

2008 ANNUAL REPORT

THE INDUSTRIAL COMMISSION OF ARIZONA



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Vice Chairman
Commissioner
Commissioner
Commissioner

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INTRODUCTION

The Industrial Commission of Arizona (ICA) is a regulatory agency that was created in 1925 as a result of legislation implementing the constitutional provisions establishing a workers' compensation system.

From 1925 to 1969, the workers' compensation system consisted of the State Compensation Fund, which was then a part of the Industrial Commission, and self-insured employers which generally were the mining and the railroad companies. In 1969 the workers' compensation system was reorganized and expanded to include private insurance companies. The State Compensation Fund was split off from the Industrial Commission and established as a separate agency responsible for providing workers' compensation insurance coverage. The Industrial Commission retained its responsibility as the file of record and its regulatory authority over the processing of workers'

compensation claims. Since that time, the role of the Industrial Commission has been expanded to cover other labor related issues such as occupational safety and health, youth employment laws, resolution of wage related disputes, minimum wage, vocational rehabilitation, workers' compensation coverage for claimants of uninsured employers, insolvent insurance carriers and self-insured employers.

The policy setting body for the ICA is a five member Commission whose members are appointed by the Governor and confirmed by the Senate to staggered five year terms. The Commission oversees an Agency with approximately 322 employees and an operational budget of approximately \$19.8 million. As a non-general fund agency, the Industrial Commission is funded by an annual tax on workers' compensation premiums that cannot exceed 3%. The tax rate for 2007 was 3% and remained the same for 2008.

The mission statement of the Industrial Commission is to efficiently administer and effectively enforce all applicable laws and regulations not specifically delegated to others, relative to the protection of life, health, safety and welfare of employees within the State.

Its purpose and objectives are accomplished through seven major divisions which are set out separately in this document.

LABOR DEPARTMENT
Randall Maruca, Director

The Labor Department is a Department that has had a dramatic change in responsibilities over the years. For example, in the 1930's, it was responsible for establishing minimum wages, hours of operations for the railroads, and later enforced the payment of appropriate wages on public works projects within the state. Today, the Labor Department essentially conducts 100% of its activities in four specific areas: youth employment law enforcement, minimum wage law enforcement, resolutions of disputes involving wages, and regulating private employment agencies that charge fees to applicants (these include placement agencies, career counseling firms, modeling and talent firms and sitting services).

YOUTH EMPLOYMENT LAW ENFORCEMENT

Arizona's youth employment laws, which establish the hours a youth can work and prohibit occupations in which they can be employed, are very similar to those on the federal level. The Labor Department utilizes information gathered from the ICA's Claims Division to review and investigate workers' compensation claims involving minors, receives and investigates information from other governmental organizations and complaints filed by the public.

	FY06	FY07	FY08
Number of Injury Reports Involving Minors and Complaints Received	1200	1238	1297
Number of Youth Employees Violations Confirmed	52	65	45

RESOLUTION OF WAGE DISPUTES

When a wage owed to an employee is no more than \$2,500 and the accrual of those unpaid wages do not exceed one year, then an employee may file a wage claim with the State Labor Department or with the Small Claims Court. Upon receipt of a claim, the Labor Department will notify the employer of the claim and investigate the allegations. The Labor Department will provide a written determination which can be appealed to Superior Court. An employer who does not comply with a Final Order within ten days after the Order becomes final is liable to pay the employee treble the amount of the unpaid wages found to be owed. While every effort is made to resolve the dispute, in some cases there is insufficient information to make a determination. In those cases, a claimant has the right to file a civil action in Justice or Small Claims Court.

	FY06	FY07	FY08
Number of Wage Claims Filed / Investigated	2864	2943	3295

MINIMUM WAGE LAW ENFORCEMENT

Arizona employers are required to pay employees no less than the minimum wage. Any person may file an administrative complaint with the State Labor Department if they are not receiving the minimum wage or have been retaliated against for asserting any claim or right under the Minimum Wage Act. Upon receipt of an alleged violation, the Department will notify the concerned employer and investigate the allegations. Civil penalties can be assessed for violations of the Act. Upon determination that wages or penalties are due and unpaid to the employee, the Department may obtain judgement and execution, garnishment, attachments, or other remedies for collection. The Labor Department will provide a written determination,

which can be appealed to the Administrative Law Judge Division of the Commission. The Department may mediate and conciliate any dispute between the parties.

	FY07	FY08
Number of Minimum Wage Inquiries	1786	1620
Number of Minimum Wage Complaints Filed	21	58
Complaints Resolved	5	15
Violations Issued	12	41
Average Months to Complete Investigation	1.6	1.7
On-site Audits and Reviews Completed	8	42

LICENSED & REGULATED AGENCIES

Under Arizona law, private employment agencies that charge a fee to an applicant are licensed and regulated by the Labor Department. The Industrial Commission’s Employment Advisory Council and the Labor Department investigate the background of each firm applying for a license. Based on their investigation, they recommend approval or denial of a license to the Commission. The Industrial Commission administratively approves or denies the license. An appeal of that administrative decision is made before the five member Commission through an administrative hearing. The Commission’s decision is appealable to the Superior Court.

Number of Licensed Agencies

	FY06	FY07	FY08
Career Counseling Firms	24	27	26
Model & Talent Agencies	23	26	26
General Agencies	2	4	4
Sitter/Nanny Agencies	1	2	2
Domestic Help Agencies	1	1	1
Total	52	60	59

CLAIMS DIVISION
Noreen Thorsen, Manager

Unlike the other Divisions, the historical role of the Claims Division has remained unchanged. Since 1925, the Claims Division has been the file of record for approximately 6 million workers’ compensation claims files. Claims are received by the Claims Division from attending physicians and injured workers. The Claims Division, in turn, notifies the appropriate insurance carrier/third party processing agent or self-insured employer so that they can appropriately process the claim. The historical number of claims processed in the last three years are as follows:

	FY06	FY07	FY08
Number of Claims Processed	131904	121699	122101

In addition to being a file of record, we now have 40 million stored documents on our optical disc system. The Claims Division is responsible for ensuring that the 550 insurance carriers/third party processors and 100 self-insured employers process workers’ compensation claims in accordance with existing statutes and rules.

The Claims Division, in addition to answering approximately 150,000 telephone inquiries per year, is responsible for processing approximately 6,000 documents per day and making in excess of 31,000 determinations annually that are subject to judicial review. Some of those determinations involve a variety of issues such as allegations of bad faith, awards for facial scarring and loss of teeth, approvals or denials of requests to leave the state, approvals or denials of requests to change physicians, etc. A historical perspective for some of those determinations are as follows:

AVERAGE MONTHLY WAGE AWARDS

The Claims Division establishes the average monthly wage for claimants who have been injured in excess of seven days. The number of wage awards for the last three fiscal years are as follows:

	FY06	FY07	FY08
Number of Wage Awards	14184	18451	19123

LOSS OF EARNING CAPACITY AWARDS

The Claims Division is responsible for determining the “loss of earning capacity” (LEC) for claimants who have incurred a permanent impairment that results in an unscheduled injury. The number of “LEC” awards for the past three fiscal years are as follows:

	FY06	FY07	FY08
Number of LEC Awards	2385	2410	2661

The Commission’s ability to effectively monitor claims activity and process the large volume of data has been due in large part to the Commission’s computer system. In 1991 the Claims Division became the first state workers’ compensation program to utilize optical disk technology and go to a paperless system. This technology, which is used in conjunction with new computer software, allows for greater productivity and instant access to claims information. With this system, more than one person can access a file at the same time, and telephone inquiries can be answered immediately. Based upon the ICA’s Claims Division’s success, a number of other states have adopted this technology.

OMBUDSMAN

In 1988 the Industrial Commission’s Ombudsman’s Office was created by statute to provide assistance to injured workers in resolving difficulties encountered during the processing of their workers’ compensation claims. The Ombudsman’s Office intercedes on behalf of an injured worker to ensure that the worker receives benefits to which the worker is entitled under the law. Personnel in the Ombudsman’s Office do not provide legal advice nor do they participate in legal proceedings. A historical perspective of the number of claimants that have received assistance are listed as follows:

	FY06	FY07	FY08
Number of Claimants Assisted	2852	2493	2665

**ADMINISTRATIVE LAW JUDGE
DIVISION (ALJ)
Harriet Turney, Chief Judge**

The ALJ Division is the administrative tribunal of the Industrial Commission. Its mission is to resolve all disputes coming before it efficiently and equitably. The ALJ Division has jurisdiction over disputes that arise under the Arizona Workers’ Compensation Act and the Occupational Health and Safety Act (OSHA). It is also authorized to resolve disputes referred from the Department of Labor in the areas of youth employment and minimum wage, though none have arisen in the most recent fiscal year.

When fully staffed, the ALJ Division employs 17 ALJs in Phoenix and four in Tucson. In FY 2008, the Phoenix office had two ALJ vacancies. ALJs are active members of the State Bar of Arizona, with a minimum of five years’ experience in workers’ compensation, labor and employment, or a related field. They are supported by legal secretaries who serve as

judicial assistants with responsibility for the administration of the judges' dockets. The legal secretaries and division clerks also provide information and assistance to parties, attorneys, and members of the public.

Most of the cases referred to the division are in the area of workers' compensation. In the most recent year for which statistics are available (FY 2008), 6783 workers' compensation claims were referred to the ALJ Division for hearing. It received 77 OSHA cases.

Workers compensation cases are referred to the ALJ Division from the Claims Division when an interested party (claimant, employer, insurance carrier or Special Fund) requests a hearing on a disputed issue arising in the administration of a claim. Issues include compensability, entitlement to continuing or additional benefits, and loss of earning capacity. Some claims are referred to the ALJ Division multiple times over the life time of the injured worker. An injured worker may seek to reopen a claim years after it has been closed based on a new, additional, or previously undiscovered condition related to the industrial injury. Either the injured worker or the carrier may seek to rearrange permanent disability benefits based on a change in the worker's earning capacity.

Since March 2008, the Claims Division refers all requests for investigation pursuant to A.R.S. § 23-1061(J) to the ALJ Division once they have been docketed and a request for response has been forwarded to the carrier. These so-called "J" requests arise whenever it appears that an injured worker has been denied benefits to which the worker is entitled. They may involve issues on either open or closed claims, such as failure to authorize active or supportive care, failure to reimburse travel expenses, or failure of a carrier to produce its file upon request. Upon referral, the Chief ALJ monitors the "J" files which, if not informally resolved, may require an expedited hearing. When appropriate, clarification, additional information or documentation is requested to further the investigation and determine whether a hearing is needed. Response to this change in the processing of "J" requests has been positive.

