

HB4638



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB4638

by Rep. Dwight Kay

SYNOPSIS AS INTRODUCED:

820 ILCS 305/8

from Ch. 48, par. 138.8

Amends the Workers' Compensation Act. Provides that, within 120 days after a determination by an arbitrator that an employee is no longer eligible for benefits for temporary total incapacity, the arbitrator shall issue a determination on eligibility for permanent disability benefits unless the arbitrator extends the time for determination for good cause shown.

LRB099 19343 JLS 43735 b

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 8 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, even if a health care provider sells,
19 transfers, or otherwise assigns an account receivable for
20 procedures, treatments, or services covered under this Act. If
21 the employer does not dispute payment of first aid, medical,
22 surgical, and hospital services, the employer shall make such
23 payment to the provider on behalf of the employee. The employer

1 shall also pay for treatment, instruction and training
2 necessary for the physical, mental and vocational
3 rehabilitation of the employee, including all maintenance
4 costs and expenses incidental thereto. If as a result of the
5 injury the employee is unable to be self-sufficient the
6 employer shall further pay for such maintenance or
7 institutional care as shall be required.

8 The employee may at any time elect to secure his own
9 physician, surgeon and hospital services at the employer's
10 expense, or,

11 Upon agreement between the employer and the employees, or
12 the employees' exclusive representative, and subject to the
13 approval of the Illinois Workers' Compensation Commission, the
14 employer shall maintain a list of physicians, to be known as a
15 Panel of Physicians, who are accessible to the employees. The
16 employer shall post this list in a place or places easily
17 accessible to his employees. The employee shall have the right
18 to make an alternative choice of physician from such Panel if
19 he is not satisfied with the physician first selected. If, due
20 to the nature of the injury or its occurrence away from the
21 employer's place of business, the employee is unable to make a
22 selection from the Panel, the selection process from the Panel
23 shall not apply. The physician selected from the Panel may
24 arrange for any consultation, referral or other specialized
25 medical services outside the Panel at the employer's expense.
26 Provided that, in the event the Commission shall find that a

1 doctor selected by the employee is rendering improper or
2 inadequate care, the Commission may order the employee to
3 select another doctor certified or qualified in the medical
4 field for which treatment is required. If the employee refuses
5 to make such change the Commission may relieve the employer of
6 his obligation to pay the doctor's charges from the date of
7 refusal to the date of compliance.

8 Any vocational rehabilitation counselors who provide
9 service under this Act shall have appropriate certifications
10 which designate the counselor as qualified to render opinions
11 relating to vocational rehabilitation. Vocational
12 rehabilitation may include, but is not limited to, counseling
13 for job searches, supervising a job search program, and
14 vocational retraining including education at an accredited
15 learning institution. The employee or employer may petition to
16 the Commission to decide disputes relating to vocational
17 rehabilitation and the Commission shall resolve any such
18 dispute, including payment of the vocational rehabilitation
19 program by the employer.

20 The maintenance benefit shall not be less than the
21 temporary total disability rate determined for the employee. In
22 addition, maintenance shall include costs and expenses
23 incidental to the vocational rehabilitation program.

24 When the employee is working light duty on a part-time
25 basis or full-time basis and earns less than he or she would be
26 earning if employed in the full capacity of the job or jobs,

1 then the employee shall be entitled to temporary partial
2 disability benefits. Temporary partial disability benefits
3 shall be equal to two-thirds of the difference between the
4 average amount that the employee would be able to earn in the
5 full performance of his or her duties in the occupation in
6 which he or she was engaged at the time of accident and the
7 gross amount which he or she is earning in the modified job
8 provided to the employee by the employer or in any other job
9 that the employee is working.

