

AN ACT concerning employment.

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

Section 5. The Safety Inspection and Education Act is amended by changing Sections .02, 1, 2, 2.2, 2.3, 2.4, 2.5, 2.6, 2.7, 2.8, 2.10, 8, 10, and 11 and by adding Section 12 as follows:

(820 ILCS 220/.02) (from Ch. 48, par. 59.02)

Sec. .02. Definitions. As used in this Act:

"Department" means the Department of Labor.

"Director" means the Director of Labor.

"Division" means the Division of Safety Inspection and Education of the Department of Labor.

"Employee" means every person in the service of: the State, including members of the General Assembly, members of the Illinois Commerce Commission, members of the Workers' Compensation Commission, and all persons in the service of the public universities and colleges in Illinois; an Illinois county, including deputy sheriffs and assistant State's attorneys; or an Illinois city, township, incorporated village or school district, body politic, or municipal corporation; whether by election, under appointment or contract, or hire, express or implied, oral or written.

"Public employer" or "employer" means the State of Illinois and all political subdivisions.

(Source: P.A. 94-477, eff. 1-1-06.)

(820 ILCS 220/1) (from Ch. 48, par. 59.1)

Sec. 1. For the purpose of assisting in the administration of the provisions of this Act, the Director of Labor may authorize his representatives in the Department of Labor ~~or other agencies or political subdivisions of the State of Illinois~~ to perform any necessary inspections or investigations. The Department of Labor, hereinafter called the Department, shall maintain a division to be known as the Division of Safety Inspection and Education, hereinafter called the Division.

(Source: P.A. 78-868.)

(820 ILCS 220/2) (from 820 ILCS 220/2, in part)

Sec. 2. Powers and duties; inspections.

(a) The Director of Labor shall enforce the occupational safety and health standards and rules promulgated under the Health and Safety Act and any occupational health and safety laws relating to inspection of places of employment, and shall visit and inspect, as often as practicable, the places of employment covered by this Act.

(b) The Director of Labor or his or her authorized representatives upon presenting appropriate credentials to the

~~owner, operator or~~ agent in charge is authorized to have the right of entry and inspections of all places of public ~~all~~ employment in the State as follows:

(1) To enter without delay and at reasonable times any factory, plant, establishment, construction site, or other area, workplace or environment where work is performed by an employee of a public employer in order to enforce such occupational safety and health standards.

(2) If the public employer refuses entry upon being presented proper credentials or allows entry but then refuses to permit or hinders the inspection in some way, the inspector shall leave the premises and immediately report the refusal to authorized management. Authorized management shall notify the Director of Labor to initiate the compulsory legal process or obtain a warrant for entry, or both.

(3) To inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any such place of employment and all pertinent conditions, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any such employer, ~~owner, operator,~~ agent or employee.

(4) The owner, operator, manager or lessees of any place affected by the provisions of this Act and his or her agent, superintendent, subordinate or employee, and any

employer affected by such provisions shall when requested by the Division of Safety Inspection and Education, or any duly authorized agent thereof, furnish any information in his or her possession or under his control which the Department of Labor is authorized to require, and shall answer truthfully all questions required to be put to him, and shall cooperate in the making of a proper inspection.

(5) (Blank) ~~A person who gives advance notice of an inspection to be conducted under the authority of this Act without authority from the Director of Labor, or his or her authorized representative, commits a Class B misdemeanor.~~

(6) Subject to regulations issued by the Director of Labor, a representative of the employer and a representative authorized by his or her employees shall be given an opportunity to accompany the Director of Labor or his or her authorized representative during the physical inspection of any workplace under this Section for the purpose of aiding such inspection. Where there is no authorized employee representative the Director of Labor or his or her authorized agent shall consult with a reasonable number of employees concerning matters of health and safety in the workplace.

(7) (A) Whenever and as soon as an inspector concludes that an imminent danger exists in any place of employment, the inspector shall inform the affected employees or their authorized representatives and employers of the danger and

that the inspector is recommending to the Director of Labor that relief be sought.

(B) Whenever the Director is of the opinion that imminent danger exists in the working conditions of any public employee in this State, which condition may reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by this Act and the Health and Safety Act, the Director may file a complaint in the circuit court for appropriate relief ~~against an employer and employee~~, including an order that may require such steps to be taken as may be necessary to abate, avoid, correct, or remove the imminent danger and prohibit the employment or presence of any individual in locations or under conditions where such imminent danger exists, except those individuals whose presence is necessary to abate, avoid, correct, or remove the imminent danger or to maintain the capacity of a continuous process operation to assume normal operations without a complete cessation of operations, or where a cessation of operations is necessary to permit the cessation to be accomplished in a safe and orderly manner ~~directing the employer or employee to cease and desist from the practice creating the imminent danger and to obtain immediate abatement of the hazard.~~

(C) If the Director of Labor arbitrarily or

capriciously fails to seek relief under this Section, any employee who may be injured by reason of such failure, or the representative of the employee, may bring an action against the Director of Labor in the circuit court for the circuit in which the imminent danger is alleged to exist or the employer has his or her principal office, for relief by mandamus to compel the Director of Labor to seek such an order and for such further relief as may be appropriate.

(c) In making his or her inspections and investigations under this Act and the Health and Safety Act, the Director of Labor has the power to require the attendance and testimony of witnesses and the production of evidence under oath.

(Source: P.A. 94-477, eff. 1-1-06.)

(820 ILCS 220/2.2)

Sec. 2.2. Discrimination prohibited.