OSHA cases are referred to the ALJ Division from the Arizona Department of Occupational Safety and Health (ADOSH). Disputes arise when a citation has been issued and the employer protests the action taken by ADOSH.

Except for "J" requests that require expedited scheduling, hearings in all other cases (workers' compensation and OSHA) are usually scheduled within 60-90 days of referral. Most of the hearings are set in Phoenix or Tucson. Approximately seven percent are scheduled elsewhere around the state in such locales as Flagstaff, Prescott, Lake Havasu, Kingman, Yuma, Lakeside-Pinetop, Show Low, Payson, Globe, Casa Grande, Bisbee, Sierra Vista, and Nogales.

Prior to the hearing, the parties engage in discovery, such as depositions (oral examination of individuals who have information relevant to the issues), and interrogatories (written questions). Injured workers are often sent for one or more independent medical examinations scheduled by the employer and/or carrier, and the parties file and exchange medical documents.

Workers' compensation cases usually require more than one hearing to obtain all necessary evidence. The claimant and non-expert witnesses, if any, testify at the first or "initial" hearing. Subsequent hearings, known as "further hearings," are scheduled for medical experts and for labor market consultants, where the issue is loss of earning capacity. The limited availability of medical experts can cause delay in scheduling further hearings. It can take several weeks to several months for further hearings to be completed.

The ALJ sits as the trier of fact, similar to a superior court judge in a non-jury trial in a civil case. Once the hearings have been completed and any post-hearing memoranda filed, the presiding ALJ issues a written decision that contains findings, legal analysis, and an award. In workers' compensation cases, a party disagreeing with the ALJ's decision may file a request for review that is considered by the ALJ who issued the decision upon hearing. Upon receipt of legal memoranda from the parties, the ALJ issues a written decision upon review that may affirm, reverse,

modify and/or supplement the decision upon hearing. If a party disagrees with the decision upon review, the party may file a petition for special action with the Arizona Court of Appeals within thirty days. The parties are given an opportunity to file briefs, and occasionally are allowed to participate in oral argument. The Court of Appeals issues either a memorandum decision or an opinion affirming or setting aside the decision of the ALJ. Further review is discretionary with the Arizona Supreme Court.

OSHA hearings follow different procedural rules. They are often completed in one session. The ALJ issues a written decision at the conclusion of the hearing process. A party who is dissatisfied with the decision may request review. Unlike a workers' compensation case, the presiding ALJ does not conduct the review. Instead, the case is referred to the OSHA Review Board. The Arizona Court of Appeals reviews decisions of the review board.

Mediation is available as an alternative to the formal hearing process in both OSHA and workers' compensation cases. It has been successfully used to achieve early resolution in complex cases and to craft solutions that might not otherwise be possible in the formal hearing process. Mediation is offered in all OSHA cases referred to the ALJ Division. In workers' compensation cases, the presiding ALJ may suggest mediation or the parties may request it. All parties must agree and all must be represented by counsel. One or more ALJs act as sole or co-mediators. As a third party neutral, the ALJ mediator does not resolve the issues presented. Rather, the mediator facilitates communication between the parties and helps them work toward a negotiated settlement of their dispute.

Mediation is a confidential process. If a dispute is resolved through mediation, the parties execute a settlement agreement that is submitted to the presiding ALJ. If the dispute is not resolved, the case is returned to the hearing process and nothing revealed in the mediation process is disclosed to the presiding ALJ, without the parties' permission. Any notes or memoranda presented to the mediating ALJ are destroyed and the presiding ALJ renders a decision

based solely on the record and evidence presented at the hearing.

The ALJ Division has developed Frequently Asked Questions for unrepresented injured workers to assist them in preparing for hearing. The FAQs are sent with the Notice of Hearing whenever the claimant is unrepresented. The FAQs are also available on the ICA website, along with a new Video Guide to Workers' Compensation Hearings that addresses all the stages of the hearing process. The video is also available in CD format upon request. Prehearing conferences are scheduled to advise unrepresented injured workers of their rights and responsibilities. These conferences often have the salutary effect of encouraging communication between the parties, which can result in the narrowing of issues and earlier settlement.

Timely resolution of all cases continues to be the ALJ Division's top priority. The division is focused on prompt scheduling of initial and further hearings.

Requests for continuance are closely scrutinized and granted only for good cause.

Telephonic further hearings for medical experts help reduce scheduling delays. Waiver of live medical testimony and reliance on written reports in some cases has eliminated the need for, or reduced the number of, further hearings. Despite staffing shortages, the number of decisions issues more than 60 days after a case has been deemed submitted has been significantly reduced.

The ALJ Division monitors the satisfaction level of its customers through a survey process. The anonymous process measures general satisfaction with the administrative hearing process. The division continues consistently to score at least 3.5 on a 5-point scale.

	FY06	FY07	FY08
Cases Referred to the Division	6842	6809	6783
Hearings Conducted	5542	5226	5157
Average Length of Time to Resolve a Case (Days)	118	113	109

**ARIZONA DIVISION OF
OCCUPATIONAL SAFETY AND
HEALTH**
Darin Perkins, Director

In 1974 Governor Jack Williams asserted Arizona’s right, under the Federal Occupational Safety and Health Act, to retain jurisdiction over occupational safety and health issues within our state, excluding mining operations, Indian reservations and federal employees.

This jurisdiction encompasses approximately 2.8 million employees working in 144,000 public and private establishments. In accordance with the Federal Occupational Safety and Health Act, the Arizona Division of Occupational Safety and Health (ADOSH) operates under an approved plan with the U. S. Department of Labor. In 1985 the U. S. Department of Labor designated (ADOSH) as being one of only 26 states and territories that have programs that are “as effective” as Federal OSHA. Given the large scope of responsibility, ADOSH focuses its efforts in four specific areas: compliance, consultation, elevators and boilers.

COMPLIANCE

ADOSH’s compliance activities consist of conducting unannounced inspections of workplaces throughout Arizona to determine whether employers are complying with the Occupational Safety and Health Act and standards.

Inspections may be the result of (1) a work related accident, (2) a complaint, (3) a referral, (4) planned inspection, or (5) a follow-up to ensure that previously cited serious, repeat or willful violations have been corrected. Inspections involving work related accidents are generally serious in nature involving multiple injuries or a fatality. A complaint inspection generally is the result of a serious safety/health allegation or a nonresponse to a written inquiry sent to an employer by ADOSH. A referral generally comes from another government source such as Department of Economic Security’s Farmworker Outreach Program,

Department of Health Services, Police and Fire Departments. Planned or scheduled inspections are those directed at those employers in high-hazard industries or who have a large number of workers’ compensation claims, or higher than average injury and illness rates.

ADOSH is the only state or Federal OSHA program in the country that has an independent body, (the Commission) that is separate from the OSHA program, that reviews the appropriateness of ADOSH’s penalty proposals and either approves, modifies or disapproves the issuance of penalties for violations of Arizona’s Occupational Safety and Health Act.

Every Thursday at a public meeting before the Commissioners, a representative from ADOSH presents a *prima facie* case to the Commissioners as to why a penalty should be assessed. The Commission, as a body, reviews the proposal and either approves, modifies or disapproves the proposed penalties based upon the facts presented. All penalties assessed and collected go directly to the State General Fund.

	FY06	FY07	FY08
Serious Willful and Repeat Violations	989	865	777
Total Penalties Assessed	1.3	1.97	1.04
* in millions			

It is important to note that not all violations or inspections result in penalties. In fact, the majority of violations are other than serious and carry no penalty. In addition, for a significant number of inspections we find no violations and determine that the employer is “in compliance” with the Arizona Occupational Safety and Health Act.

	FY06	FY07	FY08
Nonserious Violations	2792	2426	2249
In Compliance % Rate	37.1%	37%	45%

CONSULTATION AND TRAINING

ADOSH’s consultation activities consist of providing free consultative assistance to employers who are requesting assistance in coming into compliance with existing occupational safety and health standards.

At the request of an employer, a consultation evaluation may involve an individual operation or an entire workplace. No citations or penalties are issued to employers utilizing consultation services as long as the employer corrects the apparent hazards which are noted as written recommendations in a letter to the employer.

Free training programs are also provided by ADOSH to business organizations, labor organizations and individual employers upon request. A film library is also available to individual employers who may wish to check-out films to supplement their own safety and health programs.

	FY06	FY07	FY08
# of Hazards Found During Consultations	2036	2467	3249
# of Training Programs	377	317	404
# of Employees Trained	6619	5841	6341
# of Employers Trained	1696	1799	3068

BOILERS AND ELEVATORS

Unlike the Arizona Occupational Safety and Health Act, the Boiler and Elevator program is equipment oriented, and not based upon employee exposure. As a result, cease and desist orders are utilized without monetary penalties. Once violations are corrected, certificates of operation are issued allowing the employer to utilize the boiler, elevator or escalator.

In the Boiler and Elevator statutes, political subdivisions are allowed to retain jurisdiction if they provide a comparable program. The City of Phoenix has retained jurisdiction over elevators within its boundaries. No other political subdivision has retained jurisdiction for boilers or elevators.

	FY06	FY07	FY08
Boilers Inspected	1982	1869	1615
Deficiencies Noted	148	167	1199

	FY06	FY07	FY08
Elevators Inspected	4289	4504	5847
Deficiencies Noted	1593	2047	5431

SPECIAL FUND

David Sosa, Special Fund Monitor

The Special Fund is a “trust fund” that was legislatively created in 1969 for the express purpose of providing workers’ compensation benefits in the following areas:

- ◆ providing benefits for uninsured claimants,
- ◆ continuing workers’ compensation benefits for claimants of insolvent carriers and bankrupt self-insured employers,
- ◆ partial coverage of workers’ compensation benefits for second injury claims,
- ◆ vocational rehabilitation benefits,
- ◆ continuing medical benefits for pre 1973 workers’ compensation claimants.

Functionally, the responsibilities of the Special Fund have historically been relatively stable. The only significant changes that have occurred dealt with the financing of the Special Fund and the creation of an oversight Investment Committee in 1984.

The financial integrity of the Special Fund is overseen by a legislatively created Investment Committee. This Investment Committee consists of a representative from the insurance industry, a

representative of the self insured employers, the Chairman and Director of the Industrial Commission.