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

17 Notwithstanding the foregoing, the employer's liability to
18 pay for such medical services selected by the employee shall be
19 limited to:

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

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

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

17 (4) The following shall apply for injuries occurring on
18 or after June 28, 2011 (the effective date of Public Act
19 97-18) and only when an employer has an approved preferred
20 provider program pursuant to Section 8.1a on the date the
21 employee sustained his or her accidental injuries:

22 (A) The employer shall, in writing, on a form
23 promulgated by the Commission, inform the employee of
24 the preferred provider program;

25 (B) Subsequent to the report of an injury by an
26 employee, the employee may choose in writing at any

1 time to decline the preferred provider program, in
2 which case that would constitute one of the two choices
3 of medical providers to which the employee is entitled
4 under subsection (a) (2) or (a) (3); and

5 (C) Prior to the report of an injury by an
6 employee, when an employee chooses non-emergency
7 treatment from a provider not within the preferred
8 provider program, that would constitute the employee's
9 one choice of medical providers to which the employee
10 is entitled under subsection (a) (2) or (a) (3).

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

23 Where the accidental injury results in the amputation of an
24 arm, hand, leg or foot, or the enucleation of an eye, or the
25 loss of any of the natural teeth, the employer shall furnish an
26 artificial of any such members lost or damaged in accidental

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

12 The furnishing by the employer of any such services or
13 appliances is not an admission of liability on the part of the
14 employer to pay compensation.

15 The furnishing of any such services or appliances or the
16 servicing thereof by the employer is not the payment of
17 compensation.

18 (b) If the period of temporary total incapacity for work
19 lasts more than 3 working days, weekly compensation as
20 hereinafter provided shall be paid beginning on the 4th day of
21 such temporary total incapacity and continuing as long as the
22 ~~total~~ temporary total incapacity lasts. In cases where the
23 temporary total incapacity for work continues for a period of
24 14 days or more from the day of the accident compensation shall
25 commence on the day after the accident. With respect to cases
26 filed after December 31, 2016, no later than 120 days after a

1 determination by an arbitrator that an employee is no longer
2 eligible for benefits for temporary total incapacity for work,
3 the arbitrator shall issue a determination on eligibility for
4 permanent disability benefits unless the arbitrator extends
5 the time for determination for good cause shown.

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

19 2. The compensation rate in all cases other than for
20 temporary total disability under this paragraph (b), and
21 other than for serious and permanent disfigurement under
22 paragraph (c) and other than for permanent partial
23 disability under subparagraph (2) of paragraph (d) or under
24 paragraph (e), of this Section shall be equal to 66 2/3% of
25 the employee's average weekly wage computed in accordance
26 with the provisions of Section 10, provided that it shall

1 be not less than 66 2/3% of the sum of the Federal minimum
2 wage under the Fair Labor Standards Act, or the Illinois
3 minimum wage under the Minimum Wage Law, whichever is more,
4 multiplied by 40 hours. This percentage rate shall be
5 increased by 10% for each spouse and child, not to exceed
6 100% of the total minimum wage calculation, nor exceed the
7 employee's average weekly wage computed in accordance with
8 the provisions of Section 10, whichever is less.

9 2.1. The compensation rate in all cases of serious and
10 permanent disfigurement under paragraph (c) and of
11 permanent partial disability under subparagraph (2) of
12 paragraph (d) or under paragraph (e) of this Section shall
13 be equal to 60% of the employee's average weekly wage
14 computed in accordance with the provisions of Section 10,
15 provided that it shall be not less than 66 2/3% of the sum
16 of the Federal minimum wage under the Fair Labor Standards
17 Act, or the Illinois minimum wage under the Minimum Wage
18 Law, whichever is more, multiplied by 40 hours. This
19 percentage rate shall be increased by 10% for each spouse
20 and child, not to exceed 100% of the total minimum wage
21 calculation, nor exceed the employee's average weekly wage
22 computed in accordance with the provisions of Section 10,
23 whichever is less.

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

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

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

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

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

26 The maximum weekly compensation rate, for the period

1 January 1, 1981 through December 31, 1983, except as
2 hereinafter provided, shall be 100% of the State's average
3 weekly wage in covered industries under the Unemployment
4 Insurance Act in effect on January 1, 1981. Effective
5 January 1, 1984 and on January 1, of each year thereafter
6 the maximum weekly compensation rate, except as
7 hereinafter provided, shall be determined as follows: if
8 during the preceding 12 month period there shall have been
9 an increase in the State's average weekly wage in covered
10 industries under the Unemployment Insurance Act, the
11 weekly compensation rate shall be proportionately
12 increased by the same percentage as the percentage of
13 increase in the State's average weekly wage in covered
14 industries under the Unemployment Insurance Act during
15 such period.

