

HB5569



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB5569

by Rep. Lindsey LaPointe

SYNOPSIS AS INTRODUCED:

820 ILCS 305/6
820 ILCS 310/1

from Ch. 48, par. 138.6
from Ch. 48, par. 172.36

Amends the Workers' Compensation Act and the Workers' Occupational Diseases Act. Provides that a person employed as a firefighter, emergency medical technician (EMT), emergency medical technician-intermediate (EMT-I), advanced emergency medical technician (A-EMT), or paramedic may recover for post-traumatic stress disorder. Effective immediately.

LRB101 18285 JLS 67731 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 Section 6 as follows:

6 (820 ILCS 305/6) (from Ch. 48, par. 138.6)

7 Sec. 6. (a) Every employer within the provisions of this
8 Act, shall, under the rules and regulations prescribed by the
9 Commission, post printed notices in their respective places of
10 employment in such number and at such places as may be
11 determined by the Commission, containing such information
12 relative to this Act as in the judgment of the Commission may
13 be necessary to aid employees to safeguard their rights under
14 this Act in event of injury.

15 In addition thereto, the employer shall post in a
16 conspicuous place on the place of the employment a printed or
17 typewritten notice stating whether he is insured or whether he
18 has qualified and is operating as a self-insured employer. In
19 the event the employer is insured, the notice shall state the
20 name and address of his insurance carrier, the number of the
21 insurance policy, its effective date and the date of
22 termination. In the event of the termination of the policy for
23 any reason prior to the termination date stated, the posted

1 notice shall promptly be corrected accordingly. In the event
2 the employer is operating as a self-insured employer the notice
3 shall state the name and address of the company, if any,
4 servicing the compensation payments of the employer, and the
5 name and address of the person in charge of making compensation
6 payments.

7 (b) Every employer subject to this Act shall maintain
8 accurate records of work-related deaths, injuries and illness
9 other than minor injuries requiring only first aid treatment
10 and which do not involve medical treatment, loss of
11 consciousness, restriction of work or motion, or transfer to
12 another job and file with the Commission, in writing, a report
13 of all accidental deaths, injuries and illnesses arising out of
14 and in the course of the employment resulting in the loss of
15 more than 3 scheduled work days. In the case of death such
16 report shall be made no later than 2 working days following the
17 accidental death. In all other cases such report shall be made
18 between the 15th and 25th of each month unless required to be
19 made sooner by rule of the Commission. In case the injury
20 results in permanent disability, a further report shall be made
21 as soon as it is determined that such permanent disability has
22 resulted or will result from the injury. All reports shall
23 state the date of the injury, including the time of day or
24 night, the nature of the employer's business, the name,
25 address, age, sex, conjugal condition of the injured person,
26 the specific occupation of the injured person, the direct cause

1 of the injury and the nature of the accident, the character of
2 the injury, the length of disability, and in case of death the
3 length of disability before death, the wages of the injured
4 person, whether compensation has been paid to the injured
5 person, or to his or her legal representative or his heirs or
6 next of kin, the amount of compensation paid, the amount paid
7 for physicians', surgeons' and hospital bills, and by whom
8 paid, and the amount paid for funeral or burial expenses if
9 known. The reports shall be made on forms and in the manner as
10 prescribed by the Commission and shall contain such further
11 information as the Commission shall deem necessary and require.
12 The making of these reports releases the employer from making
13 such reports to any other officer of the State and shall
14 satisfy the reporting provisions as contained in the Safety
15 Inspection and Education Act, the Health and Safety Act, and
16 the Occupational Safety and Health Act. The reports filed with
17 the Commission pursuant to this Section shall be made available
18 by the Commission to the Director of Labor or his
19 representatives and to all other departments of the State of
20 Illinois which shall require such information for the proper
21 discharge of their official duties. Failure to file with the
22 Commission any of the reports required in this Section is a
23 petty offense.

24 Except as provided in this paragraph, all reports filed
25 hereunder shall be confidential and any person having access to
26 such records filed with the Illinois Workers' Compensation

1 Commission as herein required, who shall release any
2 information therein contained including the names or otherwise
3 identify any persons sustaining injuries or disabilities, or
4 give access to such information to any unauthorized person,
5 shall be subject to discipline or discharge, and in addition
6 shall be guilty of a Class B misdemeanor. The Commission shall
7 compile and distribute to interested persons aggregate
8 statistics, taken from the reports filed hereunder. The
9 aggregate statistics shall not give the names or otherwise
10 identify persons sustaining injuries or disabilities or the
11 employer of any injured person or person with a disability.