The Special Fund has \$412 million in assets which is comprised of the Industrial Commission offices at 800 W. Washington, Phoenix and 2675 E. Broadway, Tucson, and a mix of bonds, stocks and cash. The Special Fund's investment portfolio consists of 48% bonds, 41% stocks, 11% cash and short-term investments. The Special Fund's rate of return over the past five years has ranged from 10.4% for FY04, 7.4% for FY05, 3.5% for FY06, 18.2% for FY07 and -7.31% for FY08.

The funding source of the Special Fund has changed dramatically over the years. Originally there were two funding sources: the amount unexpended from a fixed 3% Admin Fund tax on workers' compensation premiums and an additional discretionary workers' compensation Special Fund premium tax of 2%. After a legislative change in 1993, the source of funds is now based upon the Special Fund's investment income and a Special Fund discretionary tax of 1.5%, which was 0% from calendar year 1992 through calendar year 2003. The Commission reviews the tax rate each year and has set the Special Fund Premium Tax rate at 1.5% for calendar year 2009. Effective August 12, 2005, any unexpended Admin Fund tax may be transferred to the Special Fund when the Special fund is not actuarially sound.

The Special Fund net asset balance deficit of \$38.5 million that was reported last year has been reduced to approximately \$17 million for fiscal year 2007/2008. The final net asset number for the Special Fund will be available in May of 2009 at the completion of the audit of the State of Arizona by the Arizona Auditor General and the issuance of the CAFR (Comprehensive Annual Financial Report) for State Fiscal Year 2008. Some examples of operational statistics and their financial impact are as follows:

UNINSURED CLAIMS

The Special Fund is responsible for providing benefits to injured workers whose employers are

violating the law and not providing workers' compensation insurance (no-insurance claims). The historical number of no-insurance awards issued are as follows:

	FY06	FY07	FY08
No Insurance Awards Issued	2744	3265	2748

INSOLVENT INSURANCE CARRIERS

The Special Fund is responsible for continuing workers' compensation benefits for those claimants insured by insolvent insurance carriers and bankrupt self-insured employers. The estimated reserves for those claims are as follows:

The ten largest carriers

FREMONT COMPANIES	128.9 million
RELIANCE INSURANCE	20.9 million
LEGION INSURANCE CO	18.8 million
GREAT STATES INS.	17.0 million
PAULA INS. CO.	16.2 million
MISSION INSURANCE CO.	12.1 million
SUPERIOR NATIONAL	7.6 million
WESTERN EMPLOYER'S INS	6.8 million
HOME INSURANCE COMPANY	3.3 million
SOUTHWEST SUPERMARKETS	3.0 million
ALL OTHER INS. CARRIERS & SELF-INSURED CO.	8.1 million
TOTAL OF ALL CLAIMS	242.7 million

VOCATIONAL REHABILITATION

A workers' compensation claimant who as a result of the worker's injury has incurred a permanent impairment that prevents that worker from returning to the worker's date of injury employment and who also has a loss of earning capacity may be eligible for vocational rehabilitation benefits.

In 1988 the Commission enhanced its existing vocational rehabilitation efforts by establishing a specific program for injured workers with scheduled injuries. The historical numbers of vocational

rehabilitation awards issued are as follows:

	FY06	FY07	FY08
# of Rehabilitation Awards Issued	151	133	118

Our rehabilitation program is focused on providing vocational retraining that will result in meaningful employment. This training includes a variety of college courses to supplement prior education, on the job training where the Special Fund will pay 50% of the salary during training as long as there is a commitment to hire the trainee, and a variety of vocational programs including: bilingual tractor-trailer operator, equine instructor, forensics, mortuary science, computer-aided drafting, and pharmacy technicians. For those that are eligible for vocational rehabilitation but are lacking skills to enter a program, the Special Fund offers foundational training in math, reading, and English (ESL).

LEGAL DIVISION
Andrew F. Wade,
Acting Chief Counsel

The Industrial Commission has always had its own legal representation, separate from the Attorney General’s Office. In its early years, the Legal Division functioned in a dual role as both hearing officers and legal counsel.

With the creation of the Administrative Law Judge Division in 1969, the responsibilities changed and remain the same today. The Legal Division represents the Industrial Commission in the majority of legal matters affecting the Agency.

The major responsibilities of the Division are as follows:

- ◆ Represents the Special Fund in actual/potential litigation involving most activities of the Special Fund, i.e. uninsured workers’ compensation claims, second injury claims, supportive care, and, on occasion, claims involving insolvent carriers/bankrupt self-insured employers.
- ◆ Represents the Arizona Division of Occupational Safety and Health in actual/potential litigation regarding the enforcement of the Arizona Occupational Safety and Health Act.
- ◆ Represents the Labor Division in the enforcement of youth employment matters and wage claim appeals and the regulation of employment agents under the Labor Department’s jurisdiction.
- ◆ Provides legal advice to the five member Commission and Division Managers.
- ◆ Represents the agency in personnel matters.
- ◆ Assists Division Managers in the promulgation of rules
- ◆ Ensures that Arizona’s employers are providing workers’ compensation insurance coverage for their employees.
- ◆ Initiates subrogation of third party no-insurance claims.
- ◆ Operates a program for processing and collection of delinquent accounts.

A historical perspective of some of the activities of the Legal Division are as follows:

	FY06	FY07	FY08
Hearings/Legal Proceedings Involving Special Fund and ADOSH	405	405	369

INSURANCE COVERAGE

The Legal Division is notified through a variety of sources of those employers who are violating Arizona law by not providing workers’ compensation coverage for their employees. The Legal Division investigates each referral and ensures that insurance is obtained.

	FY06	FY07	FY08
Insurance Referrals	1721	2626	2037

COLLECTIONS

The Legal Division is notified when monies owed as a result of Arizona Division of Occupational Safety and Health citations or uninsured workers’ compensation claims are delinquent. The collection of delinquent accounts is either addressed in-house or with outside collection counsel.

	FY06	FY07	FY08
Collection Files Opened	347	427	495
Delinquent Collection Accounts to Outside Counsel	149	176	172

The Legal Division is also involved in a variety of miscellaneous legal matters, e.g. ADOSH discrimination cases, Superior Court injunctive activities, attorney fee petitions and certifications of records to the Court of Appeals.

DIVISION OF ADMINISTRATION

The Division of Administration was created to provide support services necessary to ensure the

efficient and effective operation of the Industrial Commission. The Division provides the following services:

1. Budgeting
2. Accounting
3. Data Processing
4. Purchasing
5. Facilities Management
6. Workers’ Compensation Statistical Reporting
7. Printing and Mailing Services
8. Personnel Services
9. Processing & Evaluation of Applications for Self-Insured Employers
10. Federal Grant Administration
11. Special Fund Asset Administration
12. Administration of Assessment on Workforce Compensation Premiums Written.

A more detailed explanation of some of the services provided by the Division are as follows:

ACCOUNTING SERVICES

Gary Norem, Chief Financial Officer

In addition to payment of operational claims and purchase orders, the Division is responsible for prompt payment of monthly or semi-monthly payment of compensation and medical benefits provided to those injured workers receiving benefits under the Special Fund.

The Division pays compensation within two days and medical and other service providers are paid within thirty days from receipt of billing. A historical perspective of the number of warrants is provided:

	FY06	FY07	FY08
Checks Issued	19411	20253	20455

The other Division services provided by Accounting are budgeting; administration of the self insured employers program; administration of federal grants; Special Fund asset administration; and the administration of the assessments on workers' compensation premiums written. The self insurance program has over 100 companies and organizations participating in it annually. Accounting is responsible for filing and reviewing the annual premium assessment payment from all the self insured companies and organizations and another 720 insurance companies writing workers' compensation policies in Arizona.

**MANAGEMENT INFORMATION
SYSTEMS DIVISION (MIS)
Star Heilman
Chief Information Officer**

In 1991 the Industrial Commission's Claims Division became the first state workers' compensation system in the country to utilize optical disk imaging. The MIS Division provides programming and support services for a variety of stand alone and integrated systems housed on UNIX and Microsoft platforms. These programs and services interface with the optical disk technology and make available to the agency's divisions information pertinent to administering workers' compensation claims.

In addition to developing and maintaining in-house systems, the Division is responsible for the agency's technology infrastructure; instituting GITA initiatives related to data security, privacy, and Systems Oriented Architecture; working with divisions to develop and make available online informational products; and redeveloping the agency's website to conform to AZ.gov standards.

Current Events

In Effect as of December 31, 2008

Larry Etchechury retired from the Industrial Commission after completing 37 years of service with the State of Arizona. For the last 23 years, he served as the Director of the agency. Larry served the Commission with exceptional ability and with the highest integrity. He will be greatly missed, but long remembered. The Commissioners appointed Laura L. McGrory as his successor. Laura has worked in the Commission's Legal Division for 20 years, serving as its Chief Counsel for the last six.

The Commission entered 2008 optimistic that it would continue to see the fiscal health of the Special Fund improve. The Special Fund is a trust fund that provides statutorily mandated workers' compensation benefits. The Special Fund also functions as a "guarantee fund" by paying the benefits of workers' compensation claims of insolvent insurance carriers and bankrupt self-insured employers. By way of history, as a result of insurance carrier insolvencies that occurred in the earlier 2000s, the Special Fund's actuarial picture changed from a surplus of \$80 million to a deficit of \$190 million. By the end of 2007, though, the Special Fund's actuarial deficit had been reduced to \$38 million. Encouraged that this recovery would continue, the Commission reduced the Special Fund tax assessment from 2½ % to 1½ % effective January 1, 2008. Unfortunately, and as a result of the devastating economic/market conditions that occurred later in this year, that deficit has increased to approximately \$50 million and is expected to grow as the national