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

25 For injuries occurring on or after February 1, 2006,
26 the maximum weekly benefit under paragraph (d)1 of this

1 Section shall be 100% of the State's average weekly wage in
2 covered industries under the Unemployment Insurance Act.

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

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

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

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

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

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

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

1 No compensation is payable under this paragraph where
2 compensation is payable under paragraphs (d), (e) or (f) of
3 this Section.

4 A duly appointed member of a fire department in a city, the
5 population of which exceeds 500,000 according to the last
6 federal or State census, is eligible for compensation under
7 this paragraph only where such serious and permanent
8 disfigurement results from burns.

9 (d) 1. If, after the accidental injury has been sustained,
10 the employee as a result thereof becomes partially
11 incapacitated from pursuing his usual and customary line of
12 employment, he shall, except in cases compensated under the
13 specific schedule set forth in paragraph (e) of this Section,
14 receive compensation for the duration of his disability,
15 subject to the limitations as to maximum amounts fixed in
16 paragraph (b) of this Section, equal to 66-2/3% of the
17 difference between the average amount which he would be able to
18 earn in the full performance of his duties in the occupation in
19 which he was engaged at the time of the accident and the
20 average amount which he is earning or is able to earn in some
21 suitable employment or business after the accident. For
22 accidental injuries that occur on or after September 1, 2011,
23 an award for wage differential under this subsection shall be
24 effective only until the employee reaches the age of 67 or 5
25 years from the date the award becomes final, whichever is
26 later.

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

1 nasal, lachrymal, vomer, zygoma, maxilla, palatine or
2 mandible, the amount of compensation allowed under this Section
3 shall be not less than 2 weeks for each such fractured bone,
4 and for a fracture of each transverse process not less than 3
5 weeks. In the event such injuries shall result in the loss of a
6 kidney, spleen or lung, the amount of compensation allowed
7 under this Section shall be not less than 10 weeks for each
8 such organ. Compensation awarded under this subparagraph 2
9 shall not take into consideration injuries covered under
10 paragraphs (c) and (e) of this Section and the compensation
11 provided in this paragraph shall not affect the employee's
12 right to compensation payable under paragraphs (b), (c) and (e)
13 of this Section for the disabilities therein covered.

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

24 1. Thumb-

25 70 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 76 weeks if the accidental injury occurs on or
3 after February 1, 2006.

4 2. First, or index finger-

5 40 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 43 weeks if the accidental injury occurs on or
9 after February 1, 2006.

10 3. Second, or middle finger-

11 35 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 38 weeks if the accidental injury occurs on or
15 after February 1, 2006.

16 4. Third, or ring finger-

17 25 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 27 weeks if the accidental injury occurs on or
21 after February 1, 2006.

22 5. Fourth, or little finger-

23 20 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 22 weeks if the accidental injury occurs on or

1 after February 1, 2006.

2 6. Great toe-

3 35 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 38 weeks if the accidental injury occurs on or
7 after February 1, 2006.

8 7. Each toe other than great toe-

9 12 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 13 weeks if the accidental injury occurs on or
13 after February 1, 2006.

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

23 9. Hand-

24 190 weeks if the accidental injury occurs on or
25 after the effective date of this amendatory Act of the
26 94th General Assembly but before February 1, 2006.

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

3 190 weeks if the accidental injury occurs on or
4 after June 28, 2011 (the effective date of Public Act
5 97-18) and if the accidental injury involves carpal
6 tunnel syndrome due to repetitive or cumulative
7 trauma, in which case the permanent partial disability
8 shall not exceed 15% loss of use of the hand, except
9 for cause shown by clear and convincing evidence and in
10 which case the award shall not exceed 30% loss of use
11 of the hand.

12 The loss of 2 or more digits, or one or more phalanges
13 of 2 or more digits, of a hand may be compensated on the
14 basis of partial loss of use of a hand, provided, further,
15 that the loss of 4 digits, or the loss of use of 4 digits,
16 in the same hand shall constitute the complete loss of a
17 hand.

18 10. Arm-

19 235 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.

22 253 weeks if the accidental injury occurs on or
23 after February 1, 2006.