(a) A person may not discharge or in any way discriminate against any employee because the employee has filed a complaint or instituted or caused to be instituted any proceeding under or related to this Act or the Health and Safety Act or has testified or is about to testify in any such proceeding or because of the exercise by the employee on behalf of himself or herself or others of any right afforded by this Act or the Health and Safety Act.

(b) Any employee who believes that he or she has been discharged or otherwise discriminated against by any person in

violation of this Section may, within 30 calendar days after the violation occurs, file a complaint with the Director of Labor alleging the discrimination. ~~Upon request, the Director of Labor shall withhold the name of the complainant from the employer.~~ Upon receipt of the complaint, the Director of Labor shall cause such investigation to be made as the Director deems appropriate. If, after the investigation, the Director of Labor determines that the provisions of this Section have been violated, the Director shall, ~~within 120 days after receipt of the complaint,~~ bring an action in the circuit court for appropriate relief, including rehiring or reinstatement of the employee to his or her former position with back pay, after taking into account any interim earnings of the employee.

(c) (Blank). ~~Within 90 days of the receipt of a complaint filed under this Section, the Director of Labor shall notify the complainant of the Director's determination under subsection (b) of this Section.~~

(Source: P.A. 94-477, eff. 1-1-06.)

(820 ILCS 220/2.3) (from 820 ILCS 220/2, in part)

Sec. 2.3. Methods of compelling compliance.

(a) Citations.

(1) If, upon inspection or investigation, the Director of Labor or his or her authorized representative believes that an employer has violated a requirement of this Act, the Health and Safety Act, or a standard, rule, regulation

or order promulgated pursuant to this Act or the Health and Safety Act, he or she shall with reasonable promptness issue a citation to the employer. Each citation shall be in writing; describe with particularity the nature of the violation and include a reference to the provision of the Act, standard, rule, regulation, or order alleged to have been violated; and fix a reasonable time for the abatement of the violation.

(2) The Director of Labor may prescribe procedures for the issuance of a notice of de minimis violations which have no direct or immediate relationship to safety or health.

(3) Each citation issued under this Section, or a copy or copies thereof, shall be prominently posted as prescribed in regulations issued by the Director of Labor at or near the place at which the violation occurred.

(4) Citations shall be served on the employer, ~~owner,~~ ~~operator,~~ manager, or agent by delivering an exact copy to the person upon whom the service is to be had, or by leaving a copy at his or her usual place of business or abode, or by sending a copy thereof by certified ~~registered~~ mail to his place of business.

(5) No citation may be issued under this Section after the expiration of 6 months following the occurrence of any violation.

(6) If, after an inspection, the Director of Labor

issues a citation, he or she shall within 5 days after the issuance of the citation, notify the employer by certified mail of the penalty, if any, proposed to be assessed for the violation set forth in the citation.

(7) If the Director of Labor has reason to believe that an employer has failed to correct a violation for which a citation has been issued within the period permitted for its correction, the Director of Labor shall notify the employer by certified mail of such failure and of the monetary penalty proposed to be assessed by reason of such failure.

(8) The public entity may submit in writing data relating to the abatement of a hazard to be considered by an authorized representative of the Director of Labor. The authorized representative of the Director of Labor shall notify the interested parties if such data will be used to modify an abatement order.

(b) Proposed penalties ~~violations~~.

(1) Civil penalties. Civil penalties under subparagraphs (A) through (E) may be assessed by the Director of Labor as part of the citation procedure as follows:

(A) Any public employer who repeatedly violates the requirements of this Act, the Health and Safety Act or any standard, or rule, or order pursuant to either ~~that Act and this~~ Act may be assessed a civil penalty

of not more than \$10,000 per violation.

(B) Any employer who has received a citation for a serious violation of the requirements of this Act, the Health and Safety Act or any standard, or rule, or order pursuant to either ~~that Act and this Act~~ may ~~shall~~ be assessed a civil penalty up to \$1,000 for each such violation.

For purposes of this Section, a serious violation shall be deemed to exist in a place of employment if there is a substantial probability that death or serious physical harm could result from a condition which exists, or from one or more practices, means, methods, operations, or processes which have been adopted or are in use in such place of employment unless the employer did not know and could not, with the exercise of reasonable diligence, have known of the presence of the violation ~~as specifically determined~~.

(C) Any public employer who has received a citation for violations of this Act, the Health and Safety Act, or any standard, or rule, or order pursuant to either Act not of a serious nature may be assessed a civil penalty of up to \$1,000 for each such violation.

(D) Any public employer who fails to correct a violation for which a citation has been issued within the period permitted may be assessed a civil penalty of up to \$1,000 for each day the violation continues.

(E) Any public employer who intentionally violates the requirements of this Act, the Health and Safety Act or any standard, or rule, or order pursuant to either ~~this~~ Act or demonstrates plain indifference to any of those ~~its~~ requirements shall be issued a willful violation and may be assessed a civil penalty of not more than \$10,000.

(2) Criminal penalty. Any public employer who willfully violates any standard, rule, or order promulgated pursuant to this Act or the Health and Safety Act shall be charged with ~~is guilty of~~ a Class 4 felony if that violation causes death to any employee.

(3) Assessment and reduction of penalties. The Director of Labor shall have the authority to assess all civil penalties provided in this Section, giving due consideration to the appropriateness of the penalty. Any penalty may be reduced by the Director of Labor or the Director's authorized representative based ~~by as much as~~ ~~95% depending~~ upon the public employer's "good faith", "size of business", and "history of previous violations". ~~Up to 60% reduction is permitted for size, up to 25% reduction is permitted for good faith, and up to 10% reduction is permitted for history.~~

(Source: P.A. 94-477, eff. 1-1-06.)

