

1 AN ACT concerning workers' compensation.

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 7 as follows:

6 (820 ILCS 305/7) (from Ch. 48, par. 138.7)

7 Sec. 7. The amount of compensation which shall be paid  
8 for an accidental injury to the employee resulting in death  
9 is:

10 (a) If the employee leaves surviving a widow, widower,  
11 child or children, the applicable weekly compensation rate  
12 computed in accordance with subparagraph 2 of paragraph (b)  
13 of Section 8, shall be payable during the life of the widow  
14 or widower and if any surviving child or children shall not  
15 be physically or mentally incapacitated then until the death  
16 of the widow or widower or until the youngest child shall  
17 reach the age of 18, whichever shall come later; provided  
18 that if such child or children shall be enrolled as a full  
19 time student in any accredited educational institution, the  
20 payments shall continue until such child has attained the age  
21 of 25. In the event any surviving child or children shall be  
22 physically or mentally incapacitated, the payments shall  
23 continue for the duration of such incapacity.

24 The term "child" means a child whom the deceased employee  
25 left surviving, including a posthumous child, a child legally  
26 adopted, a child whom the deceased employee was legally  
27 obligated to support or a child to whom the deceased employee  
28 stood in loco parentis. The term "children" means the plural  
29 of "child".

30 The term "physically or mentally incapacitated child or  
31 children" means a child or children incapable of engaging in

1 regular and substantial gainful employment.

2 In the event of the remarriage of a widow or widower,  
3 where the decedent did not leave surviving any child or  
4 children who, at the time of such remarriage, are entitled to  
5 compensation benefits under this Act, the surviving spouse  
6 shall be paid a lump sum equal to 2 years compensation  
7 benefits and all further rights of such widow or widower  
8 shall be extinguished.

9 If the employee leaves surviving any child or children  
10 under 18 years of age who at the time of death shall be  
11 entitled to compensation under this paragraph (a) of this  
12 Section, the weekly compensation payments herein provided for  
13 such child or children shall in any event continue for a  
14 period of not less than 6 years.

15 Any beneficiary entitled to compensation under this  
16 paragraph (a) of this Section shall receive from the special  
17 fund provided in paragraph (f) of this Section, in addition  
18 to the compensation herein provided, supplemental benefits in  
19 accordance with paragraph (g) of Section 8.

20 (b) If no compensation is payable under paragraph (a) of  
21 this Section and the employee leaves surviving a parent or  
22 parents who at the time of the accident were totally  
23 dependent upon the earnings of the employee then weekly  
24 payments equal to the compensation rate payable in the case  
25 where the employee leaves surviving a widow or widower, shall  
26 be paid to such parent or parents for the duration of their  
27 lives, and in the event of the death of either, for the life  
28 of the survivor.

29 (c) If no compensation is payable under paragraphs (a)  
30 or (b) of this Section and the employee leaves surviving any  
31 child or children who are not entitled to compensation under  
32 the foregoing paragraph (a) but who at the time of the  
33 accident were nevertheless in any manner dependent upon the  
34 earnings of the employee, or leaves surviving a parent or

1 parents who at the time of the accident were partially  
2 dependent upon the earnings of the employee, then there shall  
3 be paid to such dependent or dependents for a period of 8  
4 years weekly compensation payments at such proportion of the  
5 applicable rate if the employee had left surviving a widow or  
6 widower as such dependency bears to total dependency. In the  
7 event of the death of any such beneficiary the share of such  
8 beneficiary shall be divided equally among the surviving  
9 beneficiaries and in the event of the death of the last such  
10 beneficiary all the rights under this paragraph shall be  
11 extinguished.

12 (d) If no compensation is payable under paragraphs (a),  
13 (b) or (c) of this Section and the employee leaves surviving  
14 any grandparent, grandparents, grandchild or grandchildren or  
15 collateral heirs dependent upon the employee's earnings to  
16 the extent of 50% or more of total dependency, then there  
17 shall be paid to such dependent or dependents for a period of  
18 5 years weekly compensation payments at such proportion of  
19 the applicable rate if the employee had left surviving a  
20 widow or widower as such dependency bears to total  
21 dependency. In the event of the death of any such  
22 beneficiary the share of such beneficiary shall be divided  
23 equally among the surviving beneficiaries and in the event of  
24 the death of the last such beneficiary all rights hereunder  
25 shall be extinguished.

