

2009 ANNUAL REPORT

THE INDUSTRIAL COMMISSION OF ARIZONA



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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 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, and 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. As a non-general fund agency, the Industrial Commission's Administrative Fund is funded by an annual assessment on workers' compensation premiums that cannot exceed 3%. The Commission performs its statutory duties and responsibilities through the seven major Divisions that are described in this document.

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.

LABOR DEPARTMENT
Randall Maruca, Director

The Labor Department has seen dramatic change in responsibilities over the years. In the 1930's it was responsible for establishing minimum wages and hours of operations for the railroads. It later enforced the payment of appropriate wages on public works projects within the state. Today, the Labor Department conducts 100% of its activities in four areas: youth employment law enforcement, minimum wage law enforcement, resolutions of disputes involving wages, and regulating private employment agencies that charge fees to applicants (which 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. It also receives and investigates information from other governmental organizations and complaints filed by the public concerning allegations of youth labor violations.

	FY07	FY08	FY09
Number of Injury Reports Involving Minors and Complaints Received	1238	1297	682
Number of Youth Employees Violations Confirmed	65	45	12

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. 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. A claimant also has the right to file their initial wage claim in Small Claims Court.

	FY07	FY08	FY09
Number of Wage Claims Filed / Investigated	2943	3295	2858

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 judgment 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.

	FY08	FY09
Number of Minimum Wage Inquiries	1620	1500
Number of Minimum Wage Complaints Filed	58	83
Complaints Resolved	15	15
Violations Issued	41	60
Average Months to Complete Investigation	1.7	2
On-site Audits and Reviews Completed	42	44

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

	FY07	FY08	FY09
Career Counseling Firms	27	26	26
Model & Talent Agencies	26	26	24
General Agencies	4	4	2
Sitter/Nanny Agencies	2	2	2
Domestic Help Agencies	1	1	1
Total	60	59	55

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 is as follows:

	FY07	FY08	FY09
Number of Claims Processed	121699	122101	102870

As the file of record, we now have over 40 million documents stored on our optical disc system. The Claims Division is also 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.

In addition to answering approximately 150,000 telephone inquiries per year, the Claims Division is also actively involved in certain aspects of the processing of a workers’ compensation claim. In this capacity, it may process up to 6,000 documents per day and make in excess of 31,000 determinations annually. Those determinations involve a variety of issues including allegations of bad faith, awards for facial scarring and loss of teeth, approvals or denials of requests to leave the state, and approvals or denials of requests to change physicians. A historical perspective for some of those determinations is 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:

	FY07	FY08	FY09
Number of Wage Awards	18451	19123	15120

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:

	FY07	FY08	FY09
Number of LEC Awards	2410	2661	2420

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, which is located within the Claims Division, 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. Historical perspectives of the number of claimants that have received assistance are listed as follows:

	FY07	FY08	FY09
Number of Claimants Assisted	2493	2665	1866

**ADMINISTRATIVE LAW JUDGE
(ALJ) DIVISION
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.

In FY 2009, 6924 worker’s compensation cases (including “J” requests) were referred to the ALJ Division. It received 47 OSHA cases, down from 77 in FY 2008. No youth employment cases were referred. Fewer than ten minimum wage cases have been referred to the division since the law became effective in January 2008.

When fully staffed, the ALJ Division employs 17 ALJs in Phoenix and four in Tucson. ALJs are

required to be members of the State Bar of Arizona, with a minimum of five years' experience in workers' compensation, labor and employment law, or a related field. They are supported by legal secretaries who serve as judicial assistants with responsibility for the administration of the judges' dockets. Administrative assistants provide information and assistance to parties, attorneys, and members of the public.

In FY 2009, the Phoenix office operated with serious staffing shortages. In addition to two ALJ vacancies, the number of support staff vacancies grew to six. Several legal secretaries now support more than one ALJ.

Most of the cases referred to the division are in the area of workers' compensation. 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. Either an injured worker or a carrier may seek to rearrange permanent disability benefits based on a change in the worker's earning capacity. Some claims are referred to the division multiple times over the life of the injured worker. For example, an injured worker may reopen a claim after it has been closed based on a new, additional, or previously undiscovered condition related to the industrial injury.

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

Since March 2008, the ALJ Division has been responsible for initial investigations pursuant to A.R.S. §23-1061(J) ("J" requests). "J" requests arise when it appears that the carrier has denied a benefit to which an injured worker is entitled. The issues range from failure to authorize treatment, medications or diagnostic testing, to failure to pay temporary compensation, failure to reimburse travel expenses, even failure to produce a copy of the carrier's file. "J" requests are filed with the Claims Division where they are docketed. The carrier is notified and given ten days to submit a response. The file is then transmitted to the Chief ALJ. The Chief ALJ may request

additional information, such as medical documentation to support a request for treatment. If no response is submitted by the carrier or if the matter cannot be informally resolved, the file is assigned to an ALJ. Depending on the issue and the circumstances presented, the case may be set for an expedited hearing. The response to the change in the processing of "J" requests has been positive. Additional changes to promote informal resolution of these cases are being considered for implementation in FY 2010. In FY 2009, the ALJ Division received over 1000 "J" Requests.

Except for expedited "J" requests, hearings in workers' compensation and OSHA cases are usually scheduled within 60-90 days of referral. Workers' compensation hearings are held in the county in which the worker resided at the time of the injury or in another place selected by the ALJ. For budgetary reasons, most hearings are set in Phoenix or Tucson. ALJs continue to travel to Flagstaff every month. Hearings are set in Yuma and Lake Havasu City in alternating months. Hearings may be set in other locations as the need arises. In some cases, the parties and the ALJ may agree to telephonic hearings to take testimony from individuals outside the major cities.

Prior to the hearing, the parties may 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 arranged by the employer and/or carrier. The parties also file and exchange medical documents and other records that support their positions.

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 file briefs and may request oral argument. The Court of Appeals may affirm the ALJ's decision or set it aside either in a Memorandum Decision which cannot be cited in subsequent cases or in a published opinion. Further review is discretionary with the Arizona Supreme Court.

OSHA hearings follow different procedural rules. Often, only one hearing is required, although some cases may span several days. The ALJ issues a written decision at the conclusion of the hearing process. A dissatisfied party may request review. The case is then 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 the ALJ Division. It is offered to the parties in all OSHA cases. In workers' compensation cases, the parties may request it or the ALJ may suggest it. All parties must agree and all must be represented by counsel. In mediation, one or two ALJs serve as third party neutrals and assist the parties in working toward a negotiated settlement of their dispute. Mediation is a confidential process. It has been very successful in resolving OSHA disputes and workers' compensation cases involving catastrophic injury. It has also been used successfully to resolve supportive care, loss of earning capacity, temporary compensation benefits, and attorneys' fees.

The ALJ Division distributes Frequently Asked Questions (FAQs) to unrepresented injured workers to assist them in preparing for hearing. The

FAQs are sent with the Notice of Hearing where the claimant is unrepresented. Claimants are also referred to the ICA's website on which they will find a link to a Video Guide to Workers' Compensation Hearings. The video is available in CD format upon request. At prehearing conferences with unrepresented claimants, ALJs refer to these resources and provide other information about the hearing process.

Timely resolution of cases continues to be a top priority for the ALJ Division. For the past year, over 95% of all cases referred to the division have been resolved within 60 days. Complex cases involving multiple injuries or requiring multiple medical professionals and other expert witnesses can take longer to resolve. Efforts are made to minimize delays in the hearing process. Continuances are granted only for good cause and judges are required to issue their decisions within sixty days of when the case is deemed submitted.

The ALJ Division issues quarterly surveys to assess customer satisfaction with the hearing process. Even with the ongoing staffing shortages, customer satisfaction has remained high. In each of the last three quarters, at least 92% of the responders scored the hearing process at least 3.5 on a 5 point scale.

Efforts are made to minimize delays in the hearing process. Continuances are granted only for good cause and most further hearings are set within 30 days of the initial hearing. In over 90% of the cases resolved in the ALJ Division last year, the written decisions were issued within 60 days of the last hearing or filing of post-hearing memoranda.

	FY07	FY08	FY09
Cases Referred to the Division	6809	6783	6971
Hearings Conducted	5226	5157	5128
Average Number of Days to Resolve a Case	113	109	111

**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 non-response 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.

