



HOUSE BILL No. 5681

March 13, 1996, Introduced by Reps. Llewellyn, DeLange, Hammerstrom, Hill, Dalman, Goschka, Bodem and Jaye and referred to the Committee on Insurance.

A bill to amend sections 381 and 621 of Act No. 317 of the Public Acts of 1969, entitled as amended "Worker's disability compensation act of 1969," section 381 as amended by Act No. 103 of the Public Acts of 1985 and section 621 as amended by Act No. 271 of the Public Acts of 1994, being sections 418.381 and 418.621 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 381 and 621 of Act No. 317 of the
2 Public Acts of 1969, section 381 as amended by Act No. 103 of the
3 Public Acts of 1985 and section 621 as amended by Act No. 271 of
4 the Public Acts of 1994, being sections 418.381 and 418.621 of
5 the Michigan Compiled Laws, are amended to read as follows:

6 Sec. 381. (1) A proceeding for compensation for an injury
7 under this act shall not be maintained unless a claim for

1 compensation for the injury, which claim may be either oral or in
2 writing, has been made to the employer or a written claim has
3 been made to the bureau on forms prescribed by the director,
4 within 2 years after the occurrence of the injury. In case of
5 the death of the employee, the claim shall be made within 2 years
6 after death. The employee shall provide a notice of injury to
7 the employer within 90 days after the happening of the injury, or
8 within 90 days after the employee knew, or should have known, of
9 the injury. Failure to give such notice to the employer shall be
10 excused unless the employer can prove that he or she was preju-
11 diced by the failure to provide such notice. In the event of
12 physical or mental incapacity of the employee, the notice and
13 claim shall be made within 2 years from the time the injured
14 employee is not physically or mentally incapacitated from making
15 the claim. A claim shall not be valid or effectual for any pur-
16 pose under this chapter unless made within 2 years after the
17 later of the date of injury, the date disability manifests
18 itself, or the last day of employment with the employer against
19 whom claim is being made. If an employee claims benefits for a
20 work injury and is thereafter compensated for the disability by
21 worker's compensation or benefits other than worker's compensa-
22 tion, or is provided favored work by the employer because of the
23 disability, the period of time within which a claim shall be made
24 for benefits under this act shall be extended by the time during
25 which the benefits are paid or the favored work is provided.

26 (2) Except as provided in subsection (3), if any
27 compensation is sought under this act, payment shall not be made

1 for any period of time earlier than 2 years immediately preceding
2 the date on which the employee filed an application for a hearing
3 with the bureau.

4 (3) Payment for nursing or attendant care shall not be made
5 for any period which is more than 1 year before the date an
6 application for a hearing is filed with the bureau.

7 (4) The receipt by an employee of any other occupational or
8 nonoccupational benefit does not suspend the duty of the employee
9 to comply with this section, except under the circumstances
10 described in subsection (1).

11 (5) A FORM USED TO MAKE A CLAIM FOR COMPENSATION UNDER THIS
12 ACT SHALL INCLUDE THE FOLLOWING STATEMENT ON THE FRONT OF THE
13 FORM OR IMMEDIATELY ABOVE THE LOCATION FOR THE SIGNATURE OF THE
14 CLAIMANT, WHICHEVER IS APPROPRIATE, IN NOT LESS THAN 12-POINT
15 BOLDFACED TYPE: "ANY PERSON WHO MAKES OR CAUSES TO BE MADE ANY
16 KNOWINGLY FALSE AND MATERIAL ORAL OR WRITTEN STATEMENT OR REPRE-
17 SENTATION FOR THE PURPOSE OF OBTAINING COMPENSATION OR OTHER BEN-
18 EFITS IS GUILTY OF A FELONY."

19 Sec. 621. (1) Every contract for the insurance of the com-
20 pensation provided in this act for or against liability there-
21 fore, shall be subject to the provisions of this act and provi-
22 sions inconsistent with this act are void.

23 (2) ~~The state accident fund and each~~ EACH insurer issuing
24 an insurance policy to cover any employer not permitted to be a
25 self-insurer under section 611 shall insure, cover, and protect
26 in the same insurance policy, all the businesses, employees,
27 enterprises, and activities of the employer.

