



Rep. Michael J. Madigan

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1 AMENDMENT TO HOUSE BILL 1287

2 AMENDMENT NO. _____. Amend House Bill 1287 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Workers' Compensation Act is amended by
5 changing Section 1 as follows:

6 (820 ILCS 305/1) (from Ch. 48, par. 138.1)

7 Sec. 1. This Act may be cited as the Workers' Compensation
8 Act.

9 (a) The term "employer" as used in this Act means:

10 1. The State and each county, city, town, township,
11 incorporated village, school district, body politic, or
12 municipal corporation therein.

13 2. Every person, firm, public or private corporation,
14 including hospitals, public service, eleemosynary, religious
15 or charitable corporations or associations who has any person
16 in service or under any contract for hire, express or implied,

1 oral or written, and who is engaged in any of the enterprises
2 or businesses enumerated in Section 3 of this Act, or who at or
3 prior to the time of the accident to the employee for which
4 compensation under this Act may be claimed, has in the manner
5 provided in this Act elected to become subject to the
6 provisions of this Act, and who has not, prior to such
7 accident, effected a withdrawal of such election in the manner
8 provided in this Act.

9 3. Any one engaging in any business or enterprise referred
10 to in subsections 1 and 2 of Section 3 of this Act who
11 undertakes to do any work enumerated therein, is liable to pay
12 compensation to his own immediate employees in accordance with
13 the provisions of this Act, and in addition thereto if he
14 directly or indirectly engages any contractor whether
15 principal or sub-contractor to do any such work, he is liable
16 to pay compensation to the employees of any such contractor or
17 sub-contractor unless such contractor or sub-contractor has
18 insured, in any company or association authorized under the
19 laws of this State to insure the liability to pay compensation
20 under this Act, or guaranteed his liability to pay such
21 compensation. With respect to any time limitation on the filing
22 of claims provided by this Act, the timely filing of a claim
23 against a contractor or subcontractor, as the case may be,
24 shall be deemed to be a timely filing with respect to all
25 persons upon whom liability is imposed by this paragraph.

26 In the event any such person pays compensation under this

1 subsection he may recover the amount thereof from the
2 contractor or sub-contractor, if any, and in the event the
3 contractor pays compensation under this subsection he may
4 recover the amount thereof from the sub-contractor, if any.

5 This subsection does not apply in any case where the
6 accident occurs elsewhere than on, in or about the immediate
7 premises on which the principal has contracted that the work be
8 done.

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

1 proceedings in the case, including such proceedings for
2 reimbursement.

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

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

24 (b) The term "employee" as used in this Act means:

25 1. Every person in the service of the State, including
26 members of the General Assembly, members of the Commerce

1 Commission, members of the Illinois Workers' Compensation
2 Commission, and all persons in the service of the University of
3 Illinois, county, including deputy sheriffs and assistant
4 state's attorneys, city, town, township, incorporated village
5 or school district, body politic, or municipal corporation
6 therein, whether by election, under appointment or contract of
7 hire, express or implied, oral or written, including all
8 members of the Illinois National Guard while on active duty in
9 the service of the State, and all probation personnel of the
10 Juvenile Court appointed pursuant to Article VI of the Juvenile
11 Court Act of 1987, and including any official of the State, any
12 county, city, town, township, incorporated village, school
13 district, body politic or municipal corporation therein except
14 any duly appointed member of a police department in any city
15 whose population exceeds 500,000 according to the last Federal
16 or State census, and except any member of a fire insurance
17 patrol maintained by a board of underwriters in this State. A
18 duly appointed member of a fire department in any city, the
19 population of which exceeds 500,000 according to the last
20 federal or State census, is an employee under this Act only
21 with respect to claims brought under paragraph (c) of Section
22 8.

23 One employed by a contractor who has contracted with the
24 State, or a county, city, town, township, incorporated village,
25 school district, body politic or municipal corporation
26 therein, through its representatives, is not considered as an

1 employee of the State, county, city, town, township,
2 incorporated village, school district, body politic or
3 municipal corporation which made the contract.

4 2. Every person in the service of another under any
5 contract of hire, express or implied, oral or written,
6 including persons whose employment is outside of the State of
7 Illinois where the contract of hire is made within the State of
8 Illinois, persons whose employment results in fatal or
9 non-fatal injuries within the State of Illinois where the
10 contract of hire is made outside of the State of Illinois, and
11 persons whose employment is principally localized within the
12 State of Illinois, regardless of the place of the accident or
13 the place where the contract of hire was made, and including
14 aliens, and minors who, for the purpose of this Act are
15 considered the same and have the same power to contract,
16 receive payments and give quittances therefor, as adult
17 employees.

18 3. Every sole proprietor and every partner of a business
19 may elect to be covered by this Act.

20 An employee or his dependents under this Act who shall have
21 a cause of action by reason of any injury, disablement or death
22 arising out of and in the course of his employment may elect to
23 pursue his remedy in the State where injured or disabled, or in
24 the State where the contract of hire is made, or in the State
25 where the employment is principally localized.

26 However, any employer may elect to provide and pay

1 compensation to any employee other than those engaged in the
2 usual course of the trade, business, profession or occupation
3 of the employer by complying with Sections 2 and 4 of this Act.
4 Employees are not included within the provisions of this Act
5 when excluded by the laws of the United States relating to
6 liability of employers to their employees for personal injuries
7 where such laws are held to be exclusive.

8 The term "employee" does not include persons performing
9 services as real estate broker, broker-salesman, or salesman
10 when such persons are paid by commission only.

11 (c) "Commission" means the Industrial Commission created
12 by Section 5 of "The Civil Administrative Code of Illinois",
13 approved March 7, 1917, as amended, or the Illinois Workers'
14 Compensation Commission created by Section 13 of this Act.

15 (d) To obtain compensation under this Act, an employee
16 bears the burden of showing, by a preponderance of the
17 evidence, that he or she has sustained accidental injuries
18 arising out of and in the course of the employment.

19 (e) The term "accident" as used in this Act means an
20 occurrence arising out of the employment, resulting from a risk
21 incidental to the employment, and in the course of employment
22 at a time and place and under circumstances reasonably required
23 by the employment.

24 (f) The term "injury" as used in this Act means a medical
25 condition or impairment that arises out of and in the course of
26 employment. An injury, its occupational cause, and any

1 resulting manifestations or disability must be established to a
2 reasonable degree of medical certainty, based on objective
3 relevant medical findings. For an accidental injury to be
4 compensable, the accident must be the major contributing cause
5 of any resulting injuries. For the purpose of this Section,
6 "major contributing cause" means the cause which is more than
7 50% responsible for the injury compared to all other causes
8 combined for which treatment or benefits are sought. "Injury"
9 includes the aggravation of a pre-existing condition by an
10 accident arising out of and in the course of employment, but
11 only for so long as the aggravation of the pre-existing
12 condition continues to be the major contributing cause of the
13 injury.

14 An injury is deemed to arise out of and in the course of
15 employment only if:

16 (1) it is reasonably apparent, upon consideration of
17 all circumstances, that the accident is the major
18 contributing cause of the injury; and

19 (2) it does not come from a hazard or risk unrelated to
20 the employment to which employees would have been equally
21 exposed outside of the employment.

22 An injury resulting directly or indirectly from idiopathic
23 causes is not compensable.

24 (Source: P.A. 97-18, eff. 6-28-11; 97-268, eff. 8-8-11; 97-813,
25 eff. 7-13-12.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.".