 shall be based upon grams of alcohol per 100 milliliters of  
3 blood. Percentage by weight of alcohol in the breath shall be  
4 based upon grams of alcohol per 210 liters of breath.

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