24 Where an accidental injury results in the amputation of
25 an arm below the elbow, such injury shall be compensated as
26 a loss of an arm. Where an accidental injury results in the

1 amputation of an arm above the elbow, compensation for an
2 additional 15 weeks (if the accidental injury occurs on or
3 after the effective date of this amendatory Act of the 94th
4 General Assembly but before February 1, 2006) or an
5 additional 17 weeks (if the accidental injury occurs on or
6 after February 1, 2006) shall be paid, except where the
7 accidental injury results in the amputation of an arm at
8 the shoulder joint, or so close to shoulder joint that an
9 artificial arm cannot be used, or results in the
10 disarticulation of an arm at the shoulder joint, in which
11 case compensation for an additional 65 weeks (if the
12 accidental injury occurs on or after the effective date of
13 this amendatory Act of the 94th General Assembly but before
14 February 1, 2006) or an additional 70 weeks (if the
15 accidental injury occurs on or after February 1, 2006)
16 shall be paid.

17 11. Foot-

18 155 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.

21 167 weeks if the accidental injury occurs on or
22 after February 1, 2006.

23 12. Leg-

24 200 weeks if the accidental injury occurs on or
25 after the effective date of this amendatory Act of the
26 94th General Assembly but before February 1, 2006.

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

3 Where an accidental injury results in the amputation of
4 a leg below the knee, such injury shall be compensated as
5 loss of a leg. Where an accidental injury results in the
6 amputation of a leg above the knee, compensation for an
7 additional 25 weeks (if the accidental injury occurs on or
8 after the effective date of this amendatory Act of the 94th
9 General Assembly but before February 1, 2006) or an
10 additional 27 weeks (if the accidental injury occurs on or
11 after February 1, 2006) shall be paid, except where the
12 accidental injury results in the amputation of a leg at the
13 hip joint, or so close to the hip joint that an artificial
14 leg cannot be used, or results in the disarticulation of a
15 leg at the hip joint, in which case compensation for an
16 additional 75 weeks (if the accidental injury occurs on or
17 after the effective date of this amendatory Act of the 94th
18 General Assembly but before February 1, 2006) or an
19 additional 81 weeks (if the accidental injury occurs on or
20 after February 1, 2006) shall be paid.

21 13. Eye-

22 150 weeks if the accidental injury occurs on or
23 after the effective date of this amendatory Act of the
24 94th General Assembly but before February 1, 2006.

25 162 weeks if the accidental injury occurs on or
26 after February 1, 2006.

1 Where an accidental injury results in the enucleation
2 of an eye, compensation for an additional 10 weeks (if the
3 accidental injury occurs on or after the effective date of
4 this amendatory Act of the 94th General Assembly but before
5 February 1, 2006) or an additional 11 weeks (if the
6 accidental injury occurs on or after February 1, 2006)
7 shall be paid.

8 14. Loss of hearing of one ear-

9 50 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 54 weeks if the accidental injury occurs on or
13 after February 1, 2006.

14 Total and permanent loss of hearing of both ears-

15 200 weeks if the accidental injury occurs on or
16 after the effective date of this amendatory Act of the
17 94th General Assembly but before February 1, 2006.

18 215 weeks if the accidental injury occurs on or
19 after February 1, 2006.

20 15. Testicle-

21 50 weeks if the accidental injury occurs on or
22 after the effective date of this amendatory Act of the
23 94th General Assembly but before February 1, 2006.

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

26 Both testicles-

1 150 weeks if the accidental injury occurs on or
2 after the effective date of this amendatory Act of the
3 94th General Assembly but before February 1, 2006.

4 162 weeks if the accidental injury occurs on or
5 after February 1, 2006.

6 16. For the permanent partial loss of use of a member
7 or sight of an eye, or hearing of an ear, compensation
8 during that proportion of the number of weeks in the
9 foregoing schedule provided for the loss of such member or
10 sight of an eye, or hearing of an ear, which the partial
11 loss of use thereof bears to the total loss of use of such
12 member, or sight of eye, or hearing of an ear.

