

**Jurisdiction (820 ILS 305/1(b)(2))**

1. Injuries and O.D. contracted in State
2. Contract of employment in State, or
3. Employment principally localized in State

**Limitations (820 ILS 305/6(d))**

1. Maintain claim within 3 years of injury or death or within 2 years after last payment of compensation (includes payment of medical whether paid by w/c or group insurance), whichever is later – except exposure to radiological equipment/materials or asbestos, 25 years after last day employed in such environment

**Report of injury (820 ILS 305/6(b))**

1. Must maintain records of injury that involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job and file written report with Commission of all accidental deaths, injuries and illness arising out of employment if lose more than 3 schedule work days
  - a. Death cases - must be reported within 2 working days of death
  - b. All other cases - between 15th and 25th of each month

**Burden of Proof**

1. Accident/exposure might have or could have caused or aggravated the condition and must be a contributing factor – preponderance of evidence required
2. Repetitive trauma - treated same as accident, date of manifestation is date reasonable person would know nature of condition and its work relatedness

**Notice of Injury (820 ILS 305/6(c))**

1. Notice of accident shall be given to employer as soon as practicable but no later than 45 days
  - a. If defective notice given within 45 days, then employer must show undue prejudice

**AWW/Rate (820 ILS 305/10)**

1. AWW - 52 weeks preceding injury, does not include OT except when mandatory or regular

2. Rate – TTD/PTD/Death – 2/3 AWW subject to max and min. PPD – 60% AWW subject to max and min

**Benefits**

1. Medical - reasonably required to cure and relieve the effects of the injury (820 ILS 305/8(a))
  - a. Employee has two choices of medical providers and all the referrals from those providers
  - b. For injuries after 9/1/11, utilization review is rebuttable presumption for denial of proposed medical treatment
  - c. For injuries after 9/1/11, employer can establish PPO and will count as employee's first choice whether employee accepts or rejects PPO
  - d. Mileage – local mileage not normally paid except for IME – reasonableness standard applied
  - e. Fee Schedule – for all medical services rendered after 2/1/06. Fees determined by contracted agreement or fee schedule.
2. TTD
  - a. No weekly limit
  - b. Waiting period - 3 working days if disability lasts more than 14 days – first 3 days retroactive (820 ILS 305/8(b))
  - c. Basis for termination
    - i. Return to work
    - ii. Reaches MMI (if permanent work restrictions – may owe vocational and maintenance benefits)
3. TPD (820 ILS 305/8(a))
  - a. If working light duty or earning less than if employed in full capacity, receive 2/3 difference between average amount able to earn in full performance and net amount earned in modified job
  - b. For injuries after 9/1/11 use gross amount earned in modified job
4. PPD (820 IL 305/8(ee))
  - a. see scheduled injuries chart

## Illinois Workers' Compensation At-A-Glance Continued

(For injuries after 9/1/11, carpal tunnel limited to 15% of 190 weeks unless convincing evidence of additional disability, then capped at 30%.)

b. For injuries after 9/1/11, AMA Guides to Permanent Impairment shall be considered along with other factors

### 5. Wage Differential (820 ILS 505/8(d)(1))

- a. Can elect instead of PPD, 2/3 difference between average amount able to earn in full performance of duties in occupation at time of accident and average amount able to earn in suitable employment after accident
- b. For injuries occurring after 9/1/11, payments continue to age 67 or 5 years from date of award, whichever is later

### 6. PTD (820 ILS 305/8(e)(18) or 8 (f))

- a. Section 8(e)(18) – lifetime weekly benefit if complete loss of use of 2 scheduled members, cannot terminate even if RTW
- b. Section 8(f) – weekly benefits for life so long as employee totally and permanently incapable of work, but payments cease if employee returns to work or is able to do so

### 7. Death (820 ILS 305/7)

- a. Burial expense - \$8,000
- b. Dependents
  - i. Widow, widower, child or children
    - a) Till death of widow or widower or until remarriage, unless there remain dependent children
    - b) Children – until age 18 or while enrolled in accredited education

institution, can continue benefits until age 25

i. Benefits continue if child is mentally or physically incapacitated

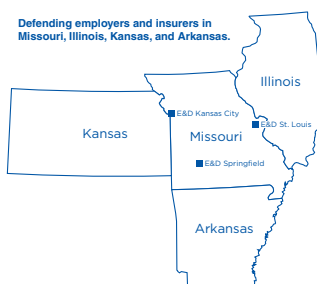
c. Cap – 25 years of benefits for deaths occurring after 2/1/06

### Reduction in Benefits

1. No partial reductions allowed – only total liability defenses recognized
  - a. Drugs and alcohol – employee so intoxicated that can say as a matter of law out of course of employment – look for evidence of impairment
2. For injuries after 9/1/11, rebuttable presumption that intoxication is proximate cause if:
  - a. .08% or greater blood alcohol
  - b. Evidence of cannabis use
  - c. Refusal to submit to blood, breath, or urine testing
3. If employee engaged in forcible felony, aggravated driving while under the influence or reckless homicide then not entitled to benefits under the Act

### Subrogation (820 ILS 305/5(b))

1. Employer/carrier entitled to subrogation of 3<sup>rd</sup> party recovery minus pro rata costs and 25% of gross recover for attorneys' fees
2. Employer may be brought into 3rd Party Action by 3rd defendant – liability limited to the amount expended in work comp case



[www.evans-dixon.com](http://www.evans-dixon.com)

### Office Locations

211 N. Broadway, Suite 2500  
St. Louis, MO 63102  
(314) 621-7755

1100 Main Street, Suite 2000  
Kansas City, MO 64105  
(816) 472-4600

1717 E. Republic Rd., Suite C  
Springfield, MO 65804  
(417) 882-4700