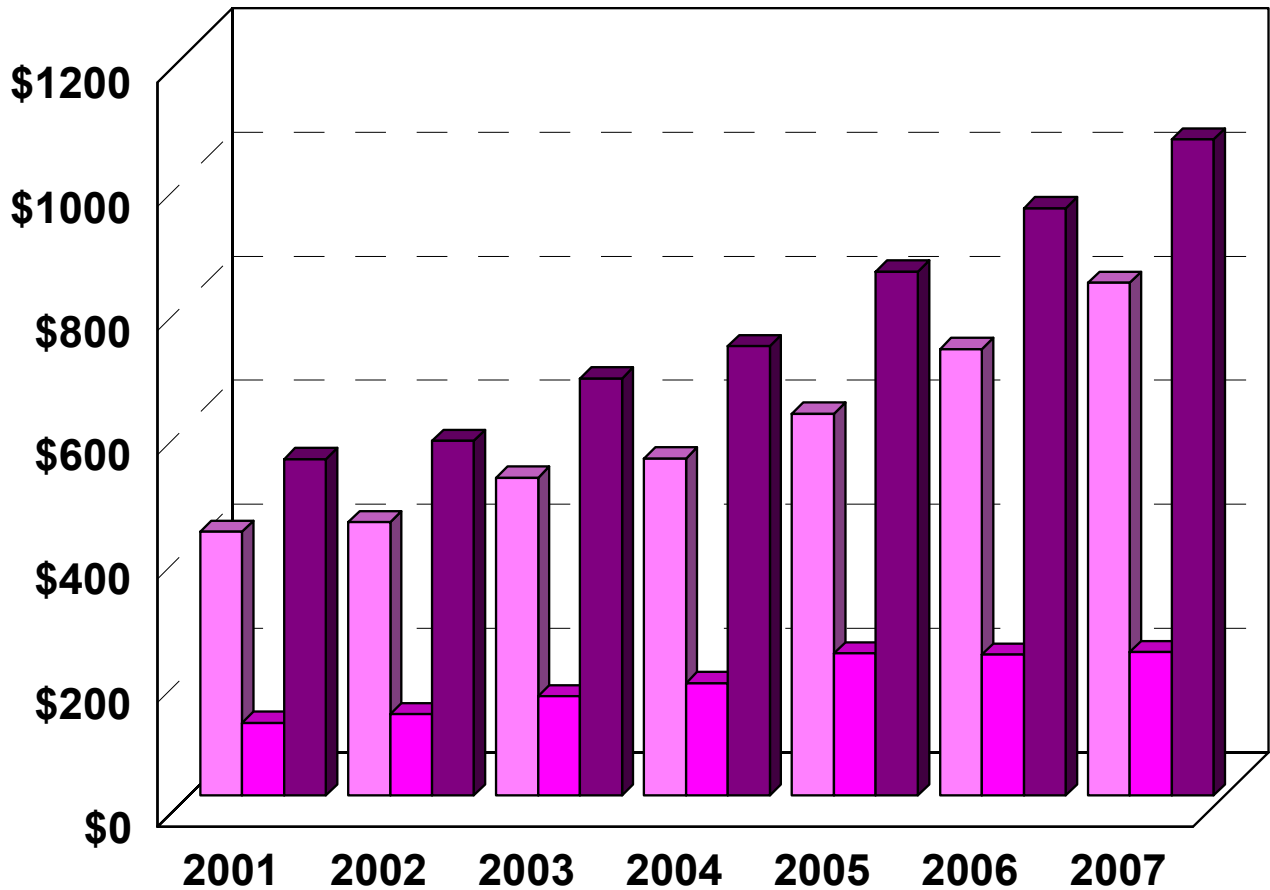
and state economic situation continues to deteriorate in the months to come.

The fiscal health of the Special Fund relies, in part, on the collection of tax revenues and investment returns. Although both revenues and investment returns have declined and are expected to continue to decline in the coming year, the Commission did not increase the Special Fund tax assessment for the 2009 calendar year. It remains at 1½ %. This was done, in large part, because the Commission recognizes that employers are also struggling in these hard times. While the Commission may need to revisit this issue, it is hopeful that it can weather the storm through 2009 without raising the Special Fund tax.

From an operational standpoint, the Commission is also impacted by the fiscal crisis facing the State of Arizona. Although the Commission is a non-general fund agency that is funded through a separate tax assessment (currently 3%), the agency is nevertheless subject to the hiring freeze and spending reductions that have been imposed on general fund agencies. The Legislature continues to look to the Commission's Administrative Fund as a source of revenue and has already swept over \$10 million from this fund for FY 08/09. We anticipate that additional funds might be swept to address the continuing budget deficit faced by the State of Arizona. But we are hopeful that we can work with the upcoming Legislature to ensure that such additional sweeps do not jeopardize either the solvency of the Special Fund or the Commission's ability to provide the services and benefits required by statute.

CHARTS

**CHART 1. TAXABLE WORKERS COMPENSATION PREMIUMS
REPORTED (IN MILLIONS)
ON A CALENDAR YEAR BASIS* (2001 - 2007)**

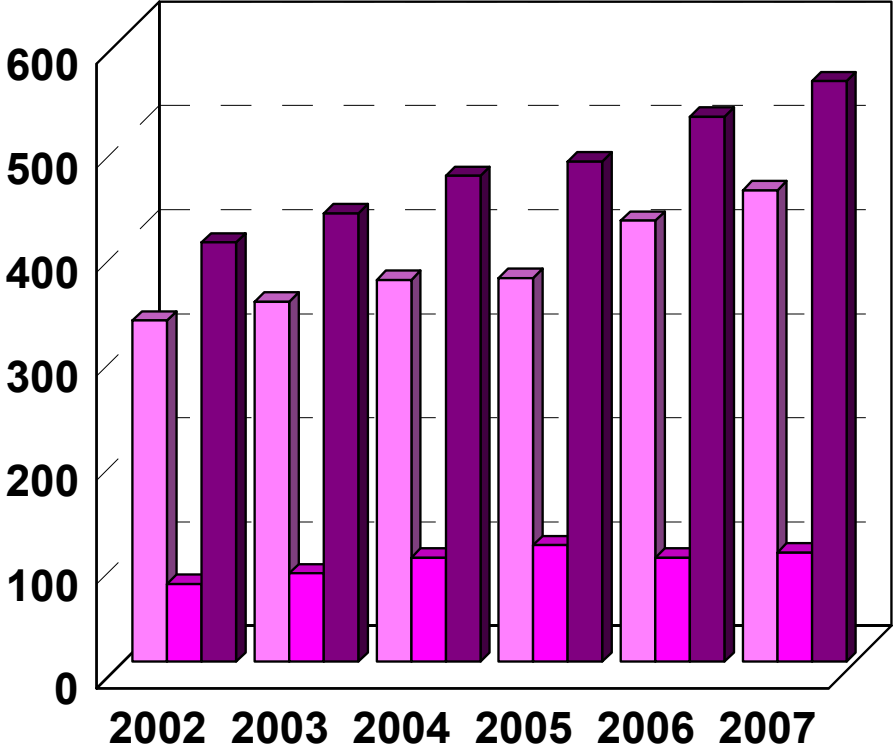


YEAR	INSURANCE CARRIERS	SELF-INSURED EMPLOYERS	TOTAL
2001	425	117	542
2002	440	131	571
2003	512	160	672
2004	543	181	724
2005	615	229	844
2006	719	227	946
2007	826	231	1057



*PREMIUMS WRITTEN LESS RETURNED PREMIUMS, DIVIDENDS, CANCELLED PREMIUMS

CHART 2.DIRECT LOSSES PAID (IN MILLIONS) ON A CALENDAR YEAR BASIS. (2002 - 2007)