12 (c) Notice of the accident shall be given to the employer
13 as soon as practicable, but not later than 45 days after the
14 accident. Provided:

15 (1) In case of the legal disability of the employee or
16 any dependent of a deceased employee who may be entitled to
17 compensation under the provisions of this Act, the
18 limitations of time by this Act provided do not begin to
19 run against such person under legal disability until a
20 guardian has been appointed.

21 (2) In cases of injuries sustained by exposure to
22 radiological materials or equipment, notice shall be given
23 to the employer within 90 days subsequent to the time that
24 the employee knows or suspects that he has received an
25 excessive dose of radiation.

26 No defect or inaccuracy of such notice shall be a bar to

1 the maintenance of proceedings on arbitration or otherwise by
2 the employee unless the employer proves that he is unduly
3 prejudiced in such proceedings by such defect or inaccuracy.

4 Notice of the accident shall give the approximate date and
5 place of the accident, if known, and may be given orally or in
6 writing.

7 (d) Every employer shall notify each injured employee who
8 has been granted compensation under the provisions of Section 8
9 of this Act of his rights to rehabilitation services and advise
10 him of the locations of available public rehabilitation centers
11 and any other such services of which the employer has
12 knowledge.

13 In any case, other than one where the injury was caused by
14 exposure to radiological materials or equipment or asbestos
15 unless the application for compensation is filed with the
16 Commission within 3 years after the date of the accident, where
17 no compensation has been paid, or within 2 years after the date
18 of the last payment of compensation, where any has been paid,
19 whichever shall be later, the right to file such application
20 shall be barred.

21 In any case of injury caused by exposure to radiological
22 materials or equipment or asbestos, unless application for
23 compensation is filed with the Commission within 25 years after
24 the last day that the employee was employed in an environment
25 of hazardous radiological activity or asbestos, the right to
26 file such application shall be barred.

1 If in any case except one where the injury was caused by
2 exposure to radiological materials or equipment or asbestos,
3 the accidental injury results in death application for
4 compensation for death may be filed with the Commission within
5 3 years after the date of death where no compensation has been
6 paid or within 2 years after the date of the last payment of
7 compensation where any has been paid, whichever shall be later,
8 but not thereafter.

9 If an accidental injury caused by exposure to radiological
10 material or equipment or asbestos results in death within 25
11 years after the last day that the employee was so exposed
12 application for compensation for death may be filed with the
13 Commission within 3 years after the date of death, where no
14 compensation has been paid, or within 2 years after the date of
15 the last payment of compensation where any has been paid,
16 whichever shall be later, but not thereafter.

17 (e) Any contract or agreement made by any employer or his
18 agent or attorney with any employee or any other beneficiary of
19 any claim under the provisions of this Act within 7 days after
20 the injury shall be presumed to be fraudulent.

21 (f) Any condition or impairment of health of an employee
22 employed as a firefighter, emergency medical technician (EMT),
23 emergency medical technician-intermediate (EMT-I), advanced
24 emergency medical technician (A-EMT), or paramedic which
25 results directly or indirectly from any bloodborne pathogen,
26 lung or respiratory disease or condition, heart or vascular

1 disease or condition, hypertension, tuberculosis, or cancer
2 resulting in any disability (temporary, permanent, total, or
3 partial) to the employee shall be rebuttably presumed to arise
4 out of and in the course of the employee's firefighting, EMT,
5 or paramedic employment and, further, shall be rebuttably
6 presumed to be causally connected to the hazards or exposures
7 of the employment. This presumption shall also apply to any
8 hernia or hearing loss suffered by an employee employed as a
9 firefighter, EMT, EMT-I, A-EMT, or paramedic. However, this
10 presumption shall not apply to any employee who has been
11 employed as a firefighter, EMT, or paramedic for less than 5
12 years at the time he or she files an Application for Adjustment
13 of Claim concerning this condition or impairment with the
14 Illinois Workers' Compensation Commission. The rebuttable
15 presumption established under this subsection, however, does
16 not apply to an emergency medical technician (EMT), emergency
17 medical technician-intermediate (EMT-I), advanced emergency
18 medical technician (A-EMT), or paramedic employed by a private
19 employer if the employee spends the preponderance of his or her
20 work time for that employer engaged in medical transfers
21 between medical care facilities or non-emergency medical
22 transfers to or from medical care facilities. The changes made
23 to this subsection by Public Act 98-291 shall be narrowly
24 construed. The Finding and Decision of the Illinois Workers'
25 Compensation Commission under only the rebuttable presumption
26 provision of this subsection shall not be admissible or be

1 deemed res judicata in any disability claim under the Illinois
2 Pension Code arising out of the same medical condition;
3 however, this sentence makes no change to the law set forth in
4 Krohe v. City of Bloomington, 204 Ill.2d 392.