	FY07	FY08	FY09
Serious Willful & Repeat Violations	865	777	754
Total Penalties Assessed	1.97	1.04	0.94
* 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.

	FY07	FY08	FY09
Nonserious Violations	2426	2249	2122
In Compliance % Rate	37%	45%	44%

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.

	FY07	FY08	FY09
# of Hazards Found During Consultations	2467	3204	1784
# of Training Programs	317	404	309
# of Employees Trained	5841	6341	4631
# of Employers Trained	1799	3068	2178

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.

	FY07	FY08	FY09
Boilers Inspected	1869	1615	3304
Deficiencies Noted	167	1199	3335

	FY07	FY08	FY09
Elevators Inspected	4504	5847	6041
Deficiencies Noted	2047	5431	3031

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 professional in the investment business, a representative of the self-insured employers, a representative from a workers' compensation insurer,

and the Chairman and Director of the Industrial Commission.

The Special Fund has \$387.6 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 65% bonds, 21% stocks, 14% cash and short-term investments. The Special Fund's rate of return over the past five years has ranged from 7.4% for FY05, 3.5% for FY06, 18.2% for FY07, -7.31% for FY08 and -5.00% for FY2009.

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 assessment on workers' compensation premiums and an additional discretionary workers' compensation Special Fund premium assessment 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 assessment of 2.5%, which was 0% from calendar year 1992 through calendar year 2003. The Commission reviews the assessment rate each year and has set the Special Fund Premium Assessment rate at 2.5% for calendar year 2010. Effective August 12, 2005, any unexpended Admin Fund revenue surplus may be transferred to the Special Fund when the Special Fund is not actuarially sound.

The Special Fund net asset balance deficit of \$30.6 million that was reported last year has increased approximately \$15.1 million for a total net asset balance deficit of \$45.7 million for fiscal year 2008/2009. The final net asset number for the Special Fund will be available in March of 2010 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 2009. 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 is as follows:

	FY07	FY08	FY09
No Insurance Awards Issued	3265	2748	2244

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	124.4 million
RELIANCE INSURANCE	19.3 million
GREAT STATES INS.	19.2 million
LEGION INSURANCE CO	17.7 million
PAULA INS. CO.	17.0 million
MISSION NAT'L INS. CO.	11.0 million
SUPERIOR NATIONAL	7.8 million
WESTERN EMPLOYER INS. CO.	5.9 million
HOME INSURANCE CO	3.8 million
MISSION INSURANCE CO.	2.4 million
ALL OTHER INS. CARRIERS & SELF-INSURED CO.	9.7 million
TOTAL OF ALL CLAIMS	238.2 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:

rehabilitation awards issued are as follows:

	FY07	FY08	FY09
# of Rehabilitation Awards Issued	133	118	103

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, 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 is as follows:

	FY07	FY08	FY09
Hearings/Legal Proceedings Involving Special Fund and ADOSH	405	369	341

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.

	FY07	FY08	FY09
Insurance Referrals	2626	2037	2110

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.

	FY07	FY08	FY09
Collection Files Opened	427	495	455
Delinquent Collection Accounts to Outside Counsel	176	172	120

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. Worker's 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 is 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 makes every effort to pay compensation within two days and medical and other service providers within thirty days from receipt of billing. A historical perspective of the number of warrants is provided:

	FY07	FY08	FY09
Checks Issued	20253	20455	19015

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 556 insurance companies writing workers' compensation policies in Arizona.

**MANAGEMENT INFORMATION
SYSTEMS DIVISION (MIS)**

**Michael Hempel
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 standalone 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.

Year in Review

The budget deficit facing the State of Arizona continues to dominate our landscape. Most, if not all, our decisions and choices in 2009 have been influenced by this continuing crisis. While the Commission is a self-supporting, non-general fund agency whose operations and other statutorily mandated services are funded through annual taxes/assessments on workers' compensation premiums, the Commission continues to be impacted by the fiscal crisis facing the state of Arizona. This impact has been experienced in multiple ways.

➤ **The Commission is subject to the mandatory reduction of employee positions and state-wide hiring freeze**

As a result of legislation enacted this past year, the Commission is required to eliminate 15 full time positions. This will reduce the number of our full time positions to 307 (including federally funded positions) and reduce our vacancies to 71. This translates to an overall vacancy rate of approximately 23%. The Commission is also subject to the state-wide hiring freeze. With the exception of positions deemed "mission critical," the Commission is unable to fill these current vacancies.

➤ **Legislatively mandated fund transfers**

The Commission's Administrative Fund was established under A.R.S. § 23-1081(A) to provide for all expenses in carrying out the Commission's powers and duties under Title 23. The Legislature continues to look to this fund as a source of revenue in this time of fiscal crisis. In fiscal year 2008/2009, approximately \$10.7 million was transferred from the Commission's Administrative Fund to the State General Fund. Another \$3.7 million is required to be transferred to the State General Fund for fiscal year 2009/2010. In fiscal year 2008/2009, the Legislature also attempted to transfer approximately \$ 4.7 million from the Commission's Special Fund. This Fund was established under A.R.S. § 23-1065(A) to provide statutorily mandated workers' compensation benefits, including payment of "no-insurance" claims, insolvent carrier/bankrupt employer claims, and vocational rehabilitation, apportionment and old supportive care claims. Because the Commission believes that Special Fund monies may not be used for general fund purposes, the Commission filed a lawsuit in June 2009 challenging the transfer as being unlawful. As of December 31, 2009, that lawsuit is pending.

➤ **Fiscal health of funds**

The deteriorating state economic situation continues to impact the fiscal health of both the Administrative and Special funds as both of these funds rely on the collection of revenue that is tied to employment. As employment declines, revenue collections (which are based on workers' compensation premiums) decline.

With respect to the Administrative Fund, our goal is to ensure that revenue collected meets the Commission's appropriated budget. That goal was met for FY 08/09. Though expected to decline in the next fiscal year, revenue received from the Administrative Fund assessment is also projected to meet the Commission's appropriated budget for FY 2009/2010. This Administrative Fund assessment was set at 3% for CY 2009 and 2.65% for CY 2010.

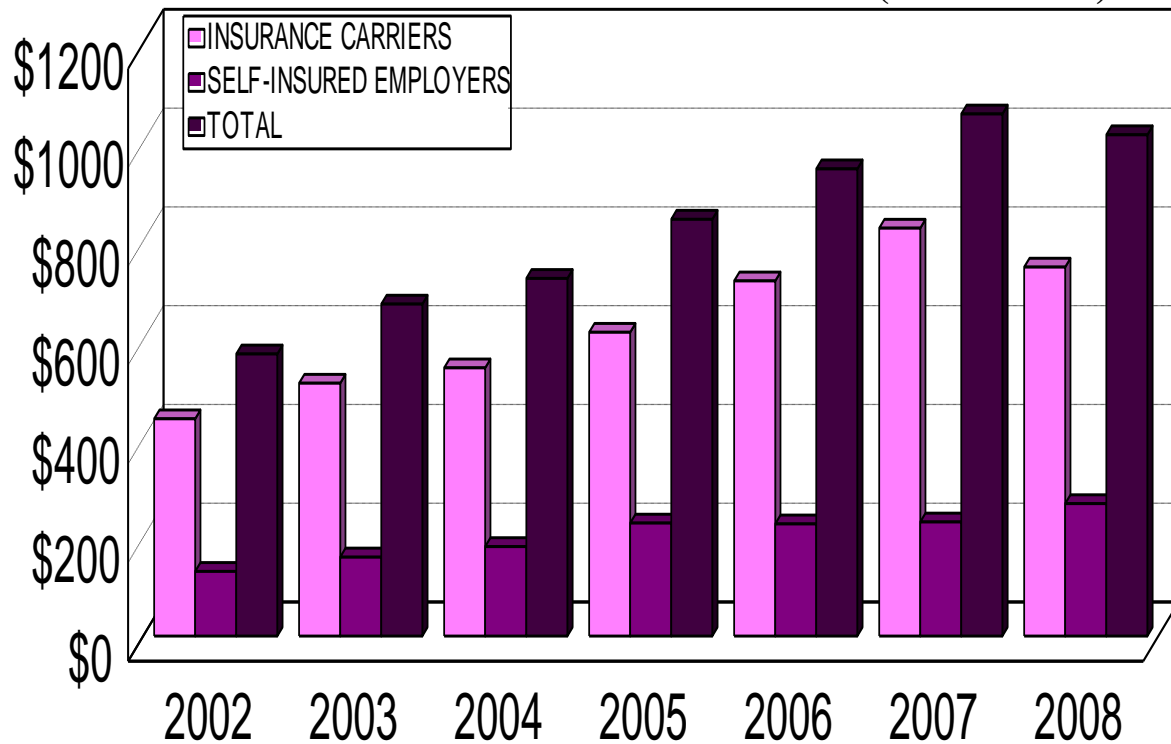
With respect to the Special Fund, its actuarial picture continues to change. As described in last year's report, as a result of insurance carrier insolvencies that occurred in the early 2000's, the Special Fund's actuarial picture changed from a surplus of \$80 million to a deficit of \$190 million. By the end of 2007, this actuarial deficit had been reduced to \$38 million. Unfortunately, this recovery was disrupted by the devastating economic/market conditions that occurred in 2008, and as of June 30, 2009, the Special Fund's actuarial deficit had increased to \$45.7 million. Additionally, with revenue and investment returns declining, the Commission may have to liquidate Special Fund investment earnings and principal to pay Special Fund obligations in 2010. With this in mind, the Commission increased the Special Fund assessment from 1.5% (the CY 2009 rate) to 2.5% (the maximum rate) for CY 2010.