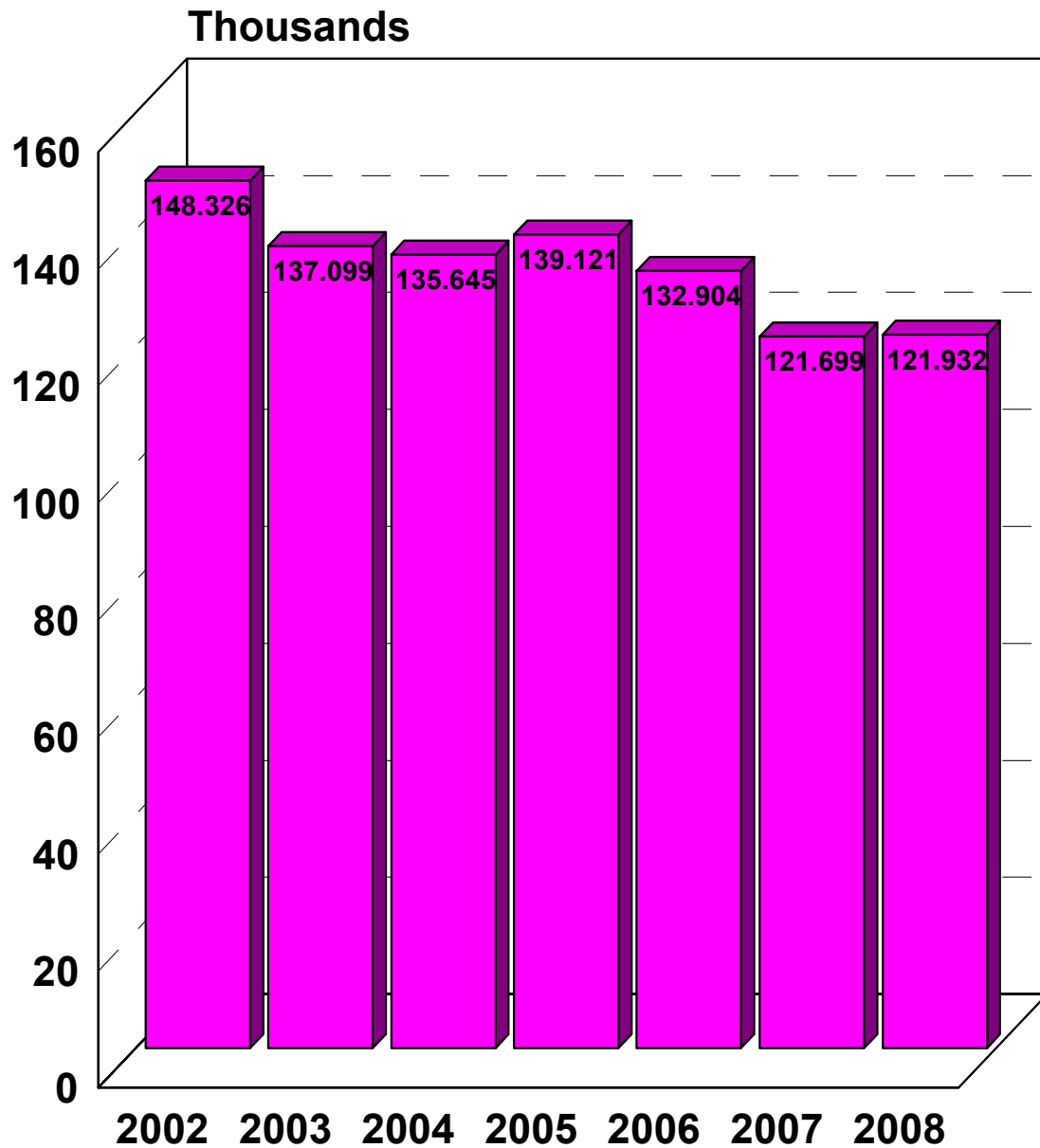
INSURANCE CARRIERS

SELF-INSURED EMPLOYERS

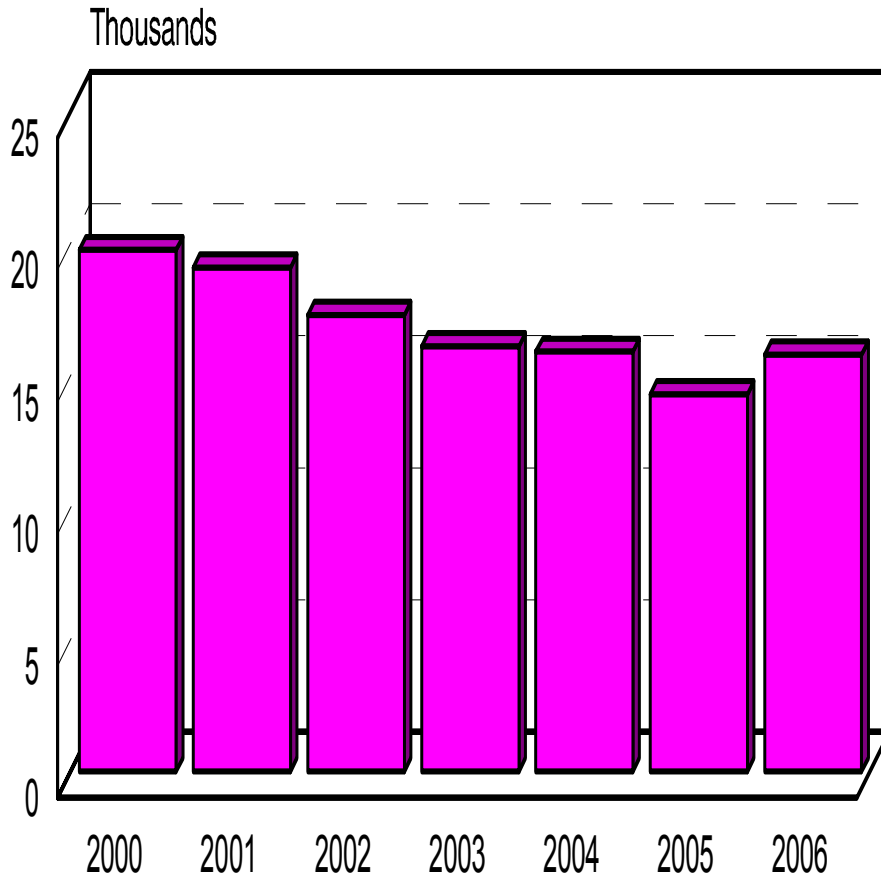
TOTAL

YEAR	INSURANCE CARRIERS	SELF-INSURED EMPLOYERS	TOTAL
2002	328	75	403
2003	346	85	431
2004	367	100	467
2005	369	112	481
2006	424	100	524
2007	453	105	558

CHART 3. TOTAL COMPENSATION CLAIMS FILED WITH THE INDUSTRIAL COMMISSION (FY2002-2008)

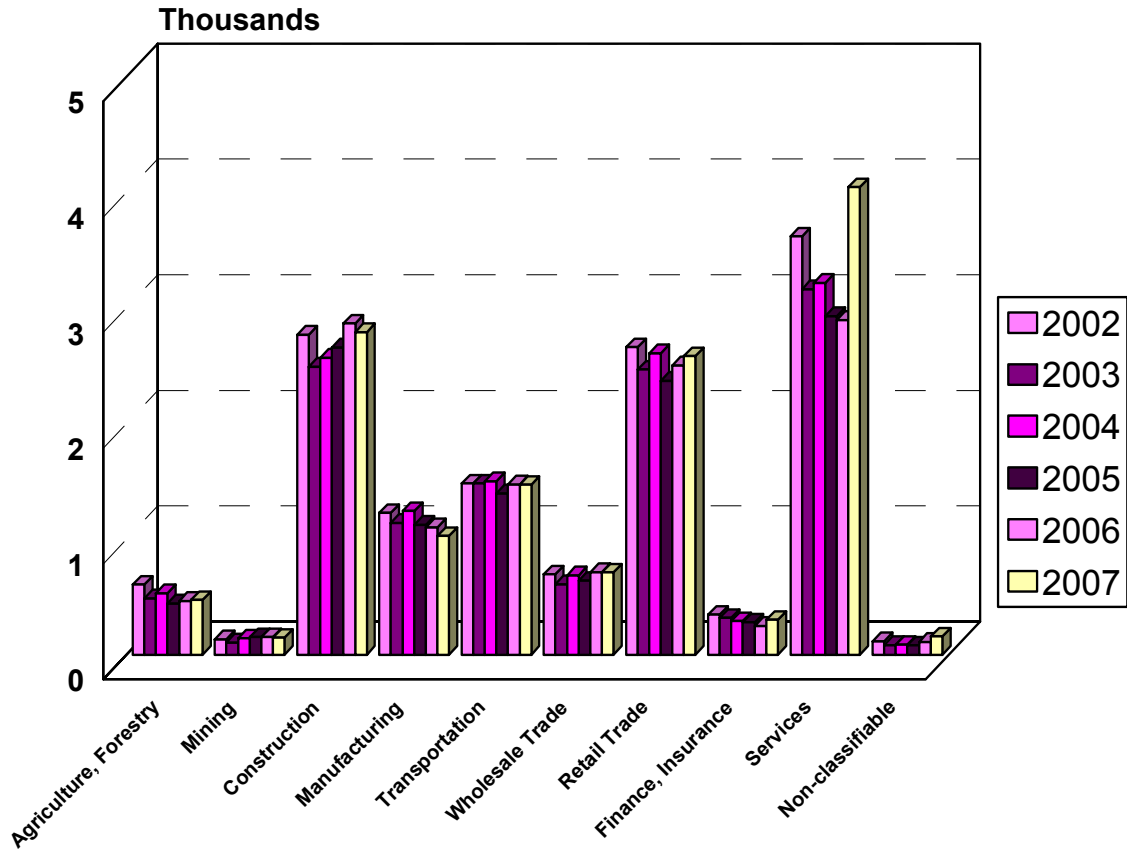


**CHART 4. TOTAL TIME LOST CLAIMS FILED WITH THE
INDUSTRIAL COMMISSION (2000-2006)
(CALENDAR YEAR)**



YEAR	TOTAL TIME LOST CLAIMS
2000	19752
2001	19095
2002	17298
2003	16109
2004	15902
2005	14294
2006	15796

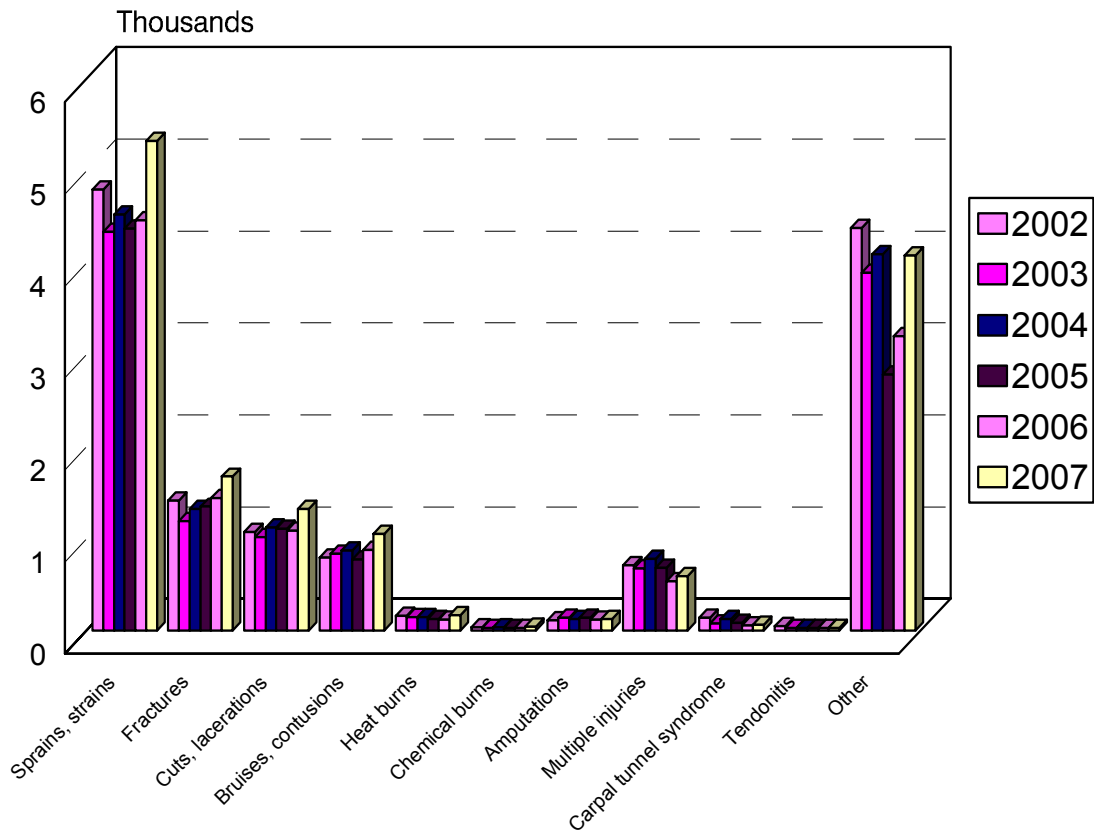
CHART 5. LOST WORKDAY CLAIMS 2002-2007 by MAJOR INDUSTRY DIVISION



Major Industry Division	2002	2003	2004	2005	2006	2007
Agriculture, Forestry	606	488	533	443	464	473
Mining	132	107	141	154	152	147
Construction	2767	2491	2569	2657	2866	2792
Manufacturing	1226	1142	1243	1123	1101	1027
Transportation	1483	1481	1502	1395	1472	1469
Wholesale Trade	695	610	687	639	714	713
Retail Trade	2660	2467	2608	2370	2503	2584
Finance, Insurance	345	318	291	279	251	302
Services	3619	3162	3218	2928	2896	4045
Non-classifiable	117	83	86	81	111	159

INCLUDES ALL PRIVATE SECTOR LOST WORKDAY CLAIMS THAT WERE RECEIVED DURING CALENDAR YEARS 2002, 2003, 2004, 2005, 2006 and 2007.