5 (g) In this Section, "condition or impairment of health"
6 includes post-traumatic stress disorder arising out of and in
7 the course of employment affecting a person employed as a
8 firefighter, emergency medical technician (EMT), emergency
9 medical technician-intermediate (EMT-I), advanced emergency
10 medical technician (A-EMT), or paramedic.

11 (Source: P.A. 98-291, eff. 1-1-14; 98-874, eff. 1-1-15; 98-973,
12 eff. 8-15-14; 99-78, eff. 7-20-15; 99-143, eff. 7-27-15.)

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

15 (820 ILCS 310/1) (from Ch. 48, par. 172.36)

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

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

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

23 2. Every person, firm, public or private corporation,
24 including hospitals, public service, eleemosynary,

1 religious or charitable corporations or associations, who
2 has any person in service or under any contract for hire,
3 express or implied, oral or written.

4 3. Where an employer operating under and subject to the
5 provisions of this Act loans an employee to another such
6 employer and such loaned employee sustains a compensable
7 occupational disease in the employment of such borrowing
8 employer and where such borrowing employer does not provide
9 or pay the benefits or payments due such employee, such
10 loaning employer shall be liable to provide or pay all
11 benefits or payments due such employee under this Act and
12 as to such employee the liability of such loaning and
13 borrowing employers shall be joint and several, provided
14 that such loaning employer shall in the absence of
15 agreement to the contrary be entitled to receive from such
16 borrowing employer full reimbursement for all sums paid or
17 incurred pursuant to this paragraph together with
18 reasonable attorneys' fees and expenses in any hearings
19 before the Illinois Workers' Compensation Commission or in
20 any action to secure such reimbursement. Where any benefit
21 is provided or paid by such loaning employer, the employee
22 shall have the duty of rendering reasonable co-operation in
23 any hearings, trials or proceedings in the case, including
24 such proceedings for reimbursement.

25 Where an employee files an Application for Adjustment
26 of Claim with the Illinois Workers' Compensation

1 Commission alleging that his or her claim is covered by the
2 provisions of the preceding paragraph, and joining both the
3 alleged loaning and borrowing employers, they and each of
4 them, upon written demand by the employee and within 7 days
5 after receipt of such demand, shall have the duty of filing
6 with the Illinois Workers' Compensation Commission a
7 written admission or denial of the allegation that the
8 claim is covered by the provisions of the preceding
9 paragraph and in default of such filing or if any such
10 denial be ultimately determined not to have been bona fide
11 then the provisions of Paragraph K of Section 19 of this
12 Act shall apply.

13 An employer whose business or enterprise or a
14 substantial part thereof consists of hiring, procuring or
15 furnishing employees to or for other employers operating
16 under and subject to the provisions of this Act for the
17 performance of the work of such other employers and who
18 pays such employees their salary or wage notwithstanding
19 that they are doing the work of such other employers shall
20 be deemed a loaning employer within the meaning and
21 provisions of this Section.

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

24 1. Every person in the service of the State, county,
25 city, town, township, incorporated village or school
26 district, body politic or municipal corporation therein,

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

18 2. Every person in the service of another under any
19 contract of hire, express or implied, oral or written, who
20 contracts an occupational disease while working in the
21 State of Illinois, or who contracts an occupational disease
22 while working outside of the State of Illinois but where
23 the contract of hire is made within the State of Illinois,
24 and any person whose employment is principally localized
25 within the State of Illinois, regardless of the place where
26 the disease was contracted or place where the contract of

1 hire was made, including aliens, and minors who, for the
2 purpose of this Act, except Section 3 hereof, shall be
3 considered the same and have the same power to contract,
4 receive payments and give quittances therefor, as adult
5 employees. An employee or his or her dependents under this
6 Act who shall have a cause of action by reason of an
7 occupational disease, disablement or death arising out of
8 and in the course of his or her employment may elect or
9 pursue his or her remedy in the State where the disease was
10 contracted, or in the State where the contract of hire is
11 made, or in the State where the employment is principally
12 localized.

13 (c) "Commission" means the Illinois Workers' Compensation
14 Commission created by the Workers' Compensation Act, approved
15 July 9, 1951, as amended.

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

22 "Occupational disease" includes post-traumatic stress
23 disorder arising out of and in the course of employment
24 affecting a person employed as a firefighter, emergency medical
25 technician (EMT), emergency medical technician-intermediate
26 (EMT-I), advanced emergency medical technician (A-EMT), or

1 paramedic.

2 A disease shall be deemed to arise out of the employment if
3 there is apparent to the rational mind, upon consideration of
4 all the circumstances, a causal connection between the
5 conditions under which the work is performed and the
6 occupational disease. The disease need not to have been
7 foreseen or expected but after its contraction it must appear
8 to have had its origin or aggravation in a risk connected with
9 the employment and to have flowed from that source as a
10 rational consequence.