➤ **Spending Reductions and Impact on Programs Administered by the Commission**

The Commission's appropriation for FY 2008/2009 was approximately \$19.8 million and remains essentially unchanged for FY 2009/2010. The Commission must, however, reduce spending from its Administrative Fund to facilitate the required Administrative Fund transfers. As a result, we are "doing more with less." Services have been streamlined, consolidated, or reduced. Notwithstanding these challenges, the Commission continues to provide the services needed and required for the programs that we administer. We are committed to ensuring that Arizona's workers' compensation system remains as one of the top rated systems in the country and that our State Occupational Safety and Health Plan remains as effective as its Federal counterpart. We are able to make this commitment because of the extraordinary hard work and extra effort of our employees. Our employees are the reason that we can look back to 2009 and be proud of what we accomplished in the face of this fiscal crisis.

CHARTS

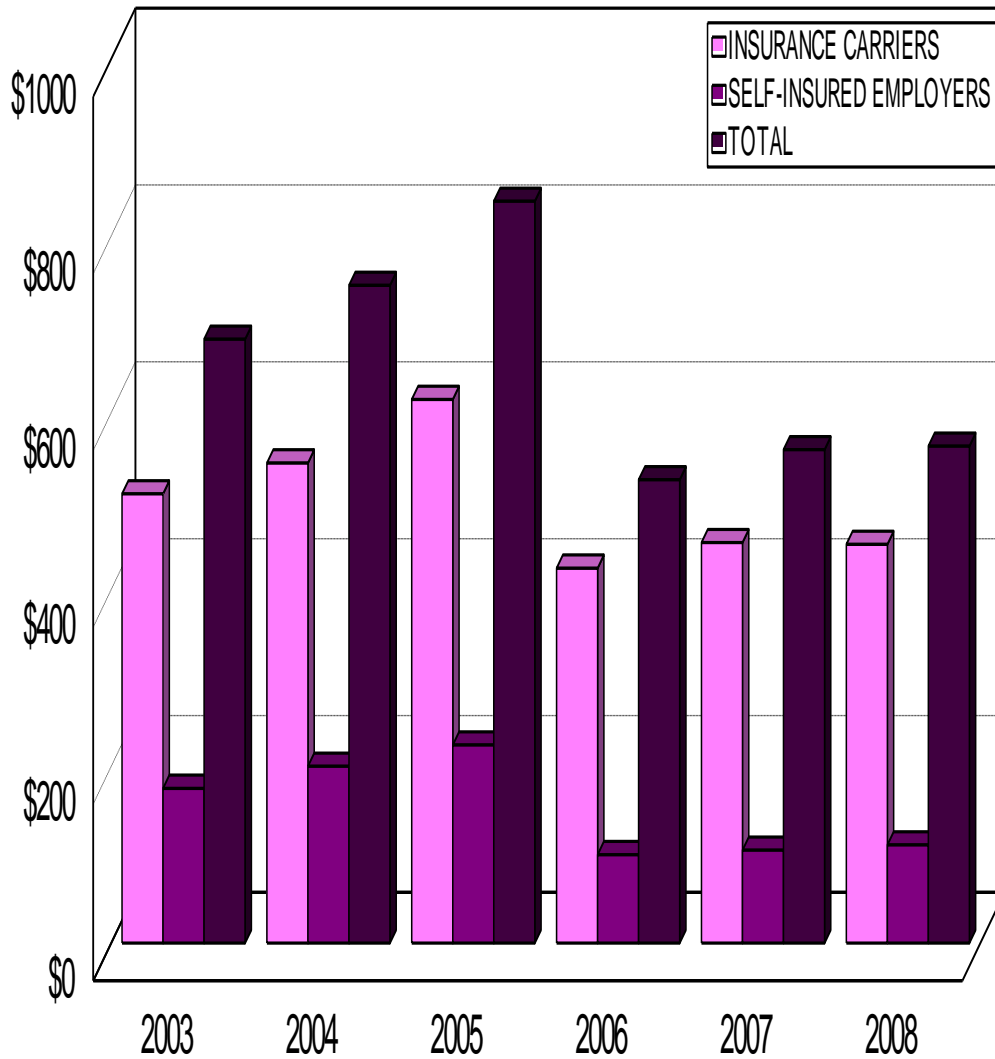
**CHART 1. TAXABLE WORKERS COMPENSATION PREMIUMS
REPORTED (IN MILLIONS)
ON A CALENDAR YEAR BASIS* (2002 - 2008)**



YEAR	INSURANCE CARRIERS	SELF-INSURED EMPLOYERS	TOTAL
2002	440	131	571
2003	512	160	672
2004	543	181	724
2005	615	229	844
2006	719	227	946
2007	826	231	1057
2008	747	268	1015