(820 ILCS 220/2.4) (from 820 ILCS 220/2, in part)

Sec. 2.4. Contested cases.

(a) (1) An employer, ~~firm or corporation~~, or an agent, manager or superintendent thereof ~~or a person for himself or herself or for other such person, firm or corporation~~, after receiving a citation, a proposed assessment of penalty, or a notification of failure to correct violation from the Director of Labor or his or her authorized agent that he or she is in violation of this Act, the Health and Safety Act, or ~~of~~ any occupational safety or health standard, ~~or~~ rule, or order pursuant to either Act, may within 15 working days from receipt of the notice of citation or penalty request in writing a hearing before the Director for an appeal from the citation order, notice of penalty, or abatement period.

(2) An informal review may be requested by the aforementioned parties within those 15 days for an authorized representative of the Director of Labor to review abatement dates, to reclassify violations (such as willful to serious, serious to other than serious), and/or to modify or withdraw a penalty, a citation, or a citation item if the employer presents evidence during the informal conference which convinces the authorized representative that the changes are justified.

(3) If, within 15 working days from the receipt of the notice issued by the Director, the employer fails to notify the Director that he or she intends to contest the citation or proposed assessment of penalty, and no notice is filed by any

employee or employee representative under subsection (b) within such time, the citation and the assessment, as proposed, shall be deemed a final order and not subject to review by any court or agency.

(b) Any employee or representative of an employee may within 15 working days of the issuance of a citation file a request in writing for a hearing before the Director for an appeal from the citation on the ground that the period of time fixed in the citation for the abatement of the violation is unreasonable.

(c) (1) (Blank). ~~The Director shall schedule a hearing within 15 calendar days after receipt of such request for an appeal from the citation order and shall notify all interested parties of such hearing. Such hearing shall be held no later than 45 calendar days after the date of receipt of such appeal request.~~

(2) If an ~~The Director shall afford a hearing to the~~ employer or his or her representatives notifies the Director that he intends to contest a citation or notification or if, within 15 working days of the issuance of the citation, any employee or representative of employees files a notice with the Director alleging that the period of time fixed in the citation for the abatement of the violation is unreasonable, the Director shall afford an opportunity for a hearing before an Administrative Law Judge designated pursuant to subsection (b) of Section 2.10. At the hearing the ~~, at which hearing the~~

employer or employee shall state his or her objections to such citation and provide evidence why such citation shall not stand as entered. The Director of Labor or his or her representative shall be given the opportunity to state his or her reasons for entering such violation citation. Affected employees shall be provided an opportunity to participate as parties to hearings under the rules of procedure prescribed by the Director (56 Ill. Admin. Code, Part 120).

(3) The Administrative Law Judge on behalf of the ~~The~~ Director, in consideration of the evidence presented at the formal hearing, shall in accordance with his rules enter a final decision and order within a reasonable time ~~no later than 15 calendar days after such hearing~~ affirming, modifying or vacating the ~~Director's~~ citation or proposed penalty, or directing other appropriate relief.

(4) (Blank). ~~An informal review may be conducted by an authorized representative of the Director of Labor who is authorized to change abatement dates, to reclassify violations (such as willful to serious, serious to other than serious), and to modify or withdraw a penalty, a citation, or a citation item if the employer presents evidence during the informal conference which convinces the authorized representative of the Director of Labor that the changes are justified.~~

(5) Appeal.

(A) Any party adversely affected by a final violation order or determination of the Administrative Law Judge on

behalf of the Director may obtain judicial review by filing a complaint for review within 35 days after the entry of the order or other final action complained of, pursuant to the provisions of the Administrative Review Law, all amendments and modifications thereof, and the rules adopted pursuant thereto.

(B) If no appeal is taken within 35 days the order ~~of the Director~~ shall become final.

(C) Judicial reviews filed under this Section shall be heard expeditiously.

(6) The Director of Labor and/or the Administrative Law Judge on behalf of the Director of Labor has the power:

(A) To issue subpoenas for and compel the attendance of witnesses and the production of pertinent books, papers, documents or other evidence.

(B) To hear testimony and receive evidence.

(C) To order testimony of a witness and to take or cause to be taken, depositions of witnesses residing within or without this State to be taken by deposition in the manner prescribed by law for depositions in civil cases in the circuit court in any proceedings pending before him or her at any state of such proceeding.

Subpoenas and commissions to take testimony shall be under seal of the Director of Labor.

Service of subpoenas may be made by any sheriff or any other person. The circuit court for the county where any

hearing is pending ~~, upon application of the Director of Labor,~~
may, ~~in the court's discretion,~~ compel the attendance of
witnesses, the production of pertinent books, papers, records,
or documents and the giving of testimony before the Director of
Labor or an Administrative Law Judge by an attachment
proceeding, as for contempt, in the same manner as the
production of evidence may be compelled before the court.

(Source: P.A. 94-477, eff. 1-1-06.)

(820 ILCS 220/2.5)

Sec. 2.5. Employee access to information.

(a) The Director of Labor shall issue rules ~~regulations~~
requiring employers to maintain accurate records of employee
exposures to potentially toxic materials or harmful physical
agents which are required to be monitored or measured under
this Act or the Health and Safety Act.

(1) The rules ~~regulations~~ shall provide employees or
their representatives with an opportunity to observe such
monitoring or measuring, and to have access to the records
thereof.

(2) The rules ~~regulations~~ shall also make appropriate
provisions for each employee or former employee to have
access to such records as will indicate his or her own
exposure to toxic materials or harmful physical agents.