13 (a) Loss of hearing for compensation purposes
14 shall be confined to the frequencies of 1,000, 2,000
15 and 3,000 cycles per second. Loss of hearing ability
16 for frequency tones above 3,000 cycles per second are
17 not to be considered as constituting disability for
18 hearing.

19 (b) The percent of hearing loss, for purposes of
20 the determination of compensation claims for
21 occupational deafness, shall be calculated as the
22 average in decibels for the thresholds of hearing for
23 the frequencies of 1,000, 2,000 and 3,000 cycles per
24 second. Pure tone air conduction audiometric
25 instruments, approved by nationally recognized
26 authorities in this field, shall be used for measuring

1 hearing loss. If the losses of hearing average 30
2 decibels or less in the 3 frequencies, such losses of
3 hearing shall not then constitute any compensable
4 hearing disability. If the losses of hearing average 85
5 decibels or more in the 3 frequencies, then the same
6 shall constitute and be total or 100% compensable
7 hearing loss.

8 (c) In measuring hearing impairment, the lowest
9 measured losses in each of the 3 frequencies shall be
10 added together and divided by 3 to determine the
11 average decibel loss. For every decibel of loss
12 exceeding 30 decibels an allowance of 1.82% shall be
13 made up to the maximum of 100% which is reached at 85
14 decibels.

15 (d) If a hearing loss is established to have
16 existed on July 1, 1975 by audiometric testing the
17 employer shall not be liable for the previous loss so
18 established nor shall he be liable for any loss for
19 which compensation has been paid or awarded.

20 (e) No consideration shall be given to the question
21 of whether or not the ability of an employee to
22 understand speech is improved by the use of a hearing
23 aid.

24 (f) No claim for loss of hearing due to industrial
25 noise shall be brought against an employer or allowed
26 unless the employee has been exposed for a period of

1 time sufficient to cause permanent impairment to noise
 2 levels in excess of the following:

3 Sound Level DBA

4	Slow Response	Hours Per Day
5	90	8
6	92	6
7	95	4
8	97	3
9	100	2
10	102	1-1/2
11	105	1
12	110	1/2
13	115	1/4

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

16 17. In computing the compensation to be paid to any
 17 employee who, before the accident for which he claims
 18 compensation, had before that time sustained an injury
 19 resulting in the loss by amputation or partial loss by
 20 amputation of any member, including hand, arm, thumb or
 21 fingers, leg, foot or any toes, such loss or partial loss
 22 of any such member shall be deducted from any award made
 23 for the subsequent injury. For the permanent loss of use or
 24 the permanent partial loss of use of any such member or the
 25 partial loss of sight of an eye, for which compensation has
 26 been paid, then such loss shall be taken into consideration

1 and deducted from any award for the subsequent injury.

2 18. The specific case of loss of both hands, both arms,
3 or both feet, or both legs, or both eyes, or of any two
4 thereof, or the permanent and complete loss of the use
5 thereof, constitutes total and permanent disability, to be
6 compensated according to the compensation fixed by
7 paragraph (f) of this Section. These specific cases of
8 total and permanent disability do not exclude other cases.

9 Any employee who has previously suffered the loss or
10 permanent and complete loss of the use of any of such
11 members, and in a subsequent independent accident loses
12 another or suffers the permanent and complete loss of the
13 use of any one of such members the employer for whom the
14 injured employee is working at the time of the last
15 independent accident is liable to pay compensation only for
16 the loss or permanent and complete loss of the use of the
17 member occasioned by the last independent accident.

18 19. In a case of specific loss and the subsequent death
19 of such injured employee from other causes than such injury
20 leaving a widow, widower, or dependents surviving before
21 payment or payment in full for such injury, then the amount
22 due for such injury is payable to the widow or widower and,
23 if there be no widow or widower, then to such dependents,
24 in the proportion which such dependency bears to total
25 dependency.

