



Rep. Jay Hoffman

Filed: 6/3/2015

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LRB099 05153 SXM 36495 a

1 AMENDMENT TO HOUSE BILL 1287

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 1287, AS AMENDED, by  
3 inserting the following in its proper numeric sequence in this  
4 bill:

5 "Section 6. The Workers' Compensation Act is amended by  
6 changing Section 1 as follows:

7 (820 ILCS 305/1) (from Ch. 48, par. 138.1)

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

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

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

14 2. Every person, firm, public or private corporation,  
15 including hospitals, public service, eleemosynary, religious  
16 or charitable corporations or associations who has any person

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

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

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

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

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

1 rendering reasonable cooperation in any hearings, trials or  
2 proceedings in the case, including such proceedings for  
3 reimbursement.

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

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

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

26 1. Every person in the service of the State, including

1 members of the General Assembly, members of the Commerce  
2 Commission, members of the Illinois Workers' Compensation  
3 Commission, and all persons in the service of the University of  
4 Illinois, county, including deputy sheriffs and assistant  
5 state's attorneys, city, town, township, incorporated village  
6 or school district, body politic, or municipal corporation  
7 therein, whether by election, under appointment or contract of  
8 hire, express or implied, oral or written, including all  
9 members of the Illinois National Guard while on active duty in  
10 the service of the State, and all probation personnel of the  
11 Juvenile Court appointed pursuant to Article VI of the Juvenile  
12 Court Act of 1987, and including any official of the State, any  
13 county, city, town, township, incorporated village, school  
14 district, body politic or municipal corporation therein except  
15 any duly appointed member of a police department in any city  
16 whose population exceeds 500,000 according to the last Federal  
17 or State census, and except any member of a fire insurance  
18 patrol maintained by a board of underwriters in this State. A  
19 duly appointed member of a fire department in any city, the  
20 population of which exceeds 500,000 according to the last  
21 federal or State census, is an employee under this Act only  
22 with respect to claims brought under paragraph (c) of Section  
23 8.

24 One employed by a contractor who has contracted with the  
25 State, or a county, city, town, township, incorporated village,  
26 school district, body politic or municipal corporation

1 therein, through its representatives, is not considered as an  
2 employee of the State, county, city, town, township,  
3 incorporated village, school district, body politic or  
4 municipal corporation which made the contract.

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

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

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

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

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

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

16          (d) To obtain compensation under this Act, an employee  
17          bears the burden of showing, by a preponderance of the  
18          evidence, that he or she has sustained accidental injuries  
19          arising out of and in the course of the employment. Except as  
20          provided in subsection (e) of this Section, accidental injuries  
21          sustained while traveling to or from work do not arise out of  
22          and in the course of employment.

23                 For the purposes of this subsection (d):

24                 "In the course of employment" refers to the time, place,  
25                 and circumstances surrounding the accidental injuries.

26                 "Arising out of the employment" refers to causal

1 connection. It must be shown that the injury had its origin in  
2 some risk connected with, or incidental to, the employment so  
3 as to create a causal connection between the employment and the  
4 accidental injuries. An injury arises out of the employment if,  
5 at the time of the occurrence, the employee was performing acts  
6 he or she was instructed to perform by his or her employer,  
7 acts which he or she had a common law or statutory duty to  
8 perform, or acts which the employee might reasonably be  
9 expected to perform incident to his or her assigned duties. A  
10 risk is incidental to the employment where it belongs to or is  
11 connected with what an employee has to do in fulfilling his or  
12 her duties.

13 (e) Where an employee is required to travel away from his  
14 or her employer's premises in order to perform his or her job,  
15 the traveling employee's accidental injuries arise out of his  
16 or her employment, and are in the course of his or her  
17 employment, when the conduct in which he or she was engaged at  
18 the time of the injury is reasonable and when that conduct  
19 might have been anticipated or foreseen by the employer.  
20 Accidental injuries while traveling do not occur in the course  
21 of employment if the accident occurs during a purely personal  
22 deviation or personal errand unless such deviation or errand is  
23 insubstantial.

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