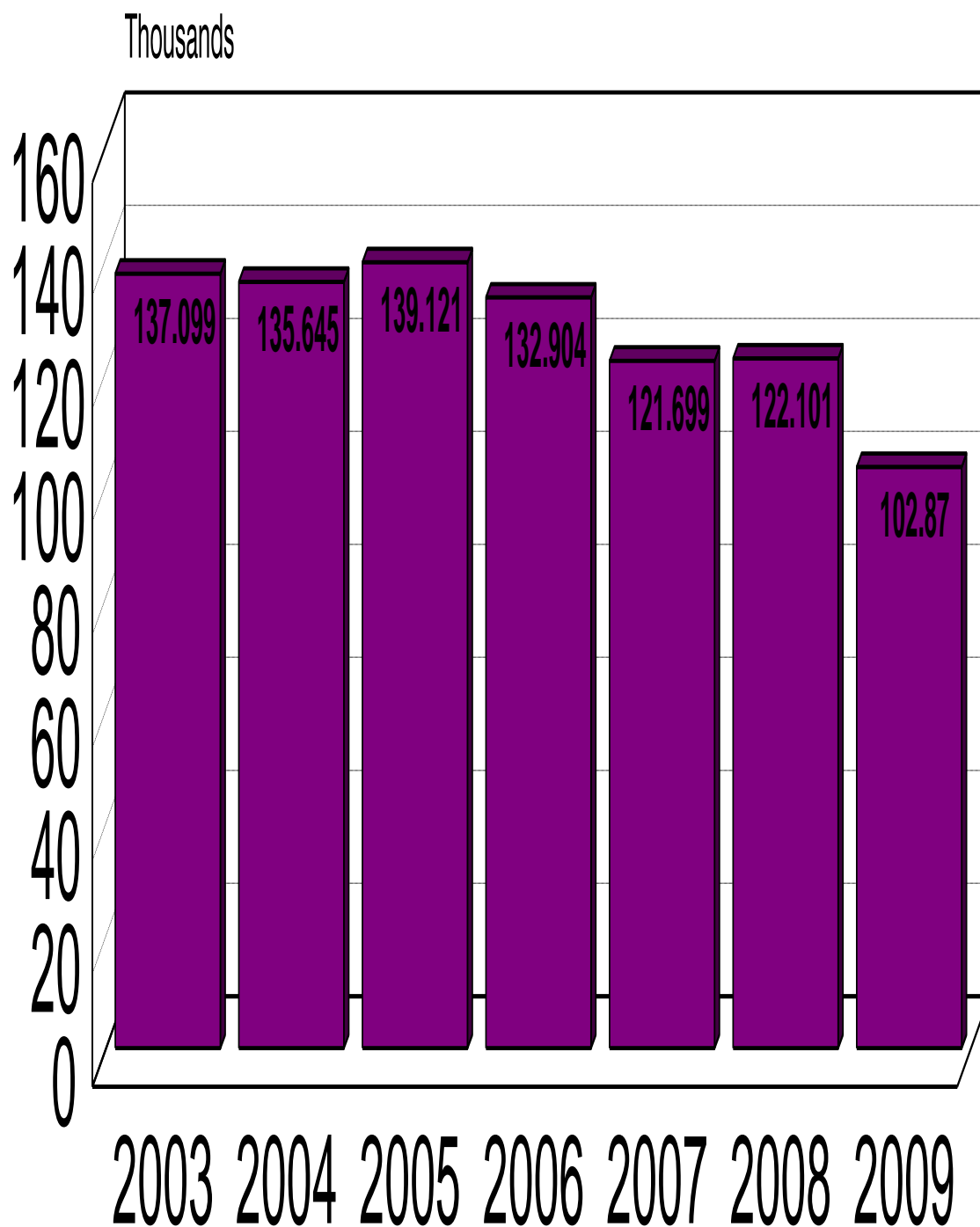
***PREMIUMS WRITTEN LESS RETURNED PREMIUMS, DIVIDENDS, CANCELLED PREMIUMS**

CHART 2. DIRECT LOSSES PAID (IN MILLIONS) ON A CALENDAR YEAR BASIS. (2003-2008)

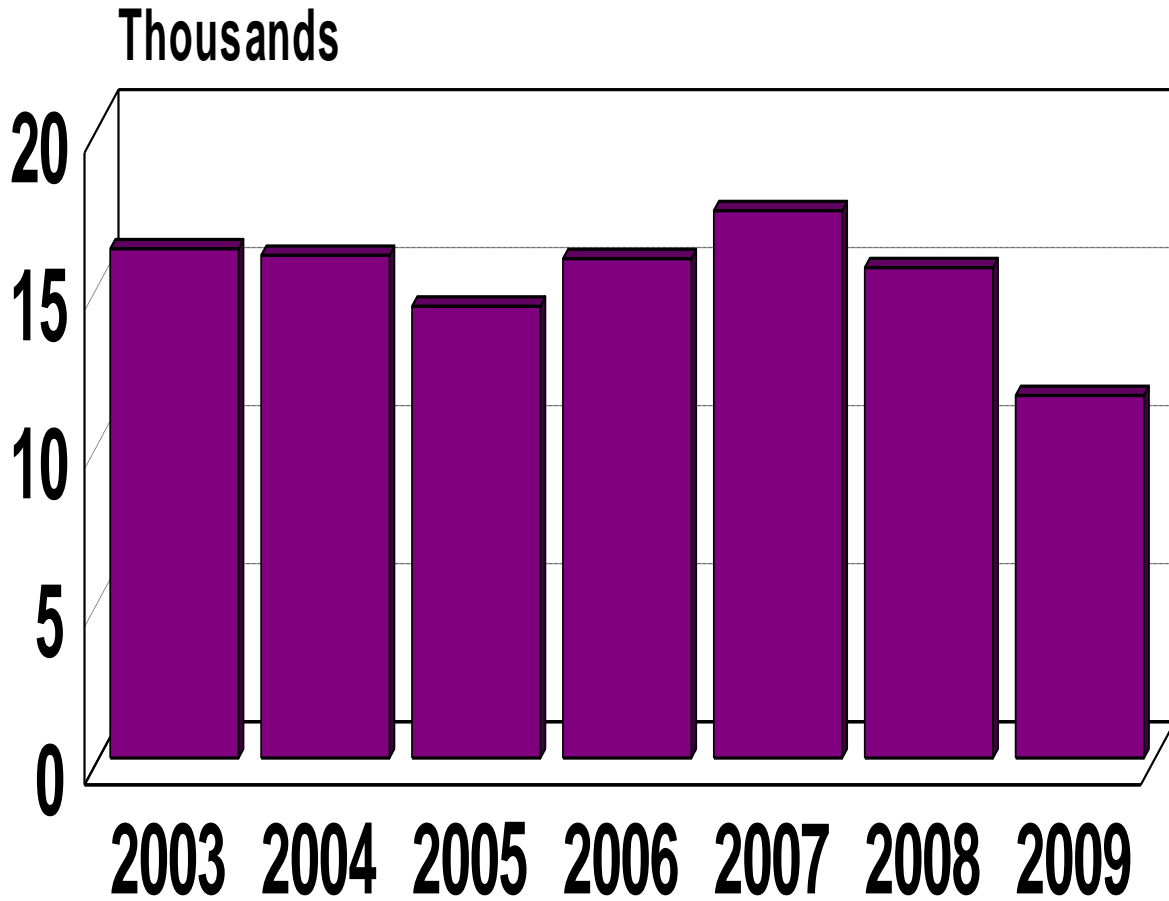


YEAR	INSURANCE CARRIERS	SELF-INSURED EMPLOYERS	TOTAL
2003	508	175	683
2004	543	200	744
2005	615	224	839
2006	424	100	524
2007	453	105	558
2008	451	111	562

CHART 3. TOTAL COMPENSATION CLAIMS FILED WITH THE INDUSTRIAL COMMISSION (FY2003-2009)