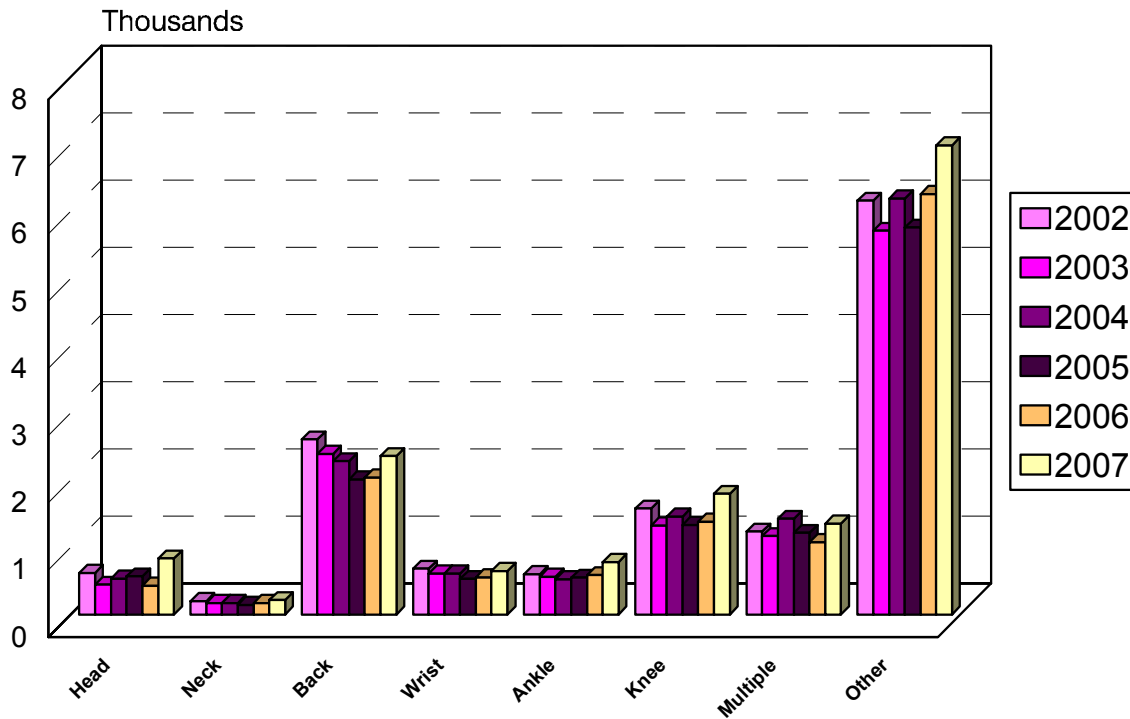
CHART 6. LOST WORKDAY CLAIMS 2002-2007 by NATURE



NATURE	2002	2003	2004	2005	2006	2007
Sprains, strains	4795	4335	4519	4366	4460	5325
Fractures	1413	1187	1324	1346	1443	1674
Cuts, lacerations	1072	1013	1123	1107	1084	1320
Bruises, contusions	795	833	871	775	875	1048
Heat burns	162	143	149	123	120	166
Chemical burns	34	27	35	28	30	44
Amputations	110	141	128	138	119	124
Multiple injuries	708	677	782	680	538	589
Carpal tunnel syndrome	139	80	128	83	57	61
Tendonitis	46	28	29	25	27	29
Other	4379	3887	4094	2786	3200	4078

INCLUDES ALL PRIVATE SECTOR LOST WORKDAY CLAIMS THAT WERE RECEIVED DURING CALENDAR YEARS 2002, 2003, 2004, 2005, 2006 and 2007.

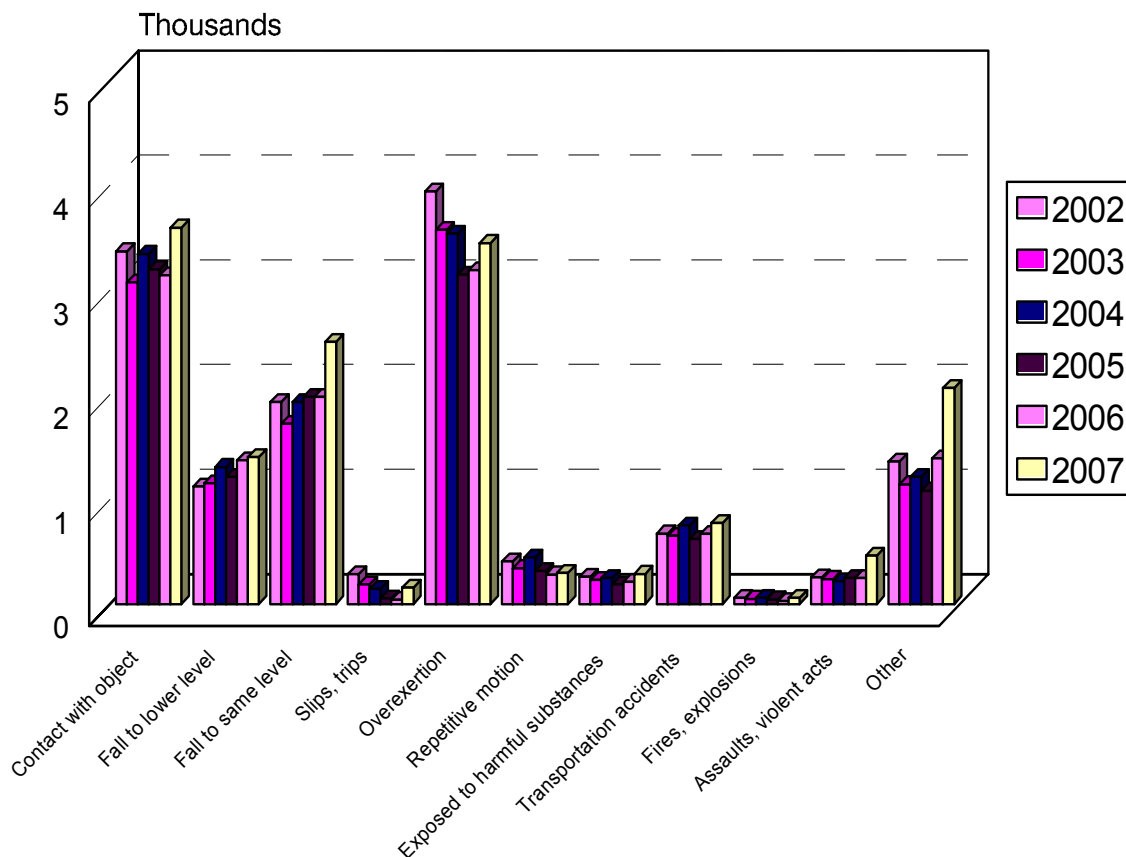
**CHART 7. LOST WORKDAY CLAIMS 2002-2007
by PART OF BODY**



PART OF BODY	2002	2003	2004	2005	2006	2007
Head	617	439	533	564	430	830
Neck	197	168	172	143	172	211
Back	2603	2388	2280	2004	2038	2355
Wrist	681	607	611	530	553	647
Ankle	598	560	523	547	587	780
Knee	1575	1319	1453	1334	1379	1794
Multiple	1232	1165	1423	1211	1077	1349
Other	6150	5705	6187	5752	6255	6973

INCLUDES ALL PRIVATE SECTOR LOST WORKDAY CLAIMS THAT WERE RECEIVED DURING CALENDAR YEARS 2002, 2003, 2004, 2005, 2006 and 2007.

CHART 8. LOST WORKDAY CLAIMS 2002-2007 by EVENT OR EXPOSURE

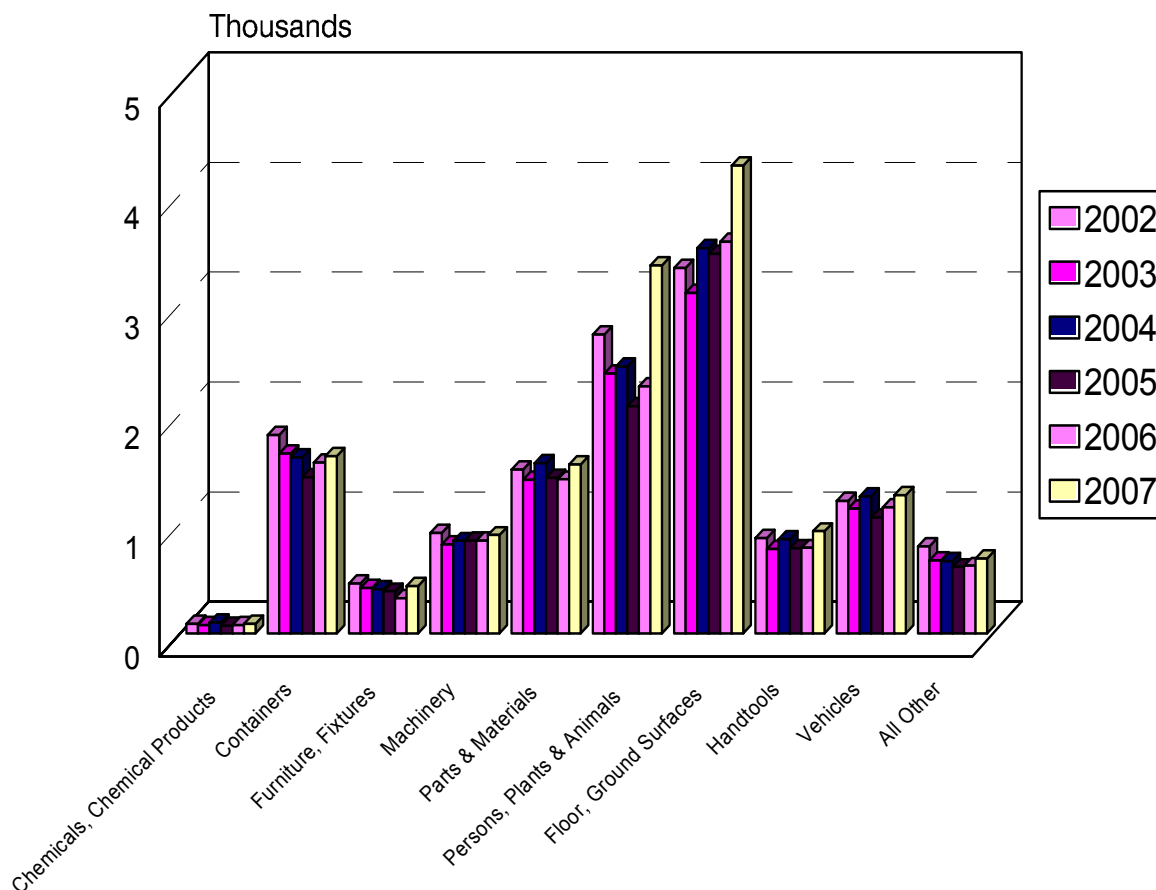


EVENT OR EXPOSURE	2002	2003	2004	2005	2006	2007
Contact with object	3368	3071	3343	3197	3140	3595
Fall to lower level	1123	1151	1308	1214	1373	1401
Fall to same level	1928	1719	1927	1976	1975	2501
Slips, trips	283	184	143	52	37	156
Overexertion	3939	3573	3535	3146	3188	3448
Repetitive motion	407	342	442	315	282	295
Exposed to harmful substances	261	229	248	187	213	288
Transportation accidents	673	652	750	618	671	774
Fires, explosions	56	49	56	43	27	58
Assaults, violent acts	253	238	218	246	248	461
Other	1362	1143	1212	1081	1391	2061

INCLUDES ALL PRIVATE SECTOR LOST WORKDAY CLAIMS THAT WERE RECEIVED DURING CALENDAR YEARS 2002, 2003, 2004, 2005, 2006 and 2007.