(3) Each employer shall promptly notify any employee
who has been or is being exposed to toxic materials or

harmful physical agents in concentrations or at levels which exceed those prescribed by an occupational safety and health standard and shall inform any employee who is being thus exposed of the corrective action being taken.

(b) The Director of Labor shall also issue rules ~~regulations~~ requiring that employers, through posting of notices or other appropriate means, keep their employees informed of their protections and obligations under these Acts, including the provisions of applicable standards.

(Source: P.A. 94-477, eff. 1-1-06.)

(820 ILCS 220/2.6)

Sec. 2.6. Other prohibited actions and sanctions.

(a) Advance notice. A person who gives advance notice of any inspection to be conducted under the authority of this Act or the Health and Safety Act without authority from the Director of Labor, or his or her authorized representative, commits a Class B misdemeanor.

(b) False statements. A person who knowingly makes a false statement, representation, or certification in any application, record, report, plan, or other document required pursuant to this Act, the Health and Safety Act, or any rule, standard, or order pursuant to either Act commits a Class 4 felony.

(c) Violation of posting requirements. A public employer who violates any of the required posting requirements of

Sections 2.3 and 2.5 of this Act is subject to the following citations and proposed penalty structure:

(1) Job Safety & Health Poster: an other-than-serious citation with a proposed penalty of \$1,000.

(2) Annual Summary of Injuries/Illnesses: an other-than-serious citation and a proposed penalty of \$1,000 even if there are no recordable injuries or illnesses.

(3) Citation: an other-than-serious citation and a proposed penalty of \$1,000.

(d) All information reported to or otherwise obtained by the Director of Labor or the Director's authorized representative in connection with any inspection or proceeding under this Act or the Health and Safety Act or any standard, rule, or order pursuant to either Act which contains or might reveal a trade secret shall be considered confidential, except that such information may be disclosed confidentially to other officers or employees concerned with carrying out this Act or the Health and Safety Act or when relevant to any proceeding under this Act or the Health and Safety Act. In any such proceeding, the Director of Labor or the court shall issue such orders as may be appropriate, including the impoundment of files or portions of files, to protect the confidentiality of trade secrets. A person who violates the confidentiality of trade secrets commits a Class B misdemeanor.

(Source: P.A. 94-477, eff. 1-1-06.)

(820 ILCS 220/2.7)

Sec. 2.7. Inspection scheduling system.

(a) In general, the priority of accomplishment and assignment of staff resources for inspection categories shall be as follows:

(1) Imminent Danger.

(2) Fatality/Catastrophe Investigations.

(3) Complaints/Referrals Investigation.

(4) Programmed Inspections - general, ~~advisory,~~ monitoring and follow-up.

(b) The priority for assignment of staff resources for hazard categories shall be the responsibility of an authorized representative of the Director of Labor based upon the inspection category, the type of hazard, the perceived severity of hazard, and the availability of resources.

(Source: P.A. 94-477, eff. 1-1-06.)

(820 ILCS 220/2.8) (from 820 ILCS 220/2, in part)

Sec. 2.8. Voluntary compliance program.

(a) The Department shall encourage employers and organizations and groups of employees to institute and maintain safety education programs for employees and promote the observation of safety practices.

(b) The Department shall provide and conduct ~~qualified and quality~~ educational programs specifically designed to meet the

regulatory requirements and the needs of the public employer.

(c) (Blank). ~~The educational programs and advisory inspections shall be scheduled secondary to the unprogrammed inspections by priority.~~

(d) Regular public information programs shall be conducted to inform the public employers of changes to the regulations or updates as necessary.

(e) The Department shall provide support services for any public employer who needs assistance with the public employer's self-inspection programs.

(Source: P.A. 94-477, eff. 1-1-06.)

(820 ILCS 220/2.10) (from 820 ILCS 220/2, in part)

Sec. 2.10. Adoption of rules; designation of personnel to hear evidence in disputed matters.

(a) The Director of Labor shall adopt such rules and regulations as he or she may deem necessary to implement the provisions of this Act or the Health and Safety Act, including, but not limited to, rules and regulations dealing with: (1) the inspection of an employer's establishment and (2) the designation of proper parties, pleadings, notice, discovery, the issuance of subpoenas, transcripts, and oral argument.

(b) The Director of Labor may designate personnel to hear evidence in disputed matters.

(Source: P.A. 94-477, eff. 1-1-06.)

(820 ILCS 220/8) (from Ch. 48, par. 59.8)

~~Sec. 8. Before any prosecution is instituted based upon the laboratory findings of any industrial hygiene unit of the Department, any person dissatisfied with such findings shall be entitled to have an independent review thereof made.~~

The Attorney General and state's attorneys, upon request of the Department, shall prosecute any violation of any law which the Department has the duty to administer and enforce.

(Source: P.A. 77-1899.)

(820 ILCS 220/10) (from Ch. 48, par. 59.10)

Sec. 10. All fines collected pursuant to this Act or the Health and Safety Act shall be deposited in the general revenue fund of the State of Illinois.

(Source: P.A. 77-1899.)

(820 ILCS 220/11) (from Ch. 48, par. 59.11)

Sec. 11. Nothing in this Act or the Health and Safety Act shall be construed to supersede or in any manner affect any workers' compensation or occupational diseases law or any other common law or statutory rights, duties or liabilities, or create any private right of action.

(Source: P.A. 81-992.)

