



HOUSE BILL No. 5353

February 17, 1994, Introduced by Reps Olshove Rivers Parks DeMars, Freeman and Jondahl and referred to the Committee on House Oversight and Ethics

A bill to amend section 131 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 28 of the Public Acts of 1987, being section 418 131 of the Michigan Compiled Laws

THE PEOPLE OF THE STATE OF MICHIGAN ENACT

1 Section 1 Section 131 of Act No 317 of the Public Acts of
2 1969 as amended by Act No 28 of the Public Acts of 1987 being
3 section 418 131 of the Michigan Compiled Laws is amended to read
4 as follows

5 Sec 131 (1) The right to the recovery of benefits as pro-
6 vided in this act shall be the employee s exclusive remedy
7 against the employer for a personal injury or occupational
8 disease The only ~~exception~~ EXCEPTIONS to this exclusive
9 remedy ~~is~~ ARE an intentional tort OR A CASE IN WHICH A PERSONAL

1 INJURY OR OCCUPATIONAL DISEASE IS CAUSED BY A DEFECTIVE MACHINE
2 OR A DEFECTIVE OR EMPLOYER-MODIFIED PIECE OF EQUIPMENT FOR WHICH
3 THE EMPLOYER WAS PREVIOUSLY ISSUED A CITATION BY THE UNITED
4 STATES OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION OR BY THE
5 APPROPRIATE DEPARTMENT REPRESENTATIVE PURSUANT TO THE MICHIGAN
6 OCCUPATIONAL SAFETY AND HEALTH ACT ACT NO 154 OF THE PUBLIC
7 ACTS OF 1974 BEING SECTIONS 408 1001 TO 408 1094 OF THE MICHIGAN
8 COMPILED LAWS, AND FAILED TO REPAIR THE MACHINE OR EQUIPMENT
9 BEFORE THE DATE OF THE PERSONAL INJURY OR OCCUPATIONAL DISEASE
10 An intentional tort shall exist only when an employee is injured
11 as a result of a deliberate act of the employer and the employer
12 specifically intended an injury An employer shall be deemed to
13 have intended to injure if the employer had actual knowledge that
14 an injury was certain to occur and willfully disregarded that
15 knowledge The issue of whether an act was an intentional tort
16 shall be a question of law for the court This subsection shall
17 not enlarge or reduce rights under law

18 (2) As used in this section and section 827 employee
19 includes the person injured his or her personal representatives
20 and any other person to whom a claim accrues by reason of the
21 injury to or death of the employee, and employer includes the
22 employer's insurer a service agent to a self-insured employer
23 and the accident fund insofar as they furnish or fail to fur-
24 nish, safety inspections or safety advisory services incident to
25 providing worker's compensation insurance or incident to a
26 self-insured employer's liability servicing contract