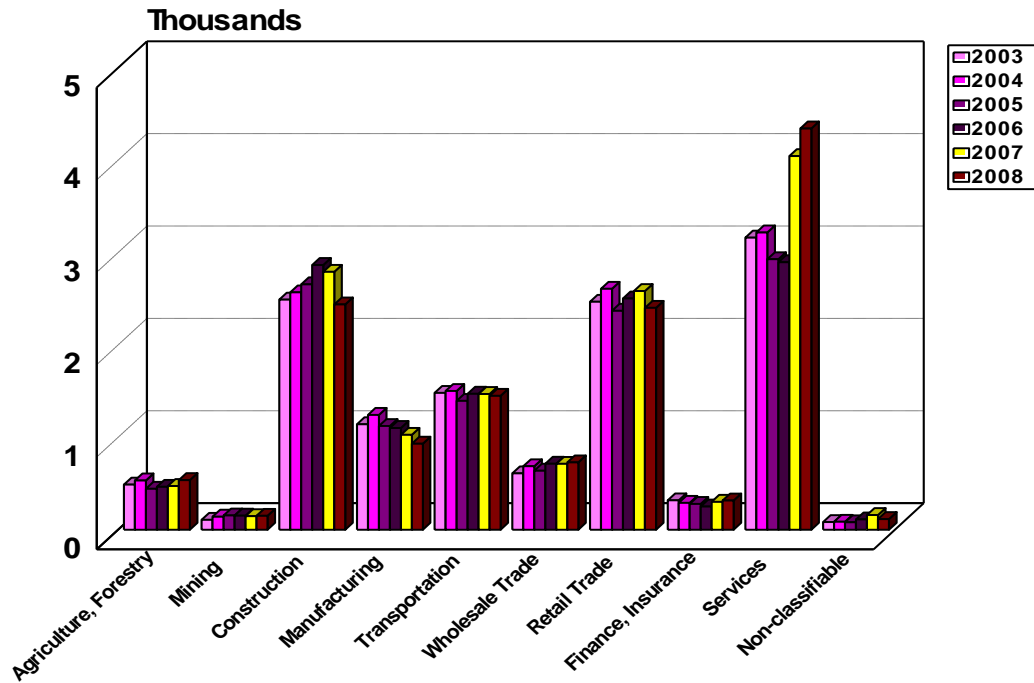


**CHART 4. TOTAL TIME LOST CLAIMS FILED WITH
THE INDUSTRIAL COMMISSION (2003-2009)
(CALENDAR YEAR)**



YEAR	TOTAL TIME LOST CLAIMS
2003	16109
2004	15902
2005	14294
2006	15796
2007	17318
2008	15511
2009	11467

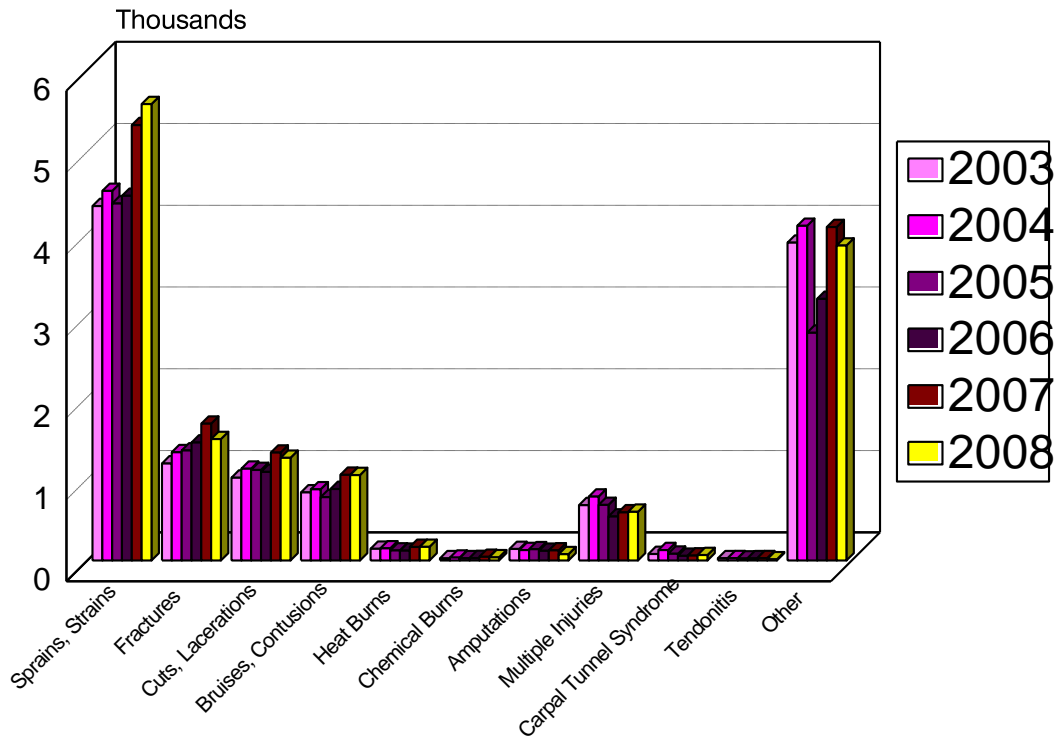
**CHART 5. LOST WORKDAY CLAIMS 2003-2008
by MAJOR INDUSTRY DIVISION**



Major Industry Division	2003	2004	2005	2006	2007	2008
Agriculture, Forestry	488	533	443	464	473	537
Mining	107	141	154	152	147	150
Construction	2491	2569	2657	2866	2792	2439
Manufacturing	1142	1243	1123	1101	1027	931
Transportation	1481	1502	1395	1472	1469	1449
Wholesale Trade	610	687	639	714	713	729
Retail Trade	2467	2608	2370	2503	2584	2402
Finance, Insurance	318	291	279	251	302	316
Services	3162	3218	2928	2896	4045	4344
Non-classifiable	83	86	81	111	159	115

INCLUDES ALL PRIVATE SECTOR LOST WORKDAY CLAIMS THAT WERE RECEIVED DURING CALENDAR YEARS 2003, 2004, 2005, 2006, 2007 and 2008.

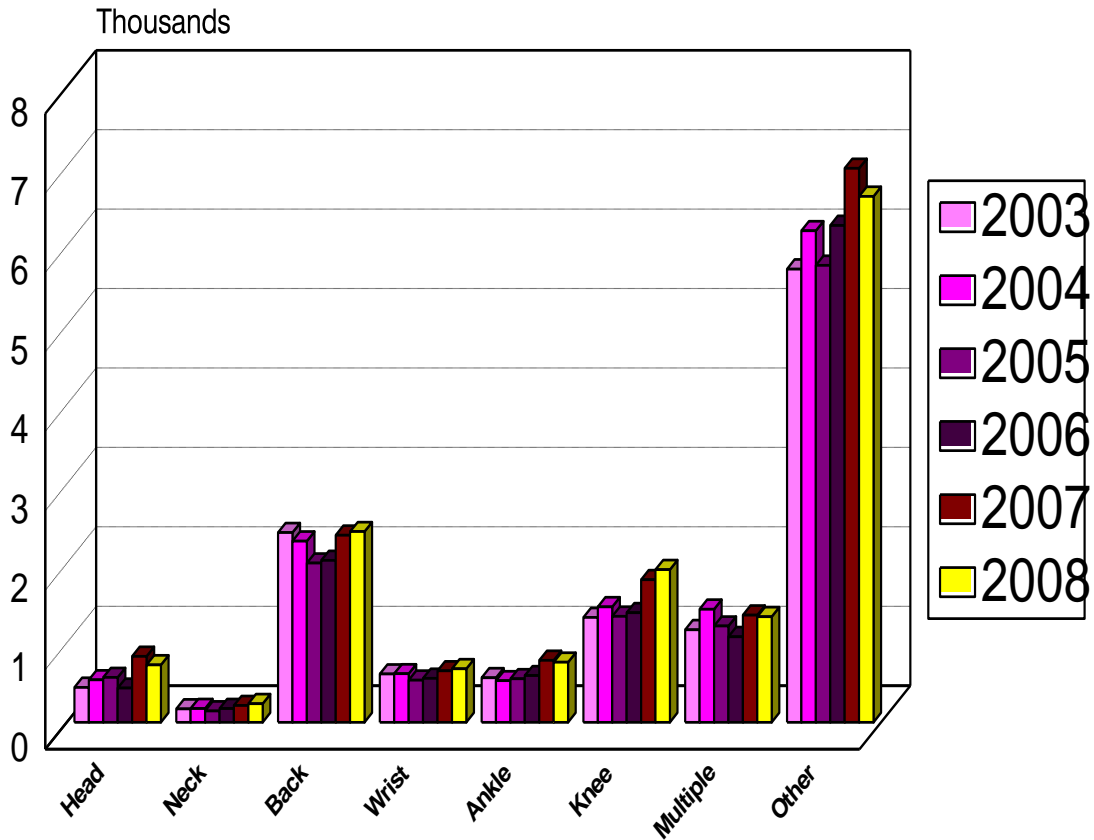
CHART 6. LOST WORKDAY CLAIMS 2003-2008 by NATURE



NATURE	2003	2004	2005	2006	2007	2008
Sprains, Strains	4335	4519	4366	4460	5325	5582
Fractures	1187	1324	1346	1443	1674	1485
Cuts, Lacerations	1013	1123	1107	1084	1320	1256
Bruises, Contusions	833	871	775	875	1048	1045
Heat Burns	143	149	123	120	166	167
Chemical Burns	27	35	28	30	44	39
Amputations	141	128	138	119	124	77
Multiple Injuries	677	782	680	538	589	596
Carpal Tunnel Syndrome	80	128	83	57	61	67
Tendonitis	28	29	25	27	29	15
Other	3887	4094	2786	3200	4078	3852

INCLUDES ALL PRIVATE SECTOR LOST WORKDAY CLAIMS THAT WERE RECEIVED DURING CALENDAR YEARS 2003, 2004, 2005, 2006, 2007 and 2008.

