



# HOUSE BILL No. 5199

November 10, 1993, Introduced by Reps. Dalman, McBryde, McNutt, Bodem, Jaye and Llewellyn and referred to the Committee on Corrections.

A bill to amend section 161 of Act No. 317 of the Public Acts of 1969, entitled as amended  
"Worker's disability compensation act of 1969,"  
as amended by Act No. 103 of the Public Acts of 1985, being section 418.161 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 161 of Act No. 317 of the Public Acts of  
2 1969, as amended by Act No. 103 of the Public Acts of 1985, being  
3 section 418.161 of the Michigan Compiled Laws, is amended to read  
4 as follows:

5 Sec. 161. (1) As used in this act, "employee" means:

6 (a) A person in the service of the state, a county, city,  
7 township, village, or school district, under any appointment, or  
8 contract of hire, express or implied, oral or written. A person  
9 employed by a contractor who has contracted with a county, city,

1 township, village, school district, or the state, through its  
2 representatives, shall not be considered an employee of the  
3 state, county, city, township, village, or school district which  
4 made the contract, when the contractor is subject to this act.  
5 Nationals of foreign countries employed pursuant to section  
6 102(a)(1) of the mutual educational and cultural exchange act of  
7 1961, 22 U.S.C. 2452, shall not be considered employees under  
8 this act. AN OFFENDER ASSIGNED BY A COURT OF COMPETENT JURISDIC-  
9 TION IN THIS STATE TO PERFORM COMMUNITY SERVICE SHALL NOT BE CON-  
10 sidered AN EMPLOYEE FOR THE PURPOSES OF THIS ACT. Police offi-  
11 cers, fire fighters, or employees of the police or fire depart-  
12 ments, or their dependents, in municipalities or villages of this  
13 state providing like benefits, may waive the provisions of this  
14 act and accept like benefits that are provided by the municipal-  
15 ity or village but shall not be entitled to like benefits from  
16 both the municipality or village and this act; however, this  
17 waiver shall not prohibit such employees or their dependents from  
18 being reimbursed under section 315 for the medical expenses or  
19 portion of medical expenses that are not otherwise provided for  
20 by the municipality or village. This act shall not be construed  
21 as limiting, changing, or repealing any of the provisions of a  
22 charter of a municipality or village of this state relating to  
23 benefits, compensation, pensions, or retirement independent of  
24 this act, provided for employees. Members of a volunteer fire  
25 department of a city, village, or township shall be considered to  
26 be employees of the city, village, or township, and entitled to  
27 all the benefits of this act when personally injured in the

1 performance of duties as members of the volunteer fire  
2 department. Members of a volunteer fire department of a city,  
3 village, or township shall be considered to be receiving the  
4 state average weekly wage at the time of injury, as last deter-  
5 mined under section 355, from the village, city, or township for  
6 the purpose of calculating the weekly rate of compensation pro-  
7 vided under this act. The benefits of this act shall be avail-  
8 able to a safety patrol officer who is engaged in traffic regula-  
9 tion and management for and by authority of a county, city, vil-  
10 lage, or township, whether the officer is paid or unpaid, in the  
11 same manner as benefits are available to volunteer fire fighters,  
12 upon the adoption by the legislative body of the county, city,  
13 village, or township of a resolution to that effect. A safety  
14 patrol officer or safety patrol force when used in this act shall  
15 be considered to include all persons who volunteer and are regis-  
16 tered with a school and assigned to patrol a public thoroughfare  
17 used by students of a school. A volunteer civil defense worker  
18 who is a member of the civil defense forces as provided by law  
19 and is registered on the permanent roster of the civil defense  
20 organization of the state or a political subdivision of the state  
21 shall be considered to be an employee of the state or the politi-  
22 cal subdivision on whose permanent roster the employee is  
23 enrolled when engaged in the performance of duty and shall be  
24 considered to be receiving the state average weekly wage at the  
25 time of injury, as last determined under section 355, from the  
26 state or political subdivision for purposes of calculating the  
27 weekly rate of compensation provided under this act. A volunteer