(820 ILCS 220/12 new)

Sec. 12. It shall be the duty of the Division under the

Director of Labor to ensure that the health and safety of the public employees in Illinois are protected by a program at least as effective as the federal Occupational Safety and Health Administration (OSHA) program.

Section 10. The Health and Safety Act is amended by changing Sections .01, 2, 3, 4, 4.1, 4.2, 7, 7.01, 7.02, 7.04, 7.05, 7.07, 7.10, 7.11, 7.12, 7.18, 8, 9, 12, 14, 15, 17, and 22 as follows:

(820 ILCS 225/.01) (from Ch. 48, par. 137.01)

Sec. .01. As used in this Act:

"Department" means the Department of Labor.

"Director" means the Director of Labor.

"Employee" means every person in the service of: the State, including members of the General Assembly, members of the Illinois Commerce Commission, members of the Workers' Compensation Commission, and all persons in the service of the public universities and colleges in Illinois; an Illinois county, including deputy sheriffs and assistant State's attorneys; or an Illinois city, township, incorporated village or school district, body politic, or municipal corporation; whether by election, under appointment or contract, or hire, express or implied, oral or written.

"Public employer" or "employer" means the State of Illinois and all political subdivisions.

(Source: P.A. 87-245.)

(820 ILCS 225/2) (from Ch. 48, par. 137.2)

Sec. 2. This Act shall apply to all public employers engaged in any occupation ~~, business or enterprise~~ in this State, and their employees, including the State of Illinois and its employees and all political subdivisions and its employees, except that nothing in this Act shall apply to working conditions of employees with respect to which Federal agencies, and State agencies acting under Section 274 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2021), exercise statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health. Any regulations in excess of applicable Federal standards shall, before being promulgated, be the subject of hearings as required by this Act.

(Source: P.A. 94-477, eff. 1-1-06.)

(820 ILCS 225/3) (from Ch. 48, par. 137.3)

Sec. 3. (a) It shall be the duty of every employer under this Act to provide reasonable protection to the lives, health and safety and to furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees.

(b) It shall be the duty of each employer under this Act to

comply with occupational health and safety standards promulgated under this Act and the Safety Inspection and Education Act.

(c) It shall be the duty of every employer to keep his employees informed of their protections and obligations under this Act and the Safety Inspection and Education Act, including the provisions of applicable standards.

(d) It shall be the duty of every employer to furnish its employees with information regarding hazards in the work-place, including information about suitable precautions, relevant symptoms and emergency treatment.

(e) It shall be the duty of every employee to comply with such rules as are promulgated from time to time by the Director pursuant to this Act or the Safety Inspection and Education Act, which are applicable to his own actions and conduct.

(f) The Director shall, from time to time, make, promulgate and publish such reasonable rules as will effectuate such purposes. Such rules shall be clear, plain and intelligible as to those affected thereby and that which is required of them, and each such rule shall be, by its terms, uniform and general in its application wherever the subject matter of such rule shall exist in any worksite ~~business, occupation or enterprise~~ having public employees, and which rules, when applicable to products which are distributed or used in interstate commerce, are required by compelling local conditions and do not unduly burden interstate commerce.

(Source: P.A. 87-245.)

(820 ILCS 225/4) (from 820 ILCS 225/4, in part)

Sec. 4. Records and reports; work-related deaths, injuries, and illnesses.

(a) The Director shall prescribe rules requiring employers to maintain accurate records of, and to make reports on, work-related deaths, injuries and illnesses, other than minor injuries requiring only first aid treatment which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job. Such rules shall specifically include all of the reporting provisions of Section 6 of the Workers' Compensation Act and Section 6 of the Workers' Occupational Diseases Act.

(b) Such records shall be available to any State agency requiring such information.

(c) (Blank). ~~All reports filed hereunder shall be confidential and any person having access to such records filed with the Director as herein required, who shall release any information therein contained including the names or otherwise identify any persons sustaining injuries or disabilities, or give access to such information to any unauthorized person, shall be subject to discipline or discharge, and in addition shall be guilty of a Class B misdemeanor.~~

(Source: P.A. 94-477, eff. 1-1-06.)

(820 ILCS 225/4.1) (from 820 ILCS 225/4, in part)

Sec. 4.1. Adoption of federal safety and health standards as rules.

(a) All federal occupational safety and health standards which the United States Secretary of Labor has heretofore promulgated or ~~7~~ modified ~~or~~ ~~revoked~~ in accordance with the Federal Occupational Safety and Health Act of 1970, shall be and are hereby made rules of the Director unless the Director shall make, promulgate, and publish an alternate rule at least as effective in providing safe and healthful employment and places of employment as a federal standard. Prior to the development and promulgation of alternate standards or the modification or revocation of existing standards, the Director must consider factual information including:

(1) Expert technical knowledge.

(2) Input from interested persons including employers, employees, recognized standards-producing organizations, and the public.

(b) All federal occupational safety and health standards which the United States Secretary of Labor shall hereafter promulgate, modify or revoke in accordance with the Federal Occupational Safety and Health Act of 1970 shall become the rules of the Department within 6 months after their federal promulgation ~~effective~~ date, unless there shall have been in effect in this State at the time of the promulgation, modification or revocation of such rule an alternate State rule

at least as effective in providing safe and healthful employment and places of employment as a federal standard. However, such rule shall not become effective until the following requirement has ~~requirements have~~ been met:

(1) The Department shall within 45 days after the federal promulgation ~~effective~~ date of such rule, file with the office of the Secretary of State in Springfield, Illinois, a certified copy of such rule as provided in "The Illinois Administrative Procedure Act", approved August 22, 1975, as amended. ~~or~~

(2) (Blank). ~~In the event of the Department's failure to file a certified copy with the Secretary of State, any resident of the State of Illinois may upon 5 days written notice to the Director publish such rule in one or more newspapers of general circulation and file a certified copy thereof with the office of the Secretary of State in Springfield, Illinois, whereupon such rule shall become effective provided that in no event shall such effective date be less than 60 days after the federal effective date.~~

(c) The Director of Labor may promulgate emergency temporary standards or rules to take effect immediately by filing such rule or rules with the Illinois Secretary of State providing that the Director of Labor shall first expressly determine:

(1) that the employees are exposed to grave danger from exposure to substances or agents determined to be toxic or

physically harmful or from new hazards; and

(2) that such emergency standard is necessary to protect employees from such danger.