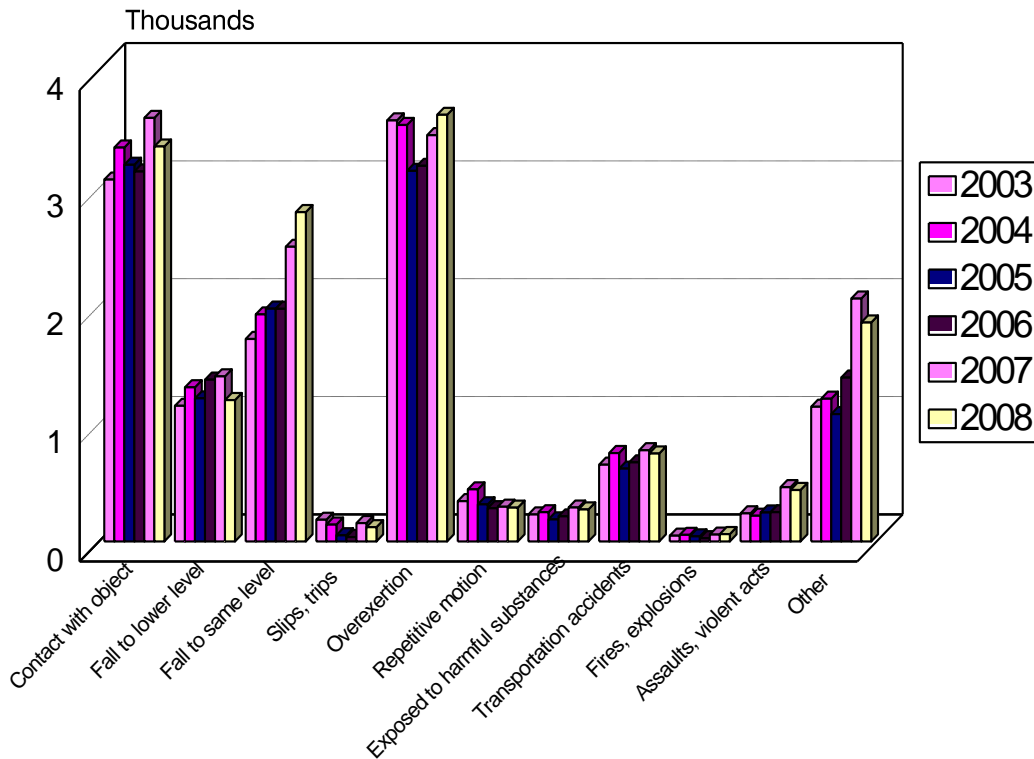
CHART 7. LOST WORKDAY CLAIMS 2003-2008 by PART OF BODY



PART OF BODY	2003	2004	2005	2006	2007	2008
Head	439	533	564	430	830	722
Neck	168	172	143	172	211	234
Back	2388	2280	2004	2038	2355	2400
Wrist	607	611	530	553	647	674
Ankle	560	523	547	587	780	756
Knee	1319	1453	1334	1379	1794	1922
Multiple	1165	1423	1211	1077	1349	1329
Other	5705	6187	5752	6255	6973	6621

INCLUDES ALL PRIVATE SECTOR LOST WORKDAY CLAIMS THAT WERE RECEIVED DURING CALENDAR YEARS 2003, 2004, 2005, 2006, 2007 and 2008.

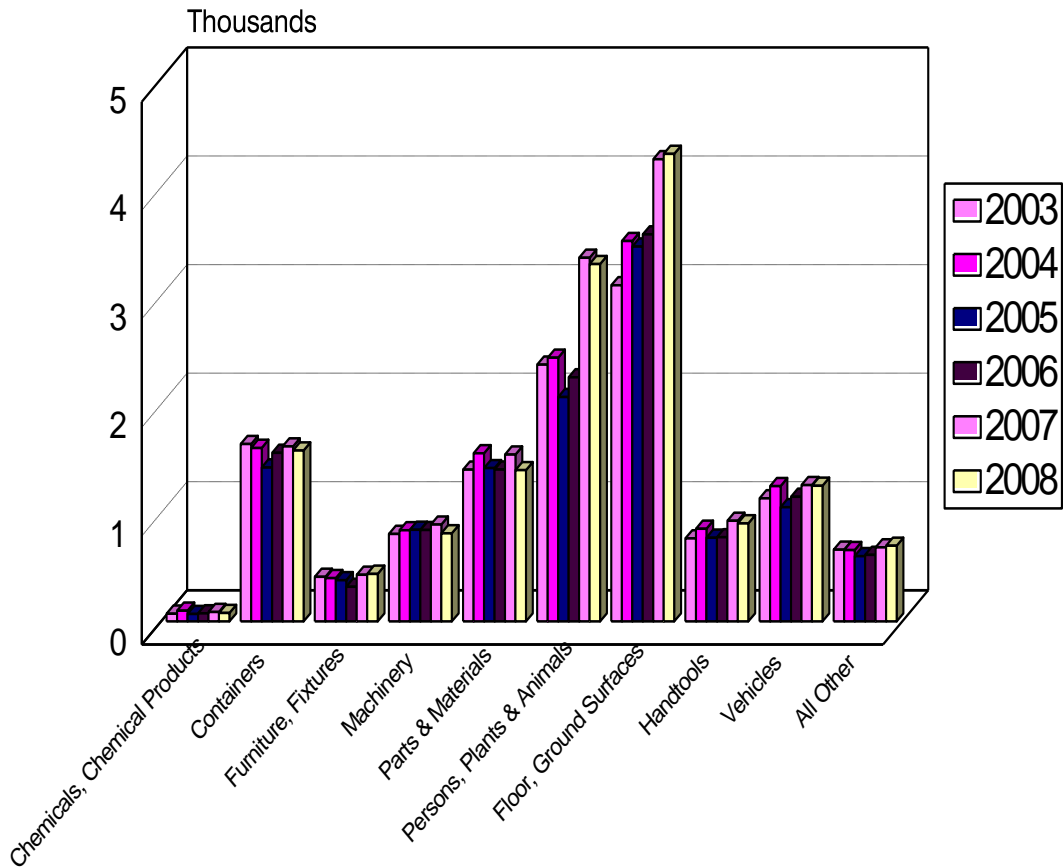
CHART 8. LOST WORKDAY CLAIMS 2003-2008
by EVENT OR EXPOSURE



EVENT OR EXPOSURE	2003	2004	2005	2006	2007	2008
Contact with object	3071	3343	3197	3140	3595	3352
Fall to lower level	1151	1308	1214	1373	1401	1200
Fall to same level	1719	1927	1976	1975	2501	2795
Slips, trips	184	143	52	37	156	121
Overexertion	3573	3535	3146	3188	3448	3621
Repetitive motion	342	442	315	282	295	287
Exposed to harmful substances	229	248	187	213	288	272
Transportation accidents	652	750	618	671	774	746
Fires, explosions	49	56	43	27	58	62
Assaults, violent acts	238	218	246	248	461	437
Other	1143	1212	1081	1391	2061	1858

INCLUDES ALL PRIVATE SECTOR LOST WORKDAY CLAIMS THAT WERE RECEIVED DURING CALENDAR YEARS 2003, 2004, 2005, 2006, 2007 and 2008.