26 (e) The compensation to be paid for accidental injury  
27 which results in death, as provided in this Section, shall be  
28 paid to the persons who form the basis for determining the  
29 amount of compensation to be paid by the employer, the  
30 respective shares to be in the proportion of their respective  
31 dependency at the time of the accident on the earnings of the  
32 deceased. The Commission or an Arbitrator thereof may, in  
33 its or his discretion, order or award the payment to the  
34 parent or grandparent of a child for the latter's support the

1 amount of compensation which but for such order or award  
2 would have been paid to such child as its share of the  
3 compensation payable, which order or award may be modified  
4 from time to time by the Commission in its discretion with  
5 respect to the person to whom shall be paid the amount of the  
6 order or award remaining unpaid at the time of the  
7 modification.

8 The payments of compensation by the employer in  
9 accordance with the order or award of the Commission  
10 discharges such employer from all further obligation as to  
11 such compensation.

12 (f) The sum of \$4200 for burial expenses shall be paid  
13 by the employer to the widow or widower, other dependent,  
14 next of kin or to the person or persons incurring the expense  
15 of burial.

16 In the event the employer failed to provide necessary  
17 first aid, medical, surgical or hospital service, he shall  
18 pay the cost thereof to the person or persons entitled to  
19 compensation under paragraphs (a), (b), (c) or (d) of this  
20 Section, or to the person or persons incurring the obligation  
21 therefore, or providing the same.

22 On January 15 and July 15, 1981, and on January 15 and  
23 July 15 of each year thereafter the employer shall within 60  
24 days pay a sum equal to 1/8 of 1% of all compensation  
25 payments made by him after July 1, 1980, either under this  
26 Act or the Workers' Occupational Diseases Act, whether by  
27 lump sum settlement or weekly compensation payments, but not  
28 including hospital, surgical or rehabilitation payments, made  
29 during the first 6 months and during the second 6 months  
30 respectively of the fiscal year next preceding the date of  
31 the payments, into a special fund which shall be designated  
32 the "Second Injury Fund", of which the State Treasurer is  
33 ex-officio custodian, such special fund to be held and  
34 disbursed for the purposes hereinafter stated in paragraphs

1 (f) and (g) of Section 8, either upon the order of the  
2 Commission or of a competent court. Said special fund shall  
3 be deposited the same as are State funds and any interest  
4 accruing thereon shall be added thereto every 6 months. It  
5 is subject to audit the same as State funds and accounts and  
6 is protected by the General bond given by the State  
7 Treasurer. It is considered always appropriated for the  
8 purposes of disbursements as provided in Section 8, paragraph  
9 (f), of this Act, and shall be paid out and disbursed as  
10 therein provided and shall not at any time be appropriated or  
11 diverted to any other use or purpose.

12 On January 15, 1991, the employer shall further pay a sum  
13 equal to one half of 1% of all compensation payments made by  
14 him from January 1, 1990 through June 30, 1990 either under  
15 this Act or under the Workers' Occupational Diseases Act,  
16 whether by lump sum settlement or weekly compensation  
17 payments, but not including hospital, surgical or  
18 rehabilitation payments, into an additional Special Fund  
19 which shall be designated as the "Rate Adjustment Fund". On  
20 March 15, 1991, the employer shall pay into the Rate  
21 Adjustment Fund a sum equal to one half of 1% of all such  
22 compensation payments made from July 1, 1990 through December  
23 31, 1990. Within 60 days after July 15, 1991, the employer  
24 shall pay into the Rate Adjustment Fund a sum equal to one  
25 half of 1% of all such compensation payments made from  
26 January 1, 1991 through June 30, 1991. Within 60 days after  
27 January 15 of 1992 and each subsequent year through 1996, the  
28 employer shall pay into the Rate Adjustment Fund a sum equal  
29 to one half of 1% of all such compensation payments made in  
30 the last 6 months of the preceding calendar year. Within 60  
31 days after July 15 of 1992 and each subsequent year through  
32 1995, the employer shall pay into the Rate Adjustment Fund a  
33 sum equal to one half of 1% of all such compensation payments  
34 made in the first 6 months of the same calendar year. Within

