



# HOUSE BILL No. 4638

March 21, 1995, Introduced by Reps. Olshove, Gire, Hanley, Cherry, Freeman, Wetters, Martinez, Yokich, Curtis, Pitoniak and DeMars and referred to the Committee on Human Resources and Labor.

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. 198 of the Public Acts of 1993, 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. 198 of the Public Acts of 1993, 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 and a service agent to a self-insured employer  
23 insofar as they furnish, or fail to furnish, safety inspections  
24 or safety advisory services incident to providing worker's com-  
25 pensation insurance or incident to a self-insured employer's  
26 liability servicing contract.



# HOUSE BILL No. 4638

March 21, 1995, Introduced by Reps. Olshove, Gire, Hanley, Cherry, Freeman, Wetters, Martinez, Yokich, Curtis, Pitoniak and DeMars and referred to the Committee on Human Resources and Labor.

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. 198 of the Public Acts of 1993, 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. 198 of the Public Acts of 1993, 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 and a service agent to a self-insured employer  
23 insofar as they furnish, or fail to furnish, safety inspections  
24 or safety advisory services incident to providing worker's com-  
25 pensation insurance or incident to a self-insured employer's  
26 liability servicing contract.