



HOUSE BILL No. 4058

January 11, 1995, Introduced by Reps. Dalman, Fitzgerald, Horton, Jaye, Llewellyn, Geiger, Bullard, Bush, Perricone and Goschka and referred to the Committee on Human Resources and 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) AN OFFENDER ASSIGNED BY A COURT OF COMPETENT JURISDIC-
10 TION IN THIS STATE TO PERFORM COMMUNITY SERVICE SHALL NOT BE CON-
11 SIDERED AN EMPLOYEE FOR THE PURPOSES OF THIS ACT.

12 (D) ~~(c)~~ Police officers, fire fighters, or employees of
13 the police or fire departments, or their dependents, in munici-
14 palities or villages of this state providing like benefits, may
15 waive the provisions of this act and accept like benefits that
16 are provided by the municipality or village but shall not be
17 entitled to like benefits from both the municipality or village
18 and this act; however, this waiver shall not prohibit such
19 employees or their dependents from being reimbursed under section
20 315 for the medical expenses or portion of medical expenses that
21 are not otherwise provided for by the municipality or village.
22 This act shall not be construed as limiting, changing, or repeal-
23 ing any of the provisions of a charter of a municipality or vil-
24 lage of this state relating to benefits, compensation, pensions,
25 or retirement independent of this act, provided for employees.

26 (E) ~~(d)~~ On-call members of a fire department of a county,
27 city, village, or township shall be considered to be employees of

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

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

1 (G) ~~(f)~~ The benefits of this act shall be available to a
2 safety patrol officer who is engaged in traffic regulation and
3 management for and by authority of a county, city, village, or
4 township, whether the officer is paid or unpaid, in the same
5 manner as benefits are available to volunteer fire fighters under
6 subdivision ~~(d)~~ (E), upon the adoption by the legislative body
7 of the county, city, village, or township of a resolution to that
8 effect. A safety patrol officer or safety patrol force when used
9 in this act includes all persons who volunteer and are registered
10 with a school and assigned to patrol a public thoroughfare used
11 by students of a school.

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

23 (I) ~~(h)~~ A volunteer licensed under section 20950 or 20952
24 of the public health code, Act No. 368 of the Public Acts of
25 1978, being sections 333.20950 and 333.20952 of the Michigan
26 Compiled Laws, who is an on-call member of a life support agency
27 as defined under section 20906 of Act No. 368 of the Public Acts

1 of 1978, being section 333.20906 of the Michigan Compiled Laws,
2 shall be considered to be an employee of the county, city, vil-
3 lage, or township and entitled to the benefits of this act when
4 personally injured in the performance of duties as an on-call
5 member of a life support agency whether the on-call member of the
6 life support agency is paid or unpaid. An on-call member of a
7 life support agency shall be considered to be receiving the state
8 average weekly wage at the time of injury, as last determined
9 under section 355, from the county, city, village, or township
10 for purposes of calculating the weekly rate of compensation pro-
11 vided under this act except that if the member's average weekly
12 wage was greater than the state average weekly wage at the time
13 of the injury, the member's weekly rate of compensation shall be
14 determined based on the member's average weekly wage.

15 (J) ~~(i)~~ A volunteer licensed under section 20950 or 20952
16 of the public health code, Act No. 368 of the Public Acts of
17 1978, being sections 333.20950 and 333.20952 of the Michigan
18 Compiled Laws, who is an on-call member of a life support agency
19 as defined under section 20906 of Act No. 368 of the Public Acts
20 of 1978, being section 333.20906 of the Michigan Compiled Laws,
21 that contracts with or receives reimbursement from 1 or more
22 counties, cities, villages, or townships shall be entitled to all
23 the benefits of this act when personally injured in the per-
24 formance of his or her duties as an on-call member of a life sup-
25 port agency whether the on-call member of the life support agency
26 is paid or unpaid. An on-call member of a life support agency
27 shall be considered to be receiving the state average weekly wage

1 at the time of injury, as last determined under section 355, from
2 the life support agency for the purpose of calculating the weekly
3 rate of compensation provided under this act except that if the
4 member's average weekly wage was greater than the state average
5 weekly wage at the time of the injury, the member's weekly rate
6 of compensation shall be determined based on the member's average
7 weekly wage.

8 (K) ~~(j)~~ A political subdivision of this state shall not be
9 required to provide compensation insurance for a peace officer of
10 the political subdivision with respect to the protection and com-
11 pensation provided by Act No. 329 of the Public Acts of 1937, ~~as~~
12 ~~amended,~~ being sections 419.101 to 419.104 of the Michigan
13 Compiled Laws.

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

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

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

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

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

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