The Director of Labor shall adopt emergency temporary standards promulgated by the federal Occupational Safety and Health Administration within 30 days of federal notice. Such temporary emergency standards shall be effective until superseded by a permanent standard but in no event for more than 6 months from the date of its publication. The publication of such temporary emergency standards shall be deemed to be a petition to the Director of Labor for the promulgation of a permanent standard and shall be deemed to be filed with the Director of Labor on the date of its publication and the proceeding for the permanent promulgation of the rule shall be pursued in accordance with the provisions of this Act.

(d)(1) Any standard promulgated under this Act shall prescribe the use of labels or other appropriate forms of warning as are necessary to ensure that employees are apprised of all hazards to which they are exposed, relevant symptoms and appropriate emergency treatment, and proper conditions and precautions of safe use or exposure.

(2) Where appropriate, such standard shall also prescribe suitable protective equipment and control or technological procedures to be used in connection with such hazards and shall provide for monitoring or measuring employee exposure at such locations and intervals, and in such manner as may be necessary

for the protection of employees.

(3) In addition, where appropriate, any such standard shall prescribe the type and frequency of medical examinations or other tests which shall be made available, by the employer or at the employer's cost, to employees exposed to such hazards in order to most effectively determine whether the health of such employees is adversely affected by such exposure. The results of such examinations or tests shall be furnished by the employer only to the Department of Labor, or at the direction of the Department to authorized medical personnel and at the request of the employee to the employee's physician.

(4) The Director of Labor, in promulgating standards dealing with toxic materials or harmful physical agents under this subsection, shall set the standard which most adequately ensures, to the extent feasible, on the basis of the best available evidence, that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to the hazard dealt with by such standard for the period of the employee's working life.

(5) Development of standards under this subsection shall be based upon research, demonstrations, experiments, and such other information as may be appropriate. In addition to the attainment of the highest degree of health and safety protection for the employee, other considerations shall be the latest available scientific data in the field, the feasibility of the standards, and experience gained under this and other

health and safety laws. Whenever practicable, the standard promulgated shall be expressed in terms of objective criteria and of the performance desired.

(Source: P.A. 94-477, eff. 1-1-06.)

(820 ILCS 225/4.2) (from 820 ILCS 225/4, in part)

Sec. 4.2. Variances.

(a) The Director of Labor has the authority to grant either temporary or permanent variances from any of the State standards upon application by a public employer. Any variance from a State health and safety standard may have only future effect.

(b) Any public employer may apply to the Director of Labor for a temporary order granting a variance from a standard or any provision thereof promulgated under this Act or the Safety Inspection and Education Act.

(1) Such temporary order shall be granted only if the employer files an application which meets the requirements of this subsection (b) and establishes:

(A) that he is unable to comply with a standard by its effective date because of unavailability of professional or technical personnel or of materials and equipment needed to come into compliance with the standard or because necessary construction or alteration of facilities cannot be completed by the effective date;

(B) that he is taking all available steps to safeguard his employees against the hazards covered by the standard; and

(C) that he has an effective program for coming into compliance with a standard as quickly as practicable.

Any temporary order issued under this Section shall prescribe the practices, means, methods, operations and processes which the employer must adopt and use while the order is in effect and state in detail his program for coming into compliance with the standard.

(2) Such a temporary order may be granted only after notice to employees and an opportunity for a hearing. However, in cases involving only documentary evidence in support of the application for a temporary variance and in which no objection is made or hearing requested by the employees or their representative, the Director of Labor may issue a temporary variance in accordance with this Act.

(3) In the event the application is contested or a hearing requested, the application shall be heard and determined by the Director.

(4) No order for a temporary variance may be in effect for longer than the period needed by the employer to achieve compliance with the standard or one year, whichever is shorter, except that such an order may be renewed not more than twice, so long as the requirements of this

paragraph are met and if an application for renewal is filed at least 90 days prior to the expiration date of the order. No interim renewal of an order may remain in effect for longer than 180 days.

(5) An application for a temporary order as herein provided shall contain:

(A) a specification of the standard or portion thereof from which the employer seeks a variance;

(B) a representation by the employer, supported by representations from qualified persons having first-hand knowledge of the facts represented, that he is unable to comply with a standard or portion thereof and a detailed statement of the reasons therefor;

(C) a statement of the steps he has taken and will take (with specific dates) to protect employees against a hazard covered by the standard;

(D) a statement of when he expects to be able to comply with the standard (with dates specified); and

(E) a certification that he has informed his employees of the application by giving a copy thereof to their authorized representatives, posting a statement at the place or places where notices to employees are normally posted, summarizing the application and specifying where a copy may be examined, and by other appropriate means ~~employees may examine a copy of such application.~~

A description of how employees have been informed shall be contained in the certification. The information to employees shall also inform them of their right to petition the Director for a hearing.