26 Beginning July 1, 1980, and every 6 months thereafter, the

1 Commission shall examine the Second Injury Fund and when, after
2 deducting all advances or loans made to such Fund, the amount
3 therein is \$500,000 then the amount required to be paid by
4 employers pursuant to paragraph (f) of Section 7 shall be
5 reduced by one-half. When the Second Injury Fund reaches the
6 sum of \$600,000 then the payments shall cease entirely.
7 However, when the Second Injury Fund has been reduced to
8 \$400,000, payment of one-half of the amounts required by
9 paragraph (f) of Section 7 shall be resumed, in the manner
10 herein provided, and when the Second Injury Fund has been
11 reduced to \$300,000, payment of the full amounts required by
12 paragraph (f) of Section 7 shall be resumed, in the manner
13 herein provided. The Commission shall make the changes in
14 payment effective by general order, and the changes in payment
15 become immediately effective for all cases coming before the
16 Commission thereafter either by settlement agreement or final
17 order, irrespective of the date of the accidental injury.

18 On August 1, 1996 and on February 1 and August 1 of each
19 subsequent year, the Commission shall examine the special fund
20 designated as the "Rate Adjustment Fund" and when, after
21 deducting all advances or loans made to said fund, the amount
22 therein is \$4,000,000, the amount required to be paid by
23 employers pursuant to paragraph (f) of Section 7 shall be
24 reduced by one-half. When the Rate Adjustment Fund reaches the
25 sum of \$5,000,000 the payment therein shall cease entirely.
26 However, when said Rate Adjustment Fund has been reduced to

1 \$3,000,000 the amounts required by paragraph (f) of Section 7
2 shall be resumed in the manner herein provided.

3 (f) In case of complete disability, which renders the
4 employee wholly and permanently incapable of work, or in the
5 specific case of total and permanent disability as provided in
6 subparagraph 18 of paragraph (e) of this Section, compensation
7 shall be payable at the rate provided in subparagraph 2 of
8 paragraph (b) of this Section for life.

9 An employee entitled to benefits under paragraph (f) of
10 this Section shall also be entitled to receive from the Rate
11 Adjustment Fund provided in paragraph (f) of Section 7 of the
12 supplementary benefits provided in paragraph (g) of this
13 Section 8.

14 If any employee who receives an award under this paragraph
15 afterwards returns to work or is able to do so, and earns or is
16 able to earn as much as before the accident, payments under
17 such award shall cease. If such employee returns to work, or is
18 able to do so, and earns or is able to earn part but not as much
19 as before the accident, such award shall be modified so as to
20 conform to an award under paragraph (d) of this Section. If
21 such award is terminated or reduced under the provisions of
22 this paragraph, such employees have the right at any time
23 within 30 months after the date of such termination or
24 reduction to file petition with the Commission for the purpose
25 of determining whether any disability exists as a result of the
26 original accidental injury and the extent thereof.

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

3 If an employee who had previously incurred loss or the
4 permanent and complete loss of use of one member, through the
5 loss or the permanent and complete loss of the use of one hand,
6 one arm, one foot, one leg, or one eye, incurs permanent and
7 complete disability through the loss or the permanent and
8 complete loss of the use of another member, he shall receive,
9 in addition to the compensation payable by the employer and
10 after such payments have ceased, an amount from the Second
11 Injury Fund provided for in paragraph (f) of Section 7, which,
12 together with the compensation payable from the employer in
13 whose employ he was when the last accidental injury was
14 incurred, will equal the amount payable for permanent and
15 complete disability as provided in this paragraph of this
16 Section.

17 The custodian of the Second Injury Fund provided for in
18 paragraph (f) of Section 7 shall be joined with the employer as
19 a party respondent in the application for adjustment of claim.
20 The application for adjustment of claim shall state briefly and
21 in general terms the approximate time and place and manner of
22 the loss of the first member.

23 In its award the Commission or the Arbitrator shall
24 specifically find the amount the injured employee shall be
25 weekly paid, the number of weeks compensation which shall be
26 paid by the employer, the date upon which payments begin out of

1 the Second Injury Fund provided for in paragraph (f) of Section
2 7 of this Act, the length of time the weekly payments continue,
3 the date upon which the pension payments commence and the
4 monthly amount of the payments. The Commission shall 30 days
5 after the date upon which payments out of the Second Injury
6 Fund have begun as provided in the award, and every month
7 thereafter, prepare and submit to the State Comptroller a
8 voucher for payment for all compensation accrued to that date
9 at the rate fixed by the Commission. The State Comptroller
10 shall draw a warrant to the injured employee along with a
11 receipt to be executed by the injured employee and returned to
12 the Commission. The endorsed warrant and receipt is a full and
13 complete acquittance to the Commission for the payment out of
14 the Second Injury Fund. No other appropriation or warrant is
15 necessary for payment out of the Second Injury Fund. The Second
16 Injury Fund is appropriated for the purpose of making payments
17 according to the terms of the awards.