11 An employee shall be conclusively deemed to have been
12 exposed to the hazards of an occupational disease when, for any
13 length of time however short, he or she is employed in an
14 occupation or process in which the hazard of the disease
15 exists; provided however, that in a claim of exposure to atomic
16 radiation, the fact of such exposure must be verified by the
17 records of the central registry of radiation exposure
18 maintained by the Department of Public Health or by some other
19 recognized governmental agency maintaining records of such
20 exposures whenever and to the extent that the records are on
21 file with the Department of Public Health or the agency.

22 Any injury to or disease or death of an employee arising
23 from the administration of a vaccine, including without
24 limitation smallpox vaccine, to prepare for, or as a response
25 to, a threatened or potential bioterrorist incident to the
26 employee as part of a voluntary inoculation program in

1 connection with the person's employment or in connection with
2 any governmental program or recommendation for the inoculation
3 of workers in the employee's occupation, geographical area, or
4 other category that includes the employee is deemed to arise
5 out of and in the course of the employment for all purposes
6 under this Act. This paragraph added by Public Act 93-829 is
7 declarative of existing law and is not a new enactment.

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

23 If a deceased miner was employed for 10 years or more in
24 one or more coal mines and died from a respirable disease there
25 shall, effective July 1, 1973, be a rebuttable presumption that
26 his or her death was due to pneumoconiosis.

1 Any condition or impairment of health of an employee
2 employed as a firefighter, emergency medical technician (EMT),
3 emergency medical technician-intermediate (EMT-I), advanced
4 emergency medical technician (A-EMT), or paramedic which
5 results directly or indirectly from any bloodborne pathogen,
6 lung or respiratory disease or condition, heart or vascular
7 disease or condition, hypertension, tuberculosis, or cancer
8 resulting in any disability (temporary, permanent, total, or
9 partial) to the employee shall be rebuttably presumed to arise
10 out of and in the course of the employee's firefighting, EMT,
11 EMT-I, A-EMT, or paramedic employment and, further, shall be
12 rebuttably presumed to be causally connected to the hazards or
13 exposures of the employment. This presumption shall also apply
14 to any hernia or hearing loss suffered by an employee employed
15 as a firefighter, EMT, EMT-I, A-EMT, or paramedic. However,
16 this presumption shall not apply to any employee who has been
17 employed as a firefighter, EMT, EMT-I, A-EMT, or paramedic for
18 less than 5 years at the time he or she files an Application
19 for Adjustment of Claim concerning this condition or impairment
20 with the Illinois Workers' Compensation Commission. The
21 rebuttable presumption established under this subsection,
22 however, does not apply to an emergency medical technician
23 (EMT), emergency medical technician-intermediate (EMT-I),
24 advanced emergency medical technician (A-EMT), or paramedic
25 employed by a private employer if the employee spends the
26 preponderance of his or her work time for that employer engaged

1 in medical transfers between medical care facilities or
2 non-emergency medical transfers to or from medical care
3 facilities. The changes made to this subsection by this
4 amendatory Act of the 98th General Assembly shall be narrowly
5 construed. The Finding and Decision of the Illinois Workers'
6 Compensation Commission under only the rebuttable presumption
7 provision of this paragraph shall not be admissible or be
8 deemed res judicata in any disability claim under the Illinois
9 Pension Code arising out of the same medical condition;
10 however, this sentence makes no change to the law set forth in
11 *Krohe v. City of Bloomington*, 204 Ill.2d 392.

12 The insurance carrier liable shall be the carrier whose
13 policy was in effect covering the employer liable on the last
14 day of the exposure rendering such employer liable in
15 accordance with the provisions of this Act.

16 (e) "Disablement" means an impairment or partial
17 impairment, temporary or permanent, in the function of the body
18 or any of the members of the body, or the event of becoming
19 disabled from earning full wages at the work in which the
20 employee was engaged when last exposed to the hazards of the
21 occupational disease by the employer from whom he or she claims
22 compensation, or equal wages in other suitable employment; and
23 "disability" means the state of being so incapacitated.

24 (f) No compensation shall be payable for or on account of
25 any occupational disease unless disablement, as herein
26 defined, occurs within two years after the last day of the last

1 exposure to the hazards of the disease, except in cases of
2 occupational disease caused by berylliosis or by the inhalation
3 of silica dust or asbestos dust and, in such cases, within 3
4 years after the last day of the last exposure to the hazards of
5 such disease and except in the case of occupational disease
6 caused by exposure to radiological materials or equipment, and
7 in such case, within 25 years after the last day of last
8 exposure to the hazards of such disease.

9 (Source: P.A. 98-291, eff. 1-1-14; 98-973, eff. 8-15-14.)

10 Section 99. Effective date. This Act takes effect
11 immediate.