CHART 9. LOST WORKDAY CLAIMS 2002-2007

by SOURCE

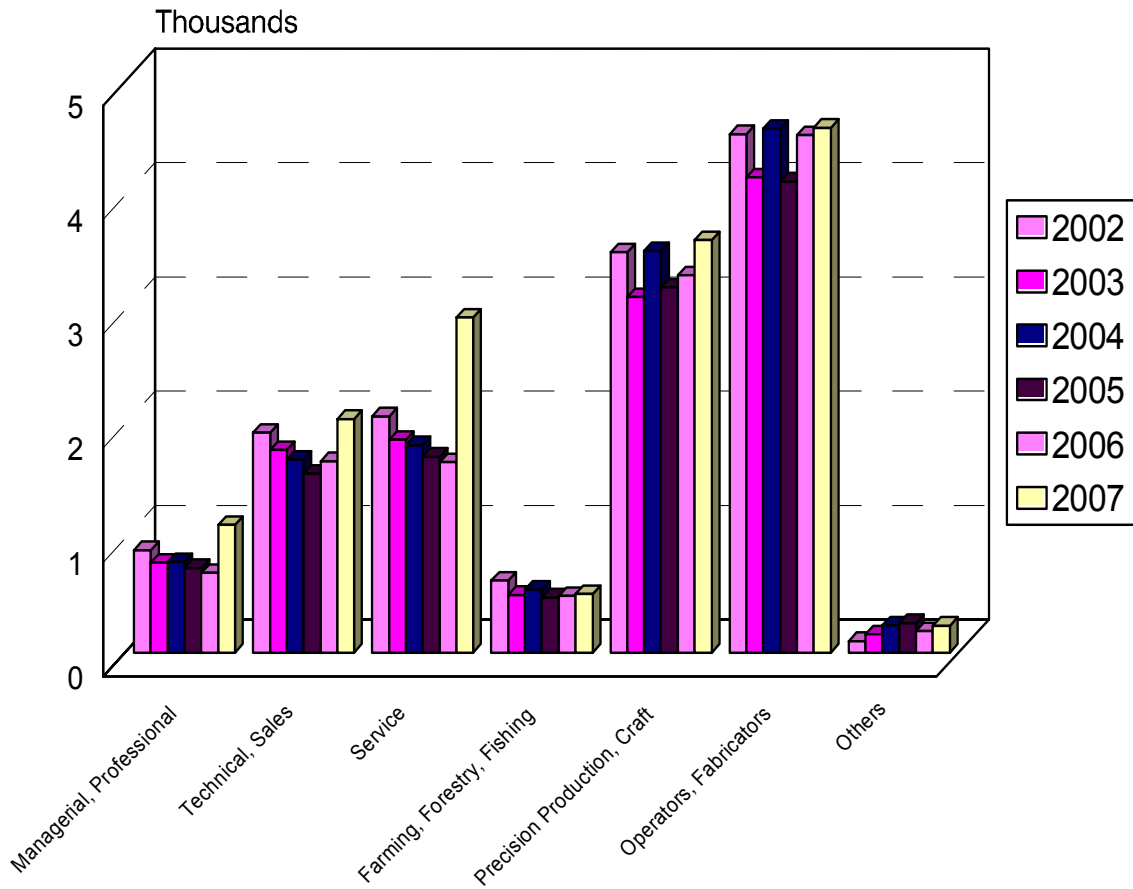


SOURCE	2002	2003	2004	2005	2006	2007
Chemicals, Chemical Products	86	72	100	69	75	88
Containers	1807	1635	1599	1419	1554	1613
Furniture, Fixtures	452	412	400	380	319	430
Machinery	912	807	840	845	843	893
Parts & Materials	1491	1399	1549	1413	1400	1538
Persons, Plants & Animals	2718	2366	2430	2068	2249	3351
Floor, Ground Surfaces	3327	3097	3505	3454	3566	4259
Handtools	867	766	854	772	776	928
Vehicles	1204	1135	1247	1053	1149	1256
All Other	789	662	658	602	614	682

INCLUDES ALL PRIVATE SECTOR LOSTWORKDAY CLAIMS THAT WERE RECEIVED DURING CALENDAR YEARS 2002, 2003, 2004, 2005, 2006 and 2007.

CHART 10. LOST WORKDAY CLAIMS 2002-2007

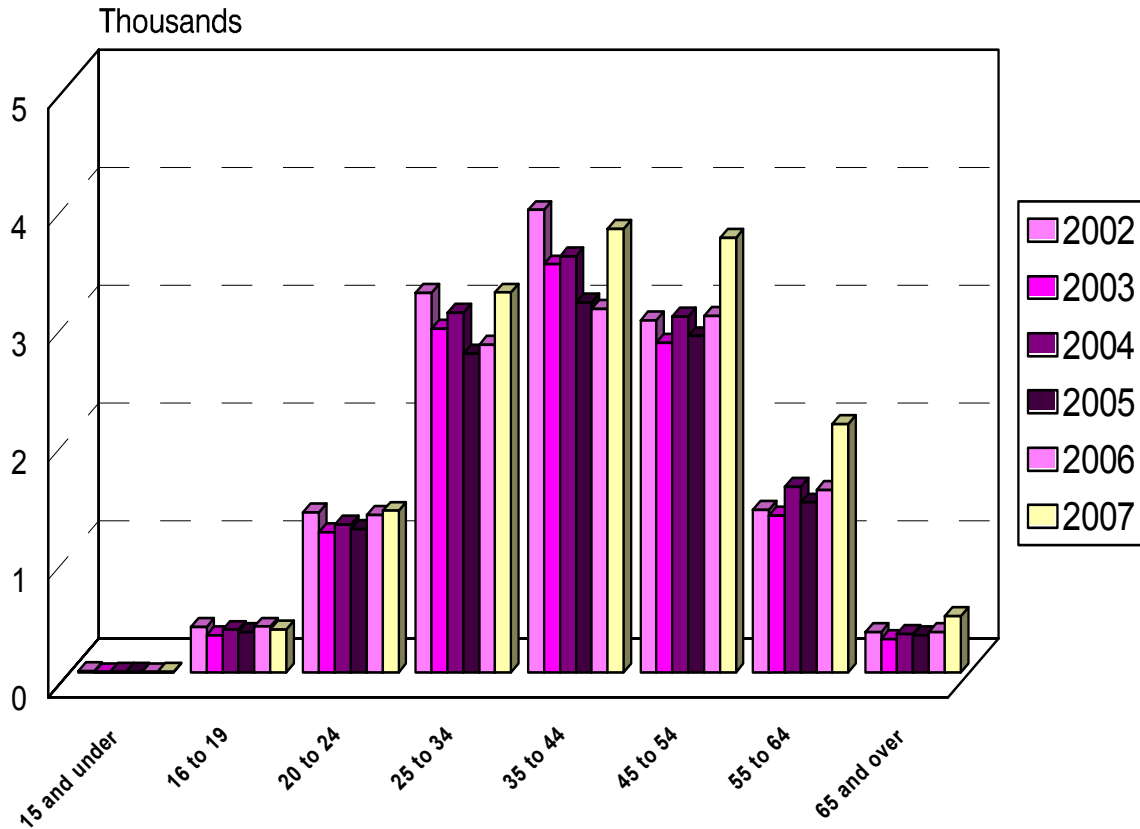
by OCCUPATION



OCCUPATION	2002	2003	2004	2005	2006	2007
Managerial, Professional	896	786	792	739	695	1116
Technical, Sales	1924	1772	1688	1566	1674	2044
Service	2066	1863	1815	1713	1666	2931
Farming, Forestry, Fishing	629	504	552	482	496	511
Precision Production, Craft	3503	3110	3514	3196	3300	3610
Operators, Fabricators	4535	4158	4583	4122	4527	4591
Others	100	158	238	257	187	235

INCLUDES ALL PRIVATE SECTOR LOSTWORKDAY CLAIMS THAT WERE RECEIVED DURING CALENDAR YEARS 2002, 2003, 2004, 2005, 2006 and 2007.