18 As of July 1, 1980 to July 1, 1982, all claims against and
19 obligations of the Second Injury Fund shall become claims
20 against and obligations of the Rate Adjustment Fund to the
21 extent there is insufficient money in the Second Injury Fund to
22 pay such claims and obligations. In that case, all references
23 to "Second Injury Fund" in this Section shall also include the
24 Rate Adjustment Fund.

25 (g) Every award for permanent total disability entered by
26 the Commission on and after July 1, 1965 under which

1 compensation payments shall become due and payable after the
2 effective date of this amendatory Act, and every award for
3 death benefits or permanent total disability entered by the
4 Commission on and after the effective date of this amendatory
5 Act shall be subject to annual adjustments as to the amount of
6 the compensation rate therein provided. Such adjustments shall
7 first be made on July 15, 1977, and all awards made and entered
8 prior to July 1, 1975 and on July 15 of each year thereafter.
9 In all other cases such adjustment shall be made on July 15 of
10 the second year next following the date of the entry of the
11 award and shall further be made on July 15 annually thereafter.
12 If during the intervening period from the date of the entry of
13 the award, or the last periodic adjustment, there shall have
14 been an increase in the State's average weekly wage in covered
15 industries under the Unemployment Insurance Act, the weekly
16 compensation rate shall be proportionately increased by the
17 same percentage as the percentage of increase in the State's
18 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.
23 Such increase shall be paid in the same manner as herein
24 provided for payments under the Second Injury Fund to the
25 injured employee, or his dependents, as the case may be, out of
26 the Rate Adjustment Fund provided in paragraph (f) of Section 7

1 of this Act. Payments shall be made at the same intervals as
2 provided in the award or, at the option of the Commission, may
3 be made in quarterly payment on the 15th day of January, April,
4 July and October of each year. In the event of a decrease in
5 such average weekly wage there shall be no change in the then
6 existing compensation rate. The within paragraph shall not
7 apply to cases where there is disputed liability and in which a
8 compromise lump sum settlement between the employer and the
9 injured employee, or his dependents, as the case may be, has
10 been duly approved by the Illinois Workers' Compensation
11 Commission.

12 Provided, that in cases of awards entered by the Commission
13 for injuries occurring before July 1, 1975, the increases in
14 the compensation rate adjusted under the foregoing provision of
15 this paragraph (g) shall be limited to increases in the State's
16 average weekly wage in covered industries under the
17 Unemployment Insurance Act occurring after July 1, 1975.

18 For every accident occurring on or after July 20, 2005 but
19 before the effective date of this amendatory Act of the 94th
20 General Assembly (Senate Bill 1283 of the 94th General
21 Assembly), the annual adjustments to the compensation rate in
22 awards for death benefits or permanent total disability, as
23 provided in this Act, shall be paid by the employer. The
24 adjustment shall be made by the employer on July 15 of the
25 second year next following the date of the entry of the award
26 and shall further be made on July 15 annually thereafter. If

1 during the intervening period from the date of the entry of the
2 award, or the last periodic adjustment, there shall have been
3 an increase in the State's average weekly wage in covered
4 industries under the Unemployment Insurance Act, the employer
5 shall increase the weekly compensation rate proportionately by
6 the same percentage as the percentage of increase in the
7 State's average weekly wage in covered industries under the
8 Unemployment Insurance Act. The increase in the compensation
9 rate under this paragraph shall in no event bring the total
10 compensation rate to an amount greater than the prevailing
11 maximum rate at the time that the annual adjustment is made. In
12 the event of a decrease in such average weekly wage there shall
13 be no change in the then existing compensation rate. Such
14 increase shall be paid by the employer in the same manner and
15 at the same intervals as the payment of compensation in the
16 award. This paragraph shall not apply to cases where there is
17 disputed liability and in which a compromise lump sum
18 settlement between the employer and the injured employee, or
19 his or her dependents, as the case may be, has been duly
20 approved by the Illinois Workers' Compensation Commission.

