



# HOUSE BILL No. 5764

September 14, 1994 Introduced by Rep Profit and referred to the Committee on Labor

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 271 of the Public Acts of 1994, 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 271 of the Public Acts of 1994, 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 (b) Nationals of foreign countries employed pursuant to sec-  
6 tion 102(a)(1) of the mutual educational and cultural exchange  
7 act of 1961, 22 U S C 2452, shall not be considered employees  
8 under this act

9 (c) Police officers, fire fighters, or employees of the  
10 police or fire departments, or their dependents, in municipali-  
11 ties or villages of this state providing like benefits, may waive  
12 the provisions of this act and accept like benefits that are pro-  
13 vided by the municipality or village but shall not be entitled to  
14 like benefits from both the municipality or village and this act  
15 however, this waiver shall not prohibit such employees or their  
16 dependents from being reimbursed under section 315 for the medi-  
17 cal expenses or portion of medical expenses that are not other-  
18 wise provided for by the municipality or village This act shall  
19 not be construed as limiting, changing, or repealing any of the  
20 provisions of a charter of a municipality or village of this  
21 state relating to benefits, compensation, pensions, or retirement  
22 independent of this act, provided for employees

23 (d) On-call members of a fire department of a county, city,  
24 village, or township shall be considered to be employees of the  
25 county, city, village, or township and entitled to all the bene-  
26 fits of this act when personally injured in the performance of  
27 duties as on-call members of the fire department whether the

1 on-call member of the fire department is paid or unpaid On-call  
2 members of a fire department of a county, city village, or town-  
3 ship shall be considered to be receiving the state average weekly  
4 wage at the time of injury, as last determined under section 355  
5 from the county, village, city, or township for the purpose of  
6 calculating the weekly rate of compensation provided under this  
7 act except that if the member's average weekly wage was greater  
8 than the state average weekly wage at the time of the injury, the  
9 member s weekly rate of compensation shall be determined based on  
10 the member's average weekly wage

11 (e) On-call members of a fire department that contracts with  
12 or receives reimbursement from 1 or more counties, cities, vil-  
13 lages, or townships shall be entitled to all the benefits of this  
14 act when personally injured in the performance of their duties as  
15 on-call members of a fire department whether the on-call member  
16 of the fire department is paid or unpaid On-call members of a  
17 fire department shall be considered to be receiving the state  
18 average weekly wage at the time of injury, as last determined  
19 under section 355 from the fire department for the purpose of  
20 calculating the weekly rate of compensation provided under this  
21 act except that if the member's average weekly wage was greater  
22 than the state average weekly wage at the time of the injury, the  
23 member's weekly rate of compensation shall be determined based on  
24 the member s average weekly wage

25 (f) The benefits of this act shall be available to a safety  
26 patrol officer who is engaged in traffic regulation and  
27 management for and by authority of a county, city, village, or

1 township, whether the officer is paid or unpaid, in the same  
2 manner as benefits are available to ~~volunteer fire fighters~~  
3 ON-CALL MEMBERS OF A FIRE DEPARTMENT under subdivision (d), upon  
4 the adoption by the legislative body of the county, city vil-  
5 lage or township of a resolution to that effect A safety  
6 patrol officer or safety patrol force when used in this act  
7 includes all persons who volunteer and are registered with a  
8 school and assigned to patrol a public thoroughfare used by stu-  
9 dents of a school

10 (g) A volunteer civil defense worker who is a member of the  
11 civil defense forces as provided by law and is registered on the  
12 permanent roster of the civil defense organization of the state  
13 or a political subdivision of the state shall be considered to be  
14 an employee of the state or the political subdivision on whose  
15 permanent roster the employee is enrolled when engaged in the  
16 performance of duty and shall be considered to be receiving the  
17 state average weekly wage at the time of injury as last deter-  
18 mined under section 355, from the state or political subdivision  
19 for purposes of calculating the weekly rate of compensation pro-  
20 vided under this act

21 (h) A volunteer licensed under section 20950 or 20952 of the  
22 public health code, Act No 368 of the Public Acts of 1978, being  
23 sections 333 20950 and 333 20952 of the Michigan Compiled Laws,  
24 who is an on-call member of a life support agency as defined  
25 under section 20906 of Act No 368 of the Public Acts of 1978  
26 being section 333 20906 of the Michigan Compiled Laws, shall be  
27 considered to be an employee of the county, city, village, or