(6) The Director of Labor is authorized to grant a variance from any standard or portion thereof whenever the Director of Labor determines that such variance is necessary to permit an employer to participate in an experiment approved by the Director of Labor designed to demonstrate or validate new and improved techniques to safeguard the health or safety of workers.

(c) Any affected employer may apply to the Director of Labor for a rule or order for a permanent variance from a standard or rule promulgated under this Act or the Safety Inspection and Education Act. Affected employees shall be given notice of each such application and an opportunity to participate in a hearing. The Director of Labor shall issue such rule or order if he determines on the record, after opportunity for an inspection where appropriate and a hearing, that the proponent of the variance has demonstrated by a preponderance of the evidence that the conditions, practices, means, methods, operations or processes used or proposed to be used by an employer will provide employment and places of employment to his employees which are as safe and healthful as those which would prevail if he complied with the standard. The rule or order so issued shall prescribe the conditions the

employer must maintain, and the practices, means, methods, operations, and processes which he must adopt and utilize to the extent they differ from the standard in question. Such a rule or order may be modified or revoked upon application by an employer, employees, or the Director of Labor on his own motion, in the manner prescribed for its issuance under this Section at any time after 6 months from its issuance.

(Source: P.A. 94-477, eff. 1-1-06.)

(820 ILCS 225/7) (from Ch. 48, par. 137.7)

Sec. 7. Rulemaking proceedings. The Director of Labor may, on his own initiative, or upon written petition, make, modify or repeal any rule or rules as provided in this Act, conforming with the procedure prescribed in this Act or the Safety Inspection and Education Act.

(Source: P.A. 87-245.)

(820 ILCS 225/7.01) (from Ch. 48, par. 137.7-01)

Sec. 7.01. If the Director of Labor resolves to institute such proceedings ~~on his own initiative,~~ he shall propose ~~promulgate~~ a rule stating in simple terms the subject matter and purpose of such hearing, and shall place such rule on file with the Illinois Secretary of State in the Illinois Register, and the matter shall proceed to hearing and disposition upon such rule as hereinafter provided.

(Source: P.A. 87-245.)

(820 ILCS 225/7.02) (from Ch. 48, par. 137.7-02)

Sec. 7.02. Every petition for hearing upon rules filed with the Director of Labor shall state, in simple terms, the subject matter and purpose for which such hearing is requested. Such petition shall be signed by a minimum of 5 public employees or 5 public employers, ~~or by a majority of employers, in a specified industry~~. When such a petition is filed, the matter shall proceed to hearing and disposition upon such petition as hereinafter provided.

(Source: P.A. 87-245.)

(820 ILCS 225/7.04) (from Ch. 48, par. 137.7-04)

Sec. 7.04. When the Director of Labor on his own initiative determines to consider any rule or rules, or when such a petition is filed, the Director shall set a date for a public hearing on such cause, not less than 30 nor more than 90 days after the date of the proposed ~~promulgation of the~~ rule by the Director of his intention to proceed on his own initiative, or after the filing of a petition, as the case may be.

(Source: P.A. 87-245.)

(820 ILCS 225/7.05) (from Ch. 48, par. 137.7-05)

Sec. 7.05. Notice of such hearing shall be given at least 30 days prior to the date of the hearing by publication in a newspaper of general circulation within the county in which the

hearing is to be held, in the Illinois Register, and by mailing notice thereof to any employer, and to any association of public employers and to any association of public employees who have filed with the Director of Labor their names and addresses, requesting notice of such hearings, ~~and stating the particular industry or industries concerning which they desire such notice~~. The notice of hearing shall state the time, place and subject matter of the hearing.

(Source: P.A. 87-245.)

(820 ILCS 225/7.07) (from Ch. 48, par. 137.7-07)

Sec. 7.07. Upon the conclusion of the hearing, the Director of Labor shall enter in writing, his decision upon the subject matter of such hearing. Copies of the decision, rule, or rules shall be mailed to interested parties whose names are on file with the Director of Labor, as hereinbefore provided, and a certified copy thereof shall be filed in the office of the Secretary of State at Springfield to be published in the Illinois Register.

(Source: P.A. 87-245.)

(820 ILCS 225/7.10) (from Ch. 48, par. 137.7-10)

Sec. 7.10. The Director of Labor shall certify the record of the proceedings to the court. For the purpose of a writ of certiorari, the record of the Director of Labor shall consist of a transcript of all testimony taken at the hearing, together

with all exhibits, or copies thereof, introduced in evidence, and all information secured by the Director of Labor on his own initiative which was introduced in evidence at the hearing; a copy of the rule or petition filed with the Director of Labor ~~which initiated the investigation,~~ and a copy of the decision filed in the cause, together with all objections filed with the Director of Labor, if any.

(Source: P.A. 87-245.)

(820 ILCS 225/7.11) (from Ch. 48, par. 137.7-11)

Sec. 7.11. On such certiorari proceedings, the court may confirm or reverse the decision as a whole, or may reverse and remand the decision as a whole, or may confirm any of the rules contained in such decision, and reverse or reverse and remand with respect to other rules in said decision. The order of the court shall be a final and appealable order except as to such portion of the decision of the Director ~~commission,~~ or as to such rule or rules therein as may be remanded by the court.

The purpose of any such remanding order shall be for the further consideration of the subject matter of the particular decision, rule or rules remanded.

(Source: Laws 1967, p. 3855.)