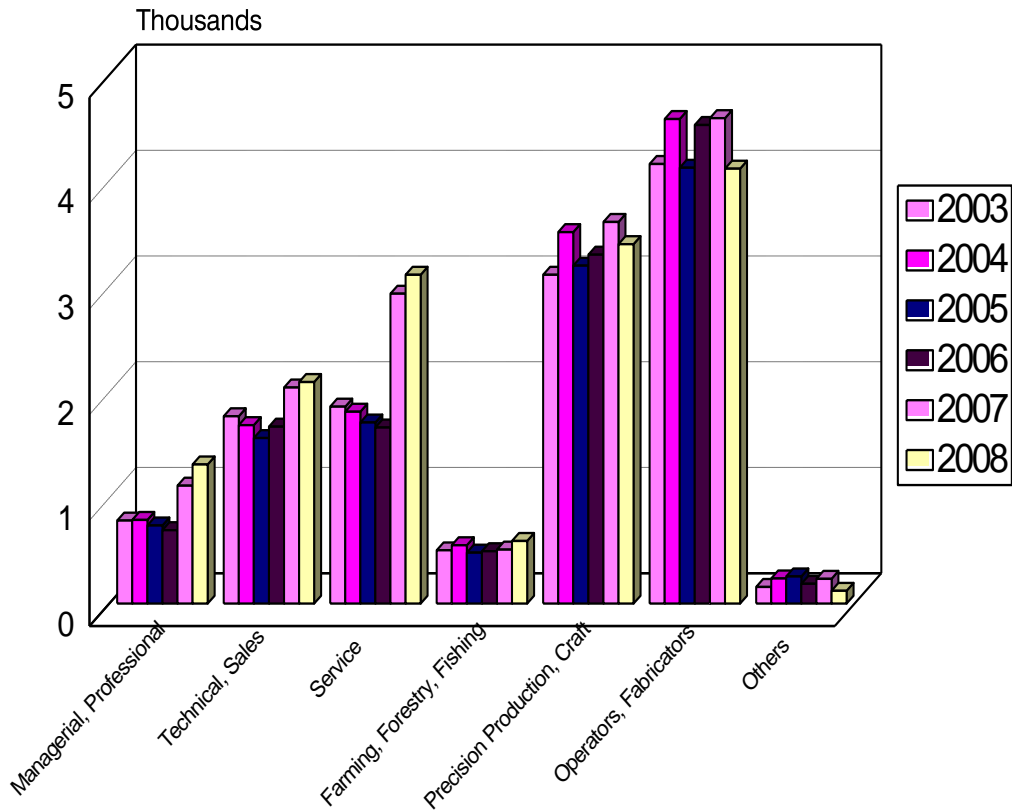
CHART 9. LOST WORKDAY CLAIMS 2003-2008 by SOURCE



SOURCE	2003	2004	2005	2006	2007	2008
Chemicals, Chemical Products	72	100	69	75	88	78
Containers	1635	1599	1419	1554	1613	1575
Furniture, Fixtures	412	400	380	319	430	439
Machinery	807	840	845	843	893	812
Parts & Materials	1399	1549	1413	1400	1538	1394
Persons, Plants & Animals	2366	2430	2068	2249	3351	3293
Floor, Ground Surfaces	3097	3505	3454	3566	4259	4308
Handtools	766	854	772	776	928	904
Vehicles	1135	1247	1053	1149	1256	1250
All Other	662	658	602	614	682	698

INCLUDES ALL PRIVATE SECTOR LOST WORKDAY CLAIMS THAT WERE RECEIVED DURING CALENDAR YEARS 2003, 2004, 2005, 2006, 2007 and 2008.

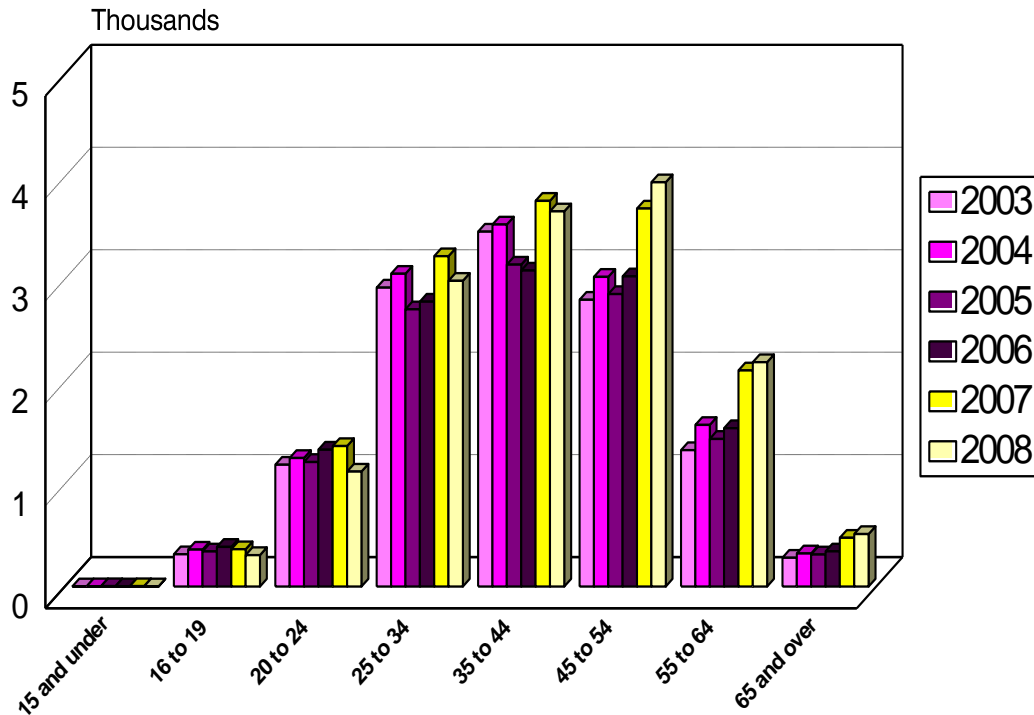
**CHART 10. LOST WORKDAY CLAIMS 2003-2008
by OCCUPATION**



OCCUPATION	2003	2004	2005	2006	2007	2008
Managerial, Professional	786	792	739	695	1116	1317
Technical, Sales	1772	1688	1566	1674	2044	2096
Service	1863	1815	1713	1666	2931	3110
Farming, Forestry, Fishing	504	552	482	496	511	593
Precision Production, Craft	3110	3514	3196	3300	3610	3400
Operators, Fabricators	4158	4583	4122	4527	4591	4114
Others	158	238	257	187	235	121

INCLUDES ALL PRIVATE SECTOR LOST WORKDAY CLAIMS THAT WERE RECEIVED DURING CALENDAR YEARS 2003, 2004, 2005, 2006, 2007 and 2008.

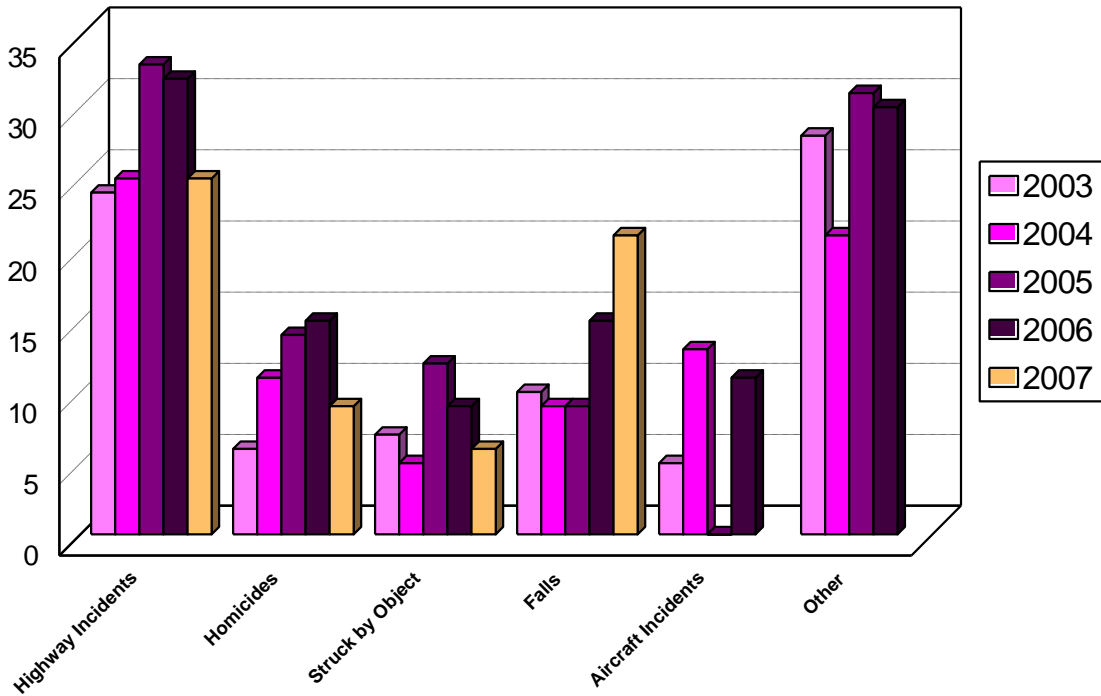
CHART 11. LOST WORKDAY CLAIMS 2003-2008 by AGE



AGE	2003	2004	2005	2006	2007	2008
15 and under	1	3	4	1	4	2
16 to 19	315	360	342	387	364	307
20 to 24	1189	1255	1216	1336	1371	1122
25 to 34	2918	3053	2706	2781	3224	2984
35 to 44	3464	3534	3142	3085	3765	3662
45 to 54	2799	3023	2855	3027	3690	3946
55 to 64	1331	1577	1441	1546	2109	2190
65 and over	281	323	313	343	476	512

INCLUDES ALL PRIVATE SECTOR LOST WORKDAY CLAIMS THAT WERE RECEIVED DURING CALENDAR YEARS 2003, 2004, 2005, 2006, 2007 and 2008.