1 township and entitled to the benefits of this act when personally  
2 injured in the performance of duties as an on-call member of a  
3 life support agency whether the on-call member of the life sup-  
4 port agency is paid or unpaid An on-call member of a life sup-  
5 port agency shall be considered to be receiving the state average  
6 weekly wage at the time of injury, as last determined under sec-  
7 tion 355, from the county, city, village or township for pur-  
8 poses of calculating the weekly rate of compensation provided  
9 under this act except that if the member s average weekly wage  
10 was greater than the state average weekly wage at the time of the  
11 injury, the member s weekly rate of compensation shall be deter-  
12 mined based on the member s average weekly wage

13 (1) A volunteer licensed under section 20950 or 20952 of the  
14 public health code, Act No 368 of the Public Acts of 1978 being  
15 sections 333 20950 and 333 20952 of the Michigan Compiled Laws,  
16 who is an on-call member of a life support agency as defined  
17 under section 20906 of Act No 368 of the Public Acts of 1978,  
18 being section 333 20906 of the Michigan Compiled Laws, that con-  
19 tracts with or receives reimbursement from 1 or more counties,  
20 cities, villages, or townships shall be entitled to all the bene-  
21 fits of this act when personally injured in the performance of  
22 his or her duties as an on-call member of a life support agency  
23 whether the on-call member of the life support agency is paid or  
24 unpaid An on-call member of a life support agency shall be con-  
25 sidered to be receiving the state average weekly wage at the time  
26 of injury, as last determined under section 355 from the life  
27 support agency for the purpose of calculating the weekly rate of

1 compensation provided under this act except that if the member's  
2 average weekly wage was greater than the state average weekly  
3 wage at the time of the injury, the member's weekly rate of com-  
4 pensation shall be determined based on the member's average  
5 weekly wage

6 (j) A political subdivision of this state shall not be  
7 required to provide compensation insurance for a peace officer of  
8 the political subdivision with respect to the protection and com-  
9 pensation provided by Act No 329 of the Public Acts of 1937, as  
10 amended, being sections 419 101 to 419 104 of the Michigan  
11 Compiled Laws

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

26 (l) Every person engaged in a federally funded training  
27 program or work experience program which mandates the provision

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

14 (m) Every person performing service in the course of the  
15 trade, business, profession, or occupation of an employer at the  
16 time of the injury, if the person in relation to this service  
17 does not maintain a separate business, does not hold himself or  
18 herself out to and render service to the public and is not an  
19 employer subject to this act

20 (2) A policy or contract of worker s compensation insurance,  
21 by endorsement, may exclude coverage as to any 1 or more named  
22 partners or the spouse, child, or parent in the employer s  
23 family A person excluded pursuant to this subsection shall not  
24 be subject to this act and shall not be considered an employee  
25 for the purposes of section 115

26 (3) A POLICY OR CONTRACT OF WORKER'S COMPENSATION INSURANCE,  
27 BY ENDORSEMENT, MAY EXCLUDE COVERAGE AS TO ANY 2 OR MORE MEMBERS

1 OF A LIMITED LIABILITY COMPANY FORMED UNDER THE MICHIGAN LIMITED  
2 LIABILITY COMPANY ACT, ACT NO 23 OF THE PUBLIC ACTS OF 1993,  
3 BEING SECTIONS 450 5101 TO 450 6200 OF THE MICHIGAN COMPILED  
4 LAWS A PERSON EXCLUDED PURSUANT TO THIS SUBSECTION SHALL NOT BE  
5 SUBJECT TO THIS ACT AND SHALL NOT BE CONSIDERED AN EMPLOYEE FOR  
6 THE PURPOSES OF SECTION 115

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

20 (5) ~~-(4)-~~ If the persons to be excluded from coverage under  
21 this act pursuant to ~~subsection~~ SUBSECTIONS (2) ~~or (3)~~ TO (4)  
22 comprise all of the employees of the employer, those persons may  
23 elect to be excluded from being considered employees under this  
24 act by submitting written notice of that election to the director  
25 upon a form prescribed by the director The exclusion shall  
26 remain in effect until revoked by giving written notice to the  
27 director