(820 ILCS 225/7.12) (from Ch. 48, par. 137.7-12)

Sec. 7.12. No new or additional evidence may be introduced in the court in such proceeding but the cause shall be heard on

the record of the Director of Labor as certified by him. The court shall review all questions of law and fact presented by such record, and shall review questions of fact in the same manner as questions of fact are reviewed by the court to determine the reasonableness or lawfulness of the decision ~~on certiorari proceedings under the Workers' Compensation Act.~~

(Source: P.A. 87-245.)

(820 ILCS 225/7.18) (from Ch. 48, par. 137.7-18)

Sec. 7.18. In all reviews or appeals under this Act or the Safety Inspection and Education Act, it is the duty of the Attorney General to represent the Director and defend his decisions and rules.

(Source: P.A. 87-245.)

(820 ILCS 225/8) (from Ch. 48, par. 137.8)

Sec. 8. The Director shall, in his decision, rule or rules, fix the effective date thereof; ~~provided, no such decision, rule or rules shall become effective until 90 days after the entry thereof by the Director, nor shall~~ any such decision, rule or rules shall not become effective during the pendency of any proceedings for review or appeal thereof instituted pursuant to the provisions of this Act in which case such decision, rule or rules shall not become effective until such review or appeal, including appeal to the Supreme Court, if any, has been disposed of by final order and the mandate shall

have been filed with the Director, and until a period of time has elapsed after the filing of such mandate equal to the period of time between the date of the entry of such decision, rule or rules by the Director and the effective date as originally fixed by the Director.

(Source: P.A. 87-245.)

(820 ILCS 225/9) (from Ch. 48, par. 137.9)

Sec. 9. The Director of Labor under the Illinois Administrative Procedure Act shall make and publish rules as to his practice and procedure in carrying out the duties imposed upon the Department of Labor by this Act or the Safety Inspection and Education Act, which rules shall be deemed prima facie, reasonable and valid.

(Source: P.A. 87-245.)

(820 ILCS 225/12) (from Ch. 48, par. 137.12)

Sec. 12. The Director of Labor shall make an annual report of his work under the provisions of this Act and the Safety Inspection and Education Act to the Governor on or before the first day of February of each year; and a biennial report to the Legislature on or before the first day of February of each odd-numbered year.

(Source: P.A. 87-245.)

(820 ILCS 225/14) (from Ch. 48, par. 137.14)

Sec. 14. The Director of Labor shall keep a full and complete record of all proceedings had before him or any of his designees, and all testimony shall be transcribed into written form ~~taken by a stenographer appointed by the Director~~. The Director shall also keep records which will enable any employer, employee or their agents, to determine all action taken by the Director with respect to the subject matter in which such employer and employee is interested. Such ~~All such~~ records shall be purged of personal data that is otherwise required to be held confidential, and the remaining records shall be open to public inspection.

(Source: P.A. 87-245.)

(820 ILCS 225/15) (from Ch. 48, par. 137.15)

Sec. 15. The ~~At least once each year, the~~ Director of Labor shall publish on a regular basis, in printed form, all of the ~~his~~ rules made pursuant to ~~Section 4 of~~ this Act and the Safety Inspection and Education Act which are in full force and effect at the time of such publication.

(Source: P.A. 87-245.)

(820 ILCS 225/17) (from Ch. 48, par. 137.17)

Sec. 17. (a) It shall be the duty of the Department of Labor to enforce the rules of the Director of Labor promulgated by virtue of this Act and the Safety Inspection and Education Act.

(b) Any employees or representatives of them who believe that a violation of a safety or health standard exists that threatens physical harm, or that an imminent danger exists, upon which the Department of Labor has failed to issue a notice of violation or take another enforcement action within a reasonable time after a complaint has been made to the Department of Labor may request a hearing before the Director of Labor by filing a written petition, setting forth the details and providing a copy to the employer or his agent. The Attorney General or state's attorney upon request of the Director of Labor shall prosecute any violation of any law which probable cause shall be determined to exist after hearing on the aforesaid petition.

(Source: P.A. 87-245.)

(820 ILCS 225/22) (from Ch. 48, par. 137.22)

Sec. 22. All information reported to or otherwise obtained by the Director of Labor or his authorized representative in connection with any inspection or proceeding under this Act or the Safety Inspection and Education Act which contains or might reveal a trade secret shall be considered confidential, except that such information may be disclosed confidentially to other officers or employees concerned with carrying out this Act or the Safety Inspection and Education Act or when relevant to any proceeding under this Act or the Safety Inspection and Education Act. In any such proceeding, the Director of Labor or

the court shall issue such orders as may be appropriate, including the impoundment of files, or portions of files, to protect the confidentiality of trade secrets.

Any person who shall violate the confidentiality of trade secrets is guilty of a Class B misdemeanor.

(Source: P.A. 87-245.)

Section 15. The Toxic Substances Disclosure to Employees Act is amended by adding Section 1.5 as follows:

(820 ILCS 255/1.5 new)

Sec. 1.5. Federal regulations; operation of Act.

(a) Except as provided in subsection (b), Sections 2 through 17 of this Act are inoperative on and after the effective date of this amendatory Act of the 95th General Assembly, and the Department of Labor shall instead enforce the Occupational Safety and Health Administration Hazard Communication standards at 29 CFR 1910.1200, as amended.

(b) If at any time the Occupational Safety and Health Administration Hazard Communication standard at 29 CFR 1910.1200 is repealed or revoked, the Director of Labor shall adopt a rule setting forth a determination that this Act should be reviewed and reinstated in order to protect the health and safety of Illinois' public sector workers. On the date such a rule is adopted, this Act shall again become operative.

Section 99. Effective date. This Act takes effect upon

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becoming law.

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