1 60 days after January 15 of 1997 and each subsequent year,  
2 the employer shall pay into the Rate Adjustment Fund a sum  
3 equal to three-fourths of 1% of all such compensation  
4 payments made in the last 6 months of the preceding calendar  
5 year. Within 60 days after July 15 of 1996 and each  
6 subsequent year, the employer shall pay into the Rate  
7 Adjustment Fund a sum equal to three-fourths of 1% of all  
8 such compensation payments made in the first 6 months of the  
9 same calendar year. The administrative costs of collecting  
10 assessments from employers for the Rate Adjustment Fund shall  
11 be paid from the Rate Adjustment Fund. The cost of an  
12 actuarial audit of the Fund shall be paid from the Rate  
13 Adjustment Fund and the audit shall be completed no later  
14 than July 1, 1997. The State Treasurer is ex officio  
15 custodian of such Special Fund and the same shall be held and  
16 disbursed for the purposes hereinafter stated in paragraphs  
17 (f) and (g) of Section 8 upon the order of the Commission or  
18 of a competent court. The Rate Adjustment Fund shall be  
19 deposited the same as are State funds and any interest  
20 accruing thereon shall be added thereto every 6 months. It  
21 shall be subject to audit the same as State funds and  
22 accounts and shall be protected by the general bond given by  
23 the State Treasurer. It is considered always appropriated  
24 for the purposes of disbursements as provided in paragraphs  
25 (f) and (g) of Section 8 of this Act and shall be paid out  
26 and disbursed as therein provided and shall not at any time  
27 be appropriated or diverted to any other use or purpose.  
28 Within 5 days after the effective date of this amendatory Act  
29 of 1990, the Comptroller and the State Treasurer shall  
30 transfer \$1,000,000 from the General Revenue Fund to the Rate  
31 Adjustment Fund. By February 15, 1991, the Comptroller and  
32 the State Treasurer shall transfer \$1,000,000 from the Rate  
33 Adjustment Fund to the General Revenue Fund. ~~From--the~~  
34 ~~effective--date--of--this--amendatory--Act--of--1993--to--October--17,~~

1 1997, The Comptroller and Treasurer are authorized to make  
2 transfers at the request of the Chairman up to a total of  
3 \$15,000,000 ~~\$7,000,000~~ from the Second Injury Fund, the  
4 General Revenue Fund, and the Workers' Compensation Benefit  
5 Trust Fund to the Rate Adjustment Fund to the extent that  
6 there is insufficient money in the Rate Adjustment Fund to  
7 pay claims and obligations. Amounts may be transferred from  
8 the General Revenue Fund only if the funds in the Second  
9 Injury Fund or the Workers' Compensation Benefit Trust Fund  
10 are insufficient to pay claims and obligations of the Rate  
11 Adjustment Fund. All amounts transferred from the Second  
12 Injury Fund, the General Revenue Fund, and the Workers'  
13 Compensation Benefit Trust Fund shall be repaid from the Rate  
14 Adjustment Fund within 270 days of a transfer, together with  
15 interest at the rate earned by moneys on deposit in the Fund  
16 or Funds from which the moneys were transferred.

17 Upon a finding by the Commission, after reasonable notice  
18 and hearing, that any employer has willfully and knowingly  
19 failed to pay the proper amounts into the Second Injury Fund  
20 or the Rate Adjustment Fund required by this Section or if  
21 such payments are not made within the time periods prescribed  
22 by this Section, the employer shall, in addition to such  
23 payments, pay a penalty of 20% of the amount required to be  
24 paid or \$2,500, whichever is greater, for each year or part  
25 thereof of such failure to pay. This penalty shall only  
26 apply to obligations of an employer to the Second Injury Fund  
27 or the Rate Adjustment Fund accruing after the effective date  
28 of this amendatory Act of 1989. All or part of such a penalty  
29 may be waived by the Commission for good cause shown.

30 Any obligations of an employer to the Second Injury Fund  
31 and Rate Adjustment Fund accruing prior to the effective date  
32 of this amendatory Act of 1989 shall be paid in full by such  
33 employer within 5 years of the effective date of this  
34 amendatory Act of 1989, with at least one-fifth of such

1 obligation to be paid during each year following the  
2 effective date of this amendatory Act of 1989. If the  
3 Commission finds, following reasonable notice and hearing,  
4 that an employer has failed to make timely payment of any  
5 obligation accruing under the preceding sentence, the  
6 employer shall, in addition to all other payments required by  
7 this Section, be liable for a penalty equal to 20% of the  
8 overdue obligation or \$2,500, whichever is greater, for each  
9 year or part thereof that obligation is overdue. All or part  
10 of such a penalty may be waived by the Commission for good  
11 cause shown.

