

1 AN ACT concerning reckless corporate conduct.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Criminal Code of 1961 is amended by
5 adding Section 12-5.05 as follows:

6 (720 ILCS 5/12-5.05 new)

7 Sec. 12-5.05. Reckless corporate conduct.

8 (a) A corporate entity or corporate official commits
9 reckless corporate conduct when the entity or official:

10 (1) conceals from authorities any product or
11 process that may cause death or serious injury; or

12 (2) engages in conduct that results in death, that
13 the corporate entity or corporate official knew or should
14 have known would result in death, or that was reckless or
15 negligent; or

16 (3) knowingly or recklessly endangers the public;
17 or

18 (4) destroys or falsifies documents or negligently
19 allows the destruction of documents pertaining to hazards
20 to the public, or the corporate entity's employees or
21 agents.

22 (b) Sentence. Reckless corporate conduct in violation
23 of paragraph (1), (2) or (3) of subsection (a) is a Class 3
24 felony. Reckless corporate conduct in violation of paragraph
25 (4) of subsection (a) is a Class 4 felony.

26 (c) Civil Liability. Any corporate entity or corporate
27 official shall be civilly liable to any person, including an
28 employee of the corporate entity, aggrieved by the conduct
29 for personal injury or damage to property or in the case of
30 death resulting from the reckless corporate conduct shall be
31 civilly liable to the next of kin of the decedent. Civil

1 actions under this Section shall be commenced within 5 years
2 from the discovery of the illness, injury, death or from the
3 time the violation occurred, whichever is later. Any
4 corporate entity or corporate official found liable under
5 this subsection may be ordered to pay restitution or treble
6 damages, or both, and shall be assessed costs and attorneys'
7 fees. The remedy provided by this subsection shall be in
8 addition to any other remedies available under statute or
9 common law.

10 (d) For the purposes of this Section:

11 (1) "corporate entity" means any corporation,
12 individual, unincorporated association, partnership,
13 authority or unit of local government organized or doing
14 business in this State; and

15 (2) "corporate official" means an appropriate
16 manager having management authority with respect to a
17 product, service or practice, a corporate officer, a
18 member of the board of directors or an agent of the
19 corporate entity.

20 Section 10. The Workers' Compensation Act is amended by
21 changing Section 5 as follows:

22 (820 ILCS 305/5) (from Ch. 48, par. 138.5)

23 (Text of Section WITHOUT the changes made by P.A. 89-7,
24 which has been held unconstitutional)

25 Sec. 5. (a) Except as otherwise provided in subsection
26 (c) of Section 12-5.05 of the Criminal Code of 1961, no
27 common law or statutory right to recover damages from the
28 employer, his insurer, his broker, any service organization
29 retained by the employer, his insurer or his broker to
30 provide safety service, advice or recommendations for the
31 employer or the agents or employees of any of them for injury
32 or death sustained by any employee while engaged in the line

1 of his duty as such employee, other than the compensation
2 herein provided, is available to any employee who is covered
3 by the provisions of this Act, to any one wholly or partially
4 dependent upon him, the legal representatives of his estate,
5 or any one otherwise entitled to recover damages for such
6 injury.

7 However, in any action now pending or hereafter begun to
8 enforce a common law or statutory right to recover damages
9 for negligently causing the injury or death of any employee
10 it is not necessary to allege in the complaint that either
11 the employee or the employer or both were not governed by the
12 provisions of this Act or of any similar Act in force in this
13 or any other State.

14 Any illegally employed minor or his legal representatives
15 shall, except as hereinafter provided, have the right within
16 6 months after the time of injury or death, or within 6
17 months after the appointment of a legal representative,
18 whichever shall be later, to file with the Commission a
19 rejection of his right to the benefits under this Act, in
20 which case such illegally employed minor or his legal
21 representatives shall have the right to pursue his or their
22 common law or statutory remedies to recover damages for such
23 injury or death.

24 No payment of compensation under this Act shall be made
25 to an illegally employed minor, or his legal representatives,
26 unless such payment and the waiver of his right to reject the
27 benefits of this Act has first been approved by the
28 Commission or any member thereof, and if such payment and the
29 waiver of his right of rejection has been so approved such
30 payment is a bar to a subsequent rejection of the provisions
31 of this Act.

32 (b) Where the injury or death for which compensation is
33 payable under this Act was caused under circumstances
34 creating a legal liability for damages on the part of some

1 person other than his employer to pay damages, then legal
2 proceedings may be taken against such other person to recover
3 damages notwithstanding such employer's payment of or
4 liability to pay compensation under this Act. In such case,
5 however, if the action against such other person is brought
6 by the injured employee or his personal representative and
7 judgment is obtained and paid, or settlement is made with
8 such other person, either with or without suit, then from the
9 amount received by such employee or personal representative
10 there shall be paid to the employer the amount of
11 compensation paid or to be paid by him to such employee or
12 personal representative including amounts paid or to be paid
13 pursuant to paragraph (a) of Section 8 of this Act.

14 Out of any reimbursement received by the employer
15 pursuant to this Section the employer shall pay his pro rata
16 share of all costs and reasonably necessary expenses in
17 connection with such third-party claim, action or suit and
18 where the services of an attorney at law of the employee or
19 dependents have resulted in or substantially contributed to
20 the procurement by suit, settlement or otherwise of the
21 proceeds out of which the employer is reimbursed, then, in
22 the absence of other agreement, the employer shall pay such
23 attorney 25% of the gross amount of such reimbursement.

24 If the injured employee or his personal representative
25 agrees to receive compensation from the employer or accept
26 from the employer any payment on account of such
27 compensation, or to institute proceedings to recover the
28 same, the employer may have or claim a lien upon any award,
29 judgment or fund out of which such employee might be
30 compensated from such third party.

31 In such actions brought by the employee or his personal
32 representative, he shall forthwith notify his employer by
33 personal service or registered mail, of such fact and of the
34 name of the court in which the suit is brought, filing proof

1 thereof in the action. The employer may, at any time
2 thereafter join in the action upon his motion so that all
3 orders of court after hearing and judgment shall be made for
4 his protection. No release or settlement of claim for
5 damages by reason of such injury or death, and no
6 satisfaction of judgment in such proceedings shall be valid
7 without the written consent of both employer and employee or
8 his personal representative, except in the case of the
9 employers, such consent is not required where the employer
10 has been fully indemnified or protected by Court order.

11 In the event the employee or his personal representative
12 fails to institute a proceeding against such third person at
13 any time prior to 3 months before such action would be
14 barred, the employer may in his own name or in the name of
15 the employee, or his personal representative, commence a
16 proceeding against such other person for the recovery of
17 damages on account of such injury or death to the employee,
18 and out of any amount recovered the employer shall pay over
19 to the injured employee or his personal representatives all
20 sums collected from such other person by judgment or
21 otherwise in excess of the amount of such compensation paid
22 or to be paid under this Act, including amounts paid or to be
23 paid pursuant to paragraph (a) of Section 8 of this Act, and
24 costs, attorney's fees and reasonable expenses as may be
25 incurred by such employer in making such collection or in
26 enforcing such liability.

27 (Source: P.A. 79-79.)

28 Section 99. Effective date. This Act takes effect upon
29 becoming law.