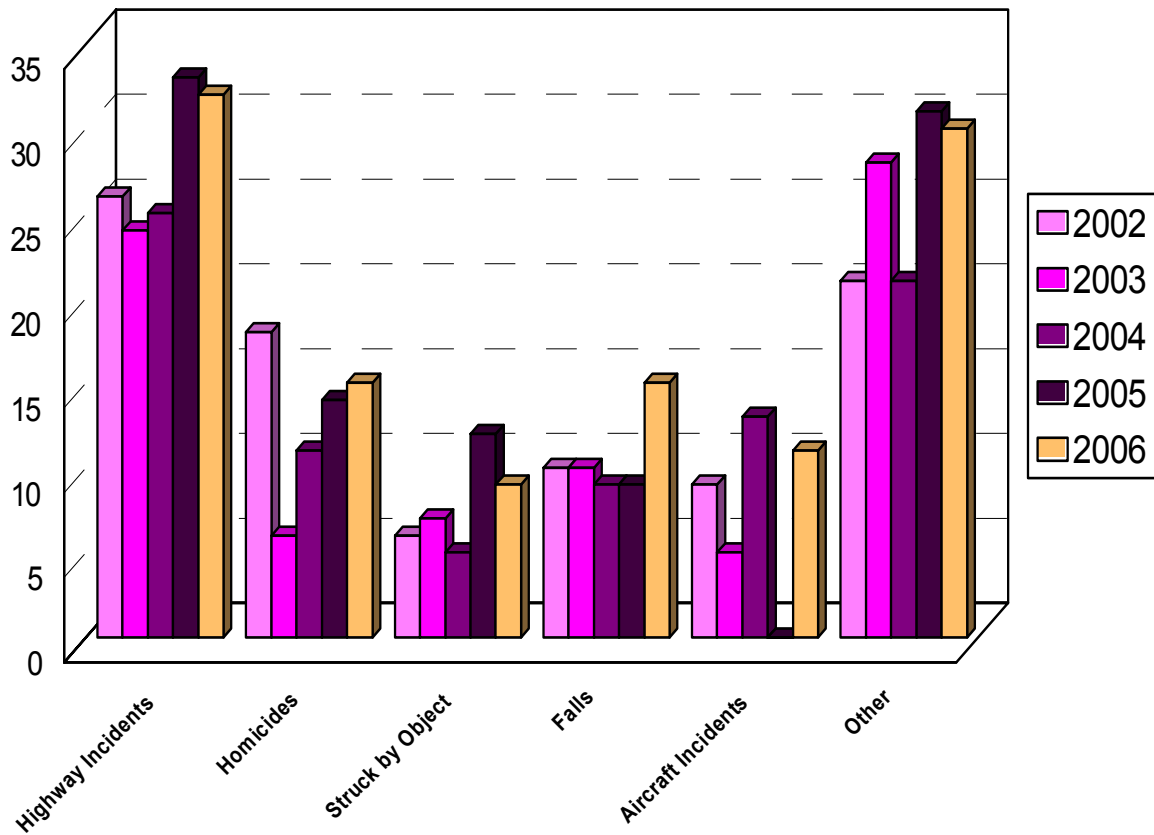
CHART 11. LOST WORKDAY CLAIMS 2002-2007 by AGE



AGE	2002	2003	2004	2005	2006	2007
15 and under	9	1	3	4	1	4
16 to 19	384	315	360	342	387	364
20 to 24	1357	1189	1255	1216	1336	1371
25 to 34	3220	2918	3053	2706	2781	3224
35 to 44	3925	3464	3534	3142	3085	3765
45 to 54	2987	2799	3023	2855	3027	3690
55 to 64	1380	1331	1577	1441	1546	2109
65 and over	341	281	323	313	343	476

INCLUDES ALL PRIVATE SECTOR LOSTWORKDAY CLAIMS THAT WERE RECEIVED DURING CALENDAR YEARS 2002, 2003, 2004, 2005, 2006 and 2007.

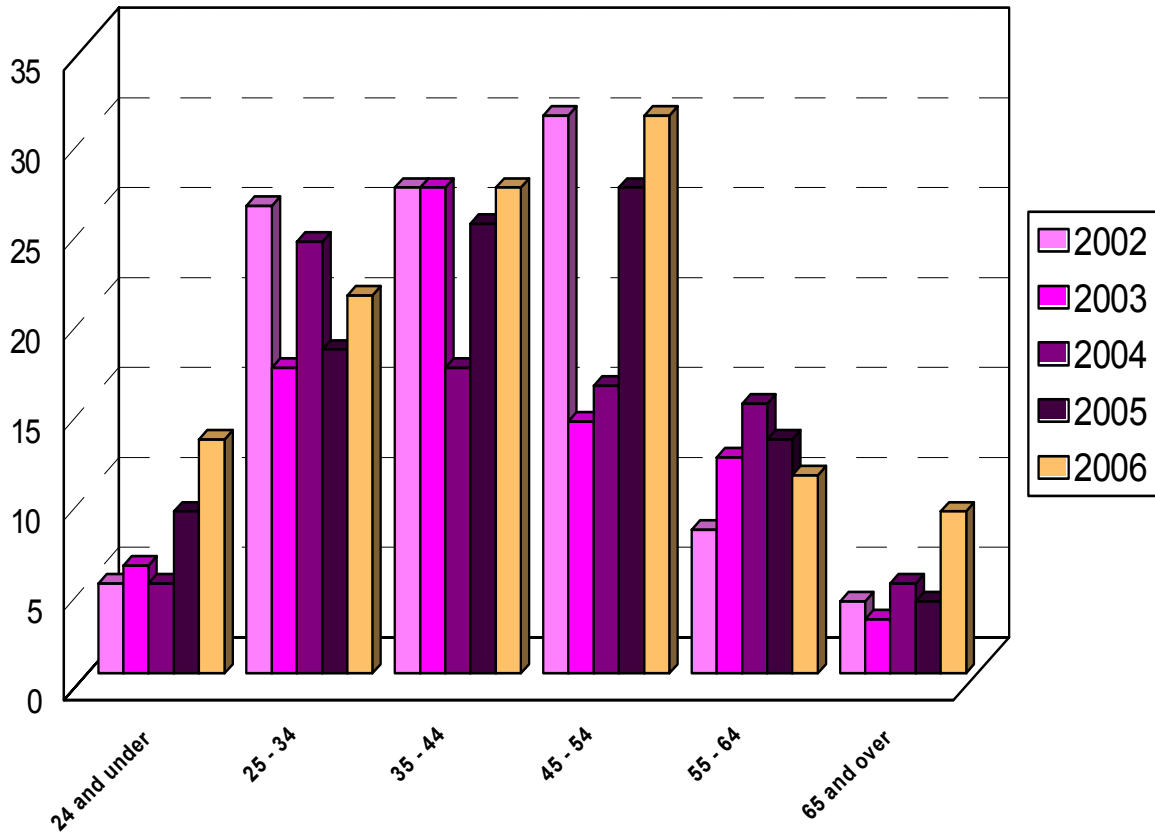
**CHART 12. DISTRIBUTION OF FATAL OCCUPATIONAL INJURIES BY EVENT OR EXPOSURE
ARIZONA, 2002 - 2006**



EVENT	2002	2003	2004	2005	2006
Highway Incidents	26	24	25	33	32
Homicides	18	6	11	14	15
Struck by Object	6	7	5	12	9
Falls	10	10	9	9	15
Aircraft Incidents	9	5	13	0	11
Other	21	28	21	31	30

SOURCE: CENSUS OF FATAL OCCUPATIONAL INJURIES, INDUSTRIAL COMMISSION OF ARIZONA

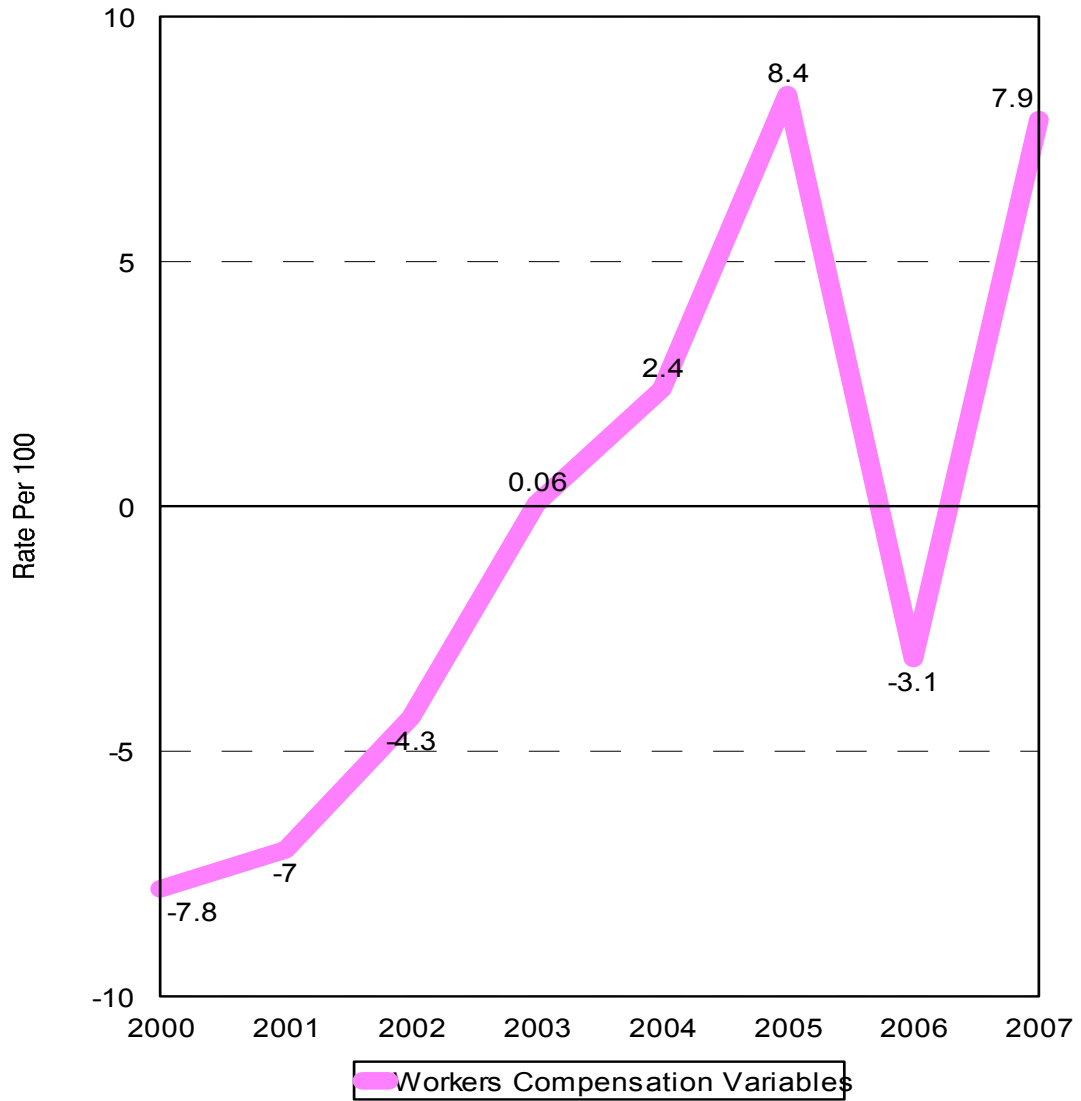
**CHART 13. DISTRIBUTION OF FATAL OCCUPATIONAL INJURIES BY AGE
ARIZONA, 2002 - 2006**



AGE	2002	2003	2004	2005	2006
24 and under	5	6	5	9	13
25 - 34	26	17	24	18	21
35 - 44	27	27	17	25	27
45 - 54	31	14	16	27	31
55 - 64	8	12	15	13	11
65 and over	4	3	5	4	9

SOURCE: CENSUS OF FATAL OCCUPATIONAL INJURIES, INDUSTRIAL COMMISSION OF ARIZONA

CHART14. ARIZONA WC RATES



SOURCE: National Council on Compensation Insurance, Inc.

