



# HOUSE BILL No. 5521

January 23, 1996, Introduced by Reps. Voorhees, Law, Hill, Bush, London and Llewellyn and referred to the Committee on Insurance.

A bill to amend section 2218 of Act No. 218 of the Public Acts of 1956, entitled as amended

"The insurance code of 1956,"

being section 500.2218 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 2218 of Act No. 218 of the Public Acts  
2 of 1956, being section 500.2218 of the Michigan Compiled Laws, is  
3 amended to read as follows:

4 Sec. 2218. (1) The falsity of ~~any~~ A statement in the  
5 application for ~~any~~ A disability insurance policy covered by  
6 chapter 34 ~~of this code may~~ DOES not bar the right to recovery  
7 ~~thereunder~~ UNDER THE POLICY unless ~~such~~ THE false statement  
8 materially affected either the acceptance of the risk or the  
9 hazard assumed by the insurer.

1       (2) ~~(1)~~ ~~No~~ A misrepresentation ~~shall~~ DOES NOT avoid any  
2 contract of insurance or defeat recovery ~~thereunder~~ UNDER THE  
3 CONTRACT unless the misrepresentation was material. ~~No~~ A mis-  
4 representation ~~shall be deemed~~ IS NOT material unless knowledge  
5 by the insurer of the facts misrepresented would have led to a  
6 refusal by the insurer to ~~make~~ ISSUE the contract OR WOULD HAVE  
7 LED THE INSURER TO CHARGE AN INCREASED PREMIUM, PROVIDE A LESSER  
8 AMOUNT OF COVERAGE, ELIMINATE BENEFITS, OR EXCLUDE COVERAGE FOR A  
9 RISK OTHERWISE WITHIN THE SCOPE OF THE CONTRACT.

10       (3) ~~(2)~~ A representation is a statement as to past or  
11 present fact, made to the insurer by or by the authority of the  
12 applicant for insurance or the prospective insured, at or before  
13 the making of the insurance contract as an inducement to the  
14 making ~~thereof~~ OF THE CONTRACT. A misrepresentation is a false  
15 representation, and the facts misrepresented are those facts  
16 ~~which~~ THAT make the representation false.

17       (4) ~~(3)~~ In determining the question of materiality, evi-  
18 dence of the practice of the insurer ~~which~~ THAT made the con-  
19 tract with respect to the acceptance or rejection of similar  
20 risks ~~shall be~~ IS admissible.

21       (5) ~~(4)~~ A misrepresentation that an applicant for life,  
22 accident, or health insurance has not had previous medical treat-  
23 ment, consultation, or observation, or has not had previous  
24 treatment or care in a hospital or other like institution, ~~shall~~  
25 ~~be deemed~~ IS, for the purpose of determining its materiality, a  
26 misrepresentation that the applicant has not had the disease,  
27 ailment, or other medical impairment for which such treatment or

1 care was given or ~~which~~ THAT was discovered by any licensed  
2 medical practitioner as a result of such consultation or  
3 observation. If, in ~~any~~ AN action to rescind ~~any~~ A contract  
4 or to recover ~~thereon, any~~ UNDER A CONTRACT, A misrepresenta-  
5 tion is proved by the insurer, and the insured or any other  
6 person having or claiming a right under the contract ~~, shall~~  
7 ~~prevent~~ PREVENTS full disclosure and proof of the nature of the  
8 medical impairment, the misrepresentation ~~shall be~~ IS presumed  
9 to have been material.