21 The annual adjustments for every award of death benefits or
22 permanent total disability involving accidents occurring
23 before July 20, 2005 and accidents occurring on or after the
24 effective date of this amendatory Act of the 94th General
25 Assembly (Senate Bill 1283 of the 94th General Assembly) shall
26 continue to be paid from the Rate Adjustment Fund pursuant to

1 this paragraph and Section 7(f) of this Act.

2 (h) In case death occurs from any cause before the total
3 compensation to which the employee would have been entitled has
4 been paid, then in case the employee leaves any widow, widower,
5 child, parent (or any grandchild, grandparent or other lineal
6 heir or any collateral heir dependent at the time of the
7 accident upon the earnings of the employee to the extent of 50%
8 or more of total dependency) such compensation shall be paid to
9 the beneficiaries of the deceased employee and distributed as
10 provided in paragraph (g) of Section 7.

11 (h-1) In case an injured employee is under legal disability
12 at the time when any right or privilege accrues to him or her
13 under this Act, a guardian may be appointed pursuant to law,
14 and may, on behalf of such person under legal disability, claim
15 and exercise any such right or privilege with the same effect
16 as if the employee himself or herself had claimed or exercised
17 the right or privilege. No limitations of time provided by this
18 Act run so long as the employee who is under legal disability
19 is without a conservator or guardian.

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

24 However, where an employer has on file an employment
25 certificate issued pursuant to the Child Labor Law or work
26 permit issued pursuant to the Federal Fair Labor Standards Act,

1 as amended, or a birth certificate properly and duly issued,
2 such certificate, permit or birth certificate is conclusive
3 evidence as to the age of the injured minor employee for the
4 purposes of this Section.

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

8 (j) 1. In the event the injured employee receives benefits,
9 including medical, surgical or hospital benefits under any
10 group plan covering non-occupational disabilities contributed
11 to wholly or partially by the employer, which benefits should
12 not have been payable if any rights of recovery existed under
13 this Act, then such amounts so paid to the employee from any
14 such group plan as shall be consistent with, and limited to,
15 the provisions of paragraph 2 hereof, shall be credited to or
16 against any compensation payment for temporary total
17 incapacity for work or any medical, surgical or hospital
18 benefits made or to be made under this Act. In such event, the
19 period of time for giving notice of accidental injury and
20 filing application for adjustment of claim does not commence to
21 run until the termination of such payments. This paragraph does
22 not apply to payments made under any group plan which would
23 have been payable irrespective of an accidental injury under
24 this Act. Any employer receiving such credit shall keep such
25 employee safe and harmless from any and all claims or
26 liabilities that may be made against him by reason of having

1 received such payments only to the extent of such credit.

2 Any excess benefits paid to or on behalf of a State
3 employee by the State Employees' Retirement System under
4 Article 14 of the Illinois Pension Code on a death claim or
5 disputed disability claim shall be credited against any
6 payments made or to be made by the State of Illinois to or on
7 behalf of such employee under this Act, except for payments for
8 medical expenses which have already been incurred at the time
9 of the award. The State of Illinois shall directly reimburse
10 the State Employees' Retirement System to the extent of such
11 credit.

12 2. Nothing contained in this Act shall be construed to give
13 the employer or the insurance carrier the right to credit for
14 any benefits or payments received by the employee other than
15 compensation payments provided by this Act, and where the
16 employee receives payments other than compensation payments,
17 whether as full or partial salary, group insurance benefits,
18 bonuses, annuities or any other payments, the employer or
19 insurance carrier shall receive credit for each such payment
20 only to the extent of the compensation that would have been
21 payable during the period covered by such payment.

22 3. The extension of time for the filing of an Application
23 for Adjustment of Claim as provided in paragraph 1 above shall
24 not apply to those cases where the time for such filing had
25 expired prior to the date on which payments or benefits
26 enumerated herein have been initiated or resumed. Provided

1 however that this paragraph 3 shall apply only to cases wherein
2 the payments or benefits hereinabove enumerated shall be
3 received after July 1, 1969.

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