12 The Chairman of the Industrial Commission shall,  
13 annually, furnish to the Director of the Department of  
14 Insurance a list of the amounts paid into the Second Injury  
15 Fund and the Rate Adjustment Fund by each insurance company  
16 on behalf of their insured employers. The Director shall  
17 verify to the Chairman that the amounts paid by each  
18 insurance company are accurate as best as the Director can  
19 determine from the records available to the Director. The  
20 Chairman shall verify that the amounts paid by each  
21 self-insurer are accurate as best as the Chairman can  
22 determine from records available to the Chairman. The  
23 Chairman may require each self-insurer to provide information  
24 concerning the total compensation payments made upon which  
25 contributions to the Second Injury Fund and the Rate  
26 Adjustment Fund are predicated and any additional information  
27 establishing that such payments have been made into these  
28 funds. Any deficiencies in payments noted by the Director or  
29 Chairman shall be subject to the penalty provisions of this  
30 Act.

31 The State Treasurer, or his duly authorized  
32 representative, shall be named as a party to all proceedings  
33 in all cases involving claim for the loss of, or the  
34 permanent and complete loss of the use of one eye, one foot,



1 one leg, one arm or one hand.

2 The State Treasurer or his duly authorized agent shall  
3 have the same rights as any other party to the proceeding,  
4 including the right to petition for review of any award. The  
5 reasonable expenses of litigation, such as medical  
6 examinations, testimony, and transcript of evidence, incurred  
7 by the State Treasurer or his duly authorized representative,  
8 shall be borne by the Second Injury Fund.

9 If the award is not paid within 30 days after the date  
10 the award has become final, the Commission shall proceed to  
11 take judgment thereon in its own name as is provided for  
12 other awards by paragraph (g) of Section 19 of this Act and  
13 take the necessary steps to collect the award.

14 Any person, corporation or organization who has paid or  
15 become liable for the payment of burial expenses of the  
16 deceased employee may in his or its own name institute  
17 proceedings before the Commission for the collection thereof.

18 For the purpose of administration, receipts and  
19 disbursements, the Special Fund provided for in paragraph (f)  
20 of this Section shall be administered jointly with the  
21 Special Fund provided for in Section 7, paragraph (f) of the  
22 Workers' Occupational Diseases Act.

23 (g) All compensation, except for burial expenses  
24 provided in this Section to be paid in case accident results  
25 in death, shall be paid in installments equal to the  
26 percentage of the average earnings as provided for in Section  
27 8, paragraph (b) of this Act, at the same intervals at which  
28 the wages or earnings of the employees were paid. If this is  
29 not feasible, then the installments shall be paid weekly.  
30 Such compensation may be paid in a lump sum upon petition as  
31 provided in Section 9 of this Act. However, in addition to  
32 the benefits provided by Section 9 of this Act where  
33 compensation for death is payable to the deceased's widow,  
34 widower or to the deceased's widow, widower and one or more

1 children, and where a partial lump sum is applied for by such  
2 beneficiary or beneficiaries within 18 months after the  
3 deceased's death, the Commission may, in its discretion,  
4 grant a partial lump sum of not to exceed 100 weeks of the  
5 compensation capitalized at their present value upon the  
6 basis of interest calculated at 3% per annum with annual  
7 rests, upon a showing that such partial lump sum is for the  
8 best interest of such beneficiary or beneficiaries.

9 (h) In case the injured employee is under 16 years of  
10 age at the time of the accident and is illegally employed,  
11 the amount of compensation payable under paragraphs (a), (b),  
12 (c), (d) and (f) of this Section shall be increased 50%.

13 Nothing herein contained repeals or amends the provisions  
14 of the Child Labor Law relating to the employment of minors  
15 under the age of 16 years.

16 However, where an employer has on file an employment  
17 certificate issued pursuant to the Child Labor Law or work  
18 permit issued pursuant to the Federal Fair Labor Standards  
19 Act, as amended, or a birth certificate properly and duly  
20 issued, such certificate, permit or birth certificate is  
21 conclusive evidence as to the age of the injured minor  
22 employee for the purposes of this Section only.

23 (i) Whenever the dependents of a deceased employee are  
24 aliens not residing in the United States, Mexico or Canada,  
25 the amount of compensation payable is limited to the  
26 beneficiaries described in paragraphs (a), (b) and (c) of  
27 this Section and is 50% of the compensation provided in  
28 paragraphs (a), (b) and (c) of this Section, except as  
29 otherwise provided by treaty.

30 In a case where any of the persons who would be entitled  
31 to compensation is living at any place outside of the United  
32 States, then payment shall be made to the personal  
33 representative of the deceased employee. The distribution by  
34 such personal representative to the persons entitled shall be

1 made to such persons and in such manner as the Commission  
2 orders.

3 (Source: P.A. 88-672, eff. 12-14-94; 89-470, eff. 6-13-96.)