**CHART 12. DISTRIBUTION OF FATAL OCCUPATIONAL INJURIES BY EVENT OR EXPOSURE
ARIZONA, 2003 - 2007**



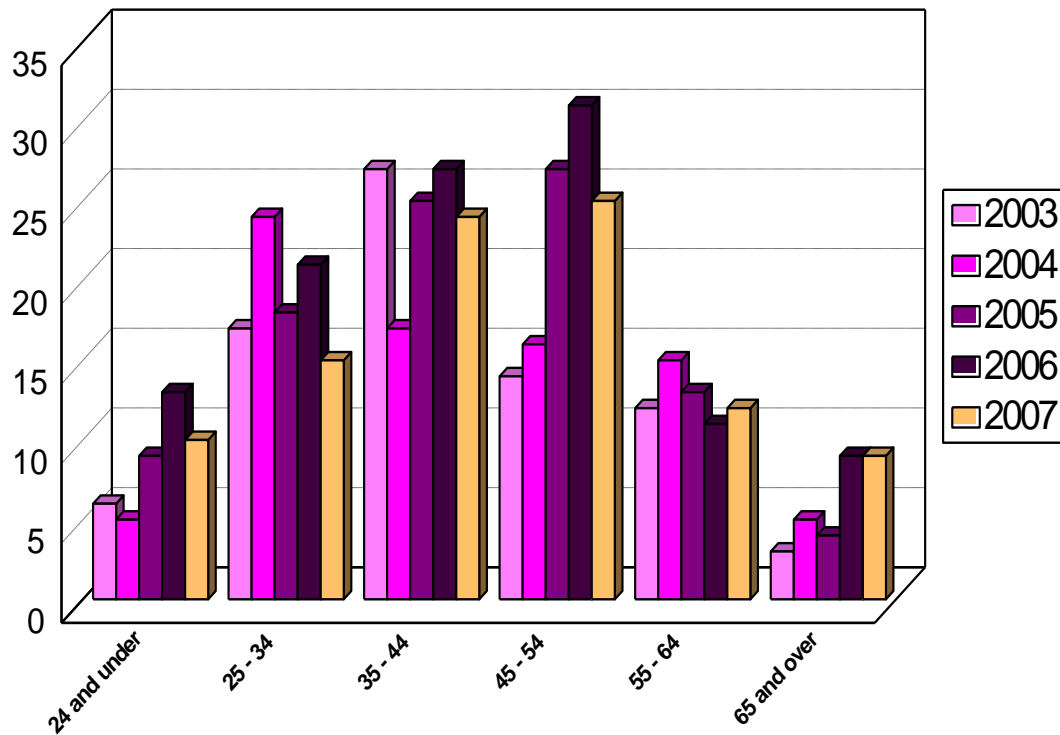
EVENT	2003	2004	2005	2006	2007
Highway Incidents	24	25	33	32	25
Homicides	6	11	14	15	9
Struck by Object	7	5	12	9	6
Falls	10	9	9	15	21
Aircraft Incidents	5	13	0	11	*
Other	28	21	31	30	*

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

* Unpublishable - Number Lower Than Publishable Ratio

INCLUDES ALL PRIVATE SECTOR LOST WORKDAY CLAIMS THAT WERE RECEIVED DURING CALENDAR YEARS 2003, 2004, 2005, 2006, 2007 and 2008.

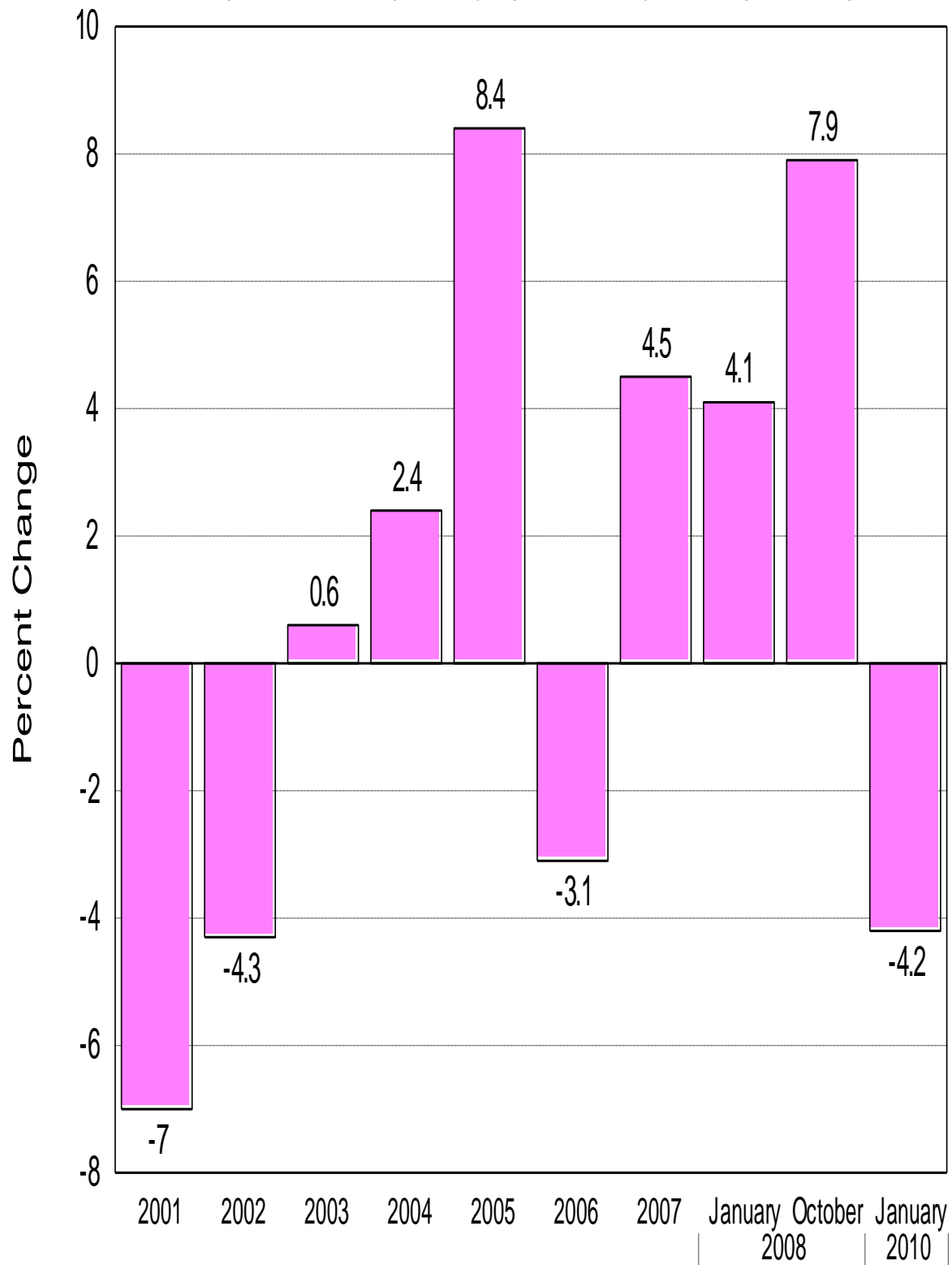
**CHART 13. DISTRIBUTION OF FATAL OCCUPATIONAL
INJURIES BY AGE
ARIZONA, 2003 - 2007**



AGE	2003	2004	2005	2006	2007
24 and under	6	5	9	13	10
25 - 34	17	24	18	21	15
35 - 44	27	17	25	27	24
45 - 54	14	16	27	31	25
55 - 64	12	15	13	11	12
65 and over	3	5	4	9	9

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

CHART 14. CHANGES IN ARIZONA WC RATES



SOURCE: National Council on Compensation Insurance, Inc.