1 ambulance driver or attendant shall be considered to be an  
2 employee of the county, city, village, or township and entitled  
3 to the benefits of this act when personally injured in the per-  
4 formance of duties as a volunteer ambulance driver or attendant  
5 and shall be considered to be receiving the state average weekly  
6 wage at the time of injury, as last determined under section 355,  
7 from the county, city, village, or township for purposes of cal-  
8 culating the weekly rate of compensation provided under this  
9 act. A political subdivision of this state shall not be required  
10 to provide compensation insurance for a peace officer of the  
11 political subdivision with respect to the protection and compen-  
12 sation provided by Act No. 329 of the Public Acts of 1937, as  
13 amended, being sections 419.101 to 419.104 of the Michigan  
14 Compiled Laws.

15 (b) Every person in the service of another, under any con-  
16 tract of hire, express or implied, including aliens; a person  
17 regularly employed on a full-time basis by his or her spouse  
18 having specified hours of employment at a specified rate of pay;  
19 working members of partnerships receiving wages from the partner-  
20 ship irrespective of profits; a person insured for whom and to  
21 the extent premiums are paid based on wages, earnings, or prof-  
22 its; and minors, who shall be considered the same as and have the  
23 same power to contract as adult employees. Any minor under 18  
24 years of age whose employment at the time of injury shall be  
25 shown to be illegal, in the absence of fraudulent use of permits  
26 or certificates of age in which case only single compensation

1 shall be paid, shall receive compensation double that provided in  
2 this act.

3 (c) Every person engaged in a federally funded training pro-  
4 gram or work experience program which mandates the provision of  
5 appropriate worker's compensation for participants and which is  
6 sponsored by the state, a county, city, township, village, or  
7 school district, or an incorporated public board or public com-  
8 mission in the state authorized by law to hold property and to  
9 sue or be sued generally, or any consortium thereof, shall be  
10 considered, for the purposes of this act, to be an employee of  
11 the sponsor and entitled to the benefits of this act. The spon-  
12 sor shall be responsible for the provision of worker's compensa-  
13 tion and shall secure the payment of compensation by a method  
14 permitted under section 611. If a sponsor contracts with a  
15 public or private organization to operate a program, the sponsor  
16 may require the organization to secure the payment of compensa-  
17 tion by a method permitted under section 611.

18 (d) Every person performing service in the course of the  
19 trade, business, profession, or occupation of an employer at the  
20 time of the injury, provided the person in relation to this serv-  
21 ice does not maintain a separate business, does not hold himself  
22 or herself out to and render service to the public, and is not an  
23 employer subject to this act.

24 (2) A policy or contract of worker's compensation insurance,  
25 by endorsement, may exclude coverage as to any 1 or more named  
26 partners or the spouse, child, or parent in the employer's  
27 family. A person excluded pursuant to this subsection shall not

1 be subject to this act and shall not be considered an employee  
2 for the purposes of section 115.

3       (3) An employee who is subject to this act, including an  
4 employee covered pursuant to section 121, who is an employee of a  
5 corporation which has not more than 10 stockholders and who is  
6 also an officer and stockholder who owns at least 10% of the  
7 stock of that corporation, with the consent of the corporation as  
8 approved by its board of directors, may elect to be individually  
9 excluded from this act by giving a notice of the election in  
10 writing to the carrier with the consent of the corporation  
11 endorsed on the notice. The exclusion shall remain in effect  
12 until revoked by the employee by giving a notice in writing to  
13 the carrier. While the exclusion is in effect, section 141 shall  
14 not apply to any action brought by the employee against the  
15 corporation.

16       (4) If the persons to be excluded from coverage under this  
17 act pursuant to subsection (2) or (3) comprise all of the employ-  
18 ees of the employer, those persons may elect to be excluded from  
19 being considered employees under this act by submitting written  
20 notice of that election to the director upon a form prescribed by  
21 the director. The exclusion shall remain in effect until revoked  
22 by giving written notice to the director.