1 (3) Under procedures and conditions specifically determined
2 by the director, a separate insurance policy may be issued to
3 cover employers performing work at a specified construction site
4 if the director finds that the liability under this act of each
5 employer to all his or her employees would at all times be fully
6 secured and the cost of construction at the site, not including
7 the cost of land acquisition, will exceed \$65,000,000.00, and the
8 contemplated completion period for the construction will be 5
9 years or less.

10 Each construction site shall have an appointed construction
11 safety and health director employed by the owner, construction
12 manager, general contractor of the construction site, or insur-
13 ance carrier for the project. The safety and health director
14 shall have experience in the field of construction safety and
15 health. The construction safety and health director shall be a
16 full-time director with job duties limited to occupational safety
17 and health related issues. The safety and health director shall
18 be located at and work from the construction site, whenever con-
19 struction activity takes place on the site. The owner, construc-
20 tion manager, or general contractor shall designate an alternate
21 construction safety and health director with experience in the
22 field of construction safety and health during multiple shifts
23 and temporary absences of the construction safety and health
24 director. The alternate construction safety and health director
25 shall exercise the same responsibilities and authority as the
26 construction safety and health director and report to the safety
27 and health director on the activities at the site during the

1 safety and health director's absence. The safety and health
2 director shall be responsible for coordination among all employ-
3 ers at the construction site to provide a safe and healthful
4 worksite. The construction safety and health director shall be
5 the final authority for resolution of all disputes related to
6 construction safety and health at the worksite. All construction
7 contractors at the construction site shall accept the services of
8 the education and training personnel from the departments of
9 labor or public health, or both, who provide such services
10 ~~pursuant to~~ UNDER the Michigan occupational safety and health
11 act, Act No. 154 of the Public Acts of 1974, being
12 sections 408.1001 to 408.1094 of the Michigan Compiled Laws. The
13 construction safety and health director shall assist all contrac-
14 tors at the construction site in developing comprehensive acci-
15 dent prevention programs as required by R 408.40114 of the
16 Michigan administrative code.

17 A notice of issuance of insurance policy shall be filed on a
18 form provided by the bureau for each employer working on the spe-
19 cific construction site. The notice of issuance shall conform to
20 the requirements of section 625.

21 (4) Except as modified by the director as provided for
22 herein, each policy of insurance covering worker's compensation
23 in this state shall contain the following provisions:

24 "Notwithstanding any language elsewhere contained in this
25 contract or policy of insurance, the insurer issuing this policy
26 hereby contracts and agrees with the insured employer:

1 Compensation. (a) That it will pay to the persons that may
2 become entitled thereto all worker's compensation for which the
3 insured employer may become liable under the provisions of the
4 Michigan worker's disability compensation act for all compensable
5 injuries or compensable occupational diseases happening to his or
6 her employees during the life of this contract or policy;

7 Medical services. (b) That it will furnish or cause to be
8 furnished to all employees of the employer, all reasonable medi-
9 cal, surgical, and hospital services and medicines when they are
10 needed which the employer may be obligated to furnish or cause to
11 be furnished to his or her employees under the provisions of the
12 Michigan worker's disability compensation act and that it will
13 pay to the persons entitled thereto for all such services and
14 medicines when they are needed for all compensable injuries or
15 compensable occupational diseases happening to his or her employ-
16 ees during the life of this contract or policy;

17 Rehabilitation services. (c) That it will furnish or cause
18 to be furnished such rehabilitation services for which the
19 insured employer may become liable to furnish or cause to be fur-
20 nished under the provisions of the Michigan worker's disability
21 compensation act for all compensable injuries or compensable
22 occupational diseases happening to his or her employees during
23 the life of this contract or policy;

24 Funeral expenses. (d) That it will pay or cause to be paid
25 the reasonable expense of the last sickness and burial of all
26 employees whose deaths are caused by compensable injuries or
27 compensable occupational diseases happening during the life of

1 this contract or policy and arising out of and in the course of
2 their employment with the employer, which the employer may be
3 obligated to pay under the provisions of the Michigan worker's
4 disability compensation act;

5 Scope of contract. (e) That this insurance contract or
6 policy shall for all purposes be held and deemed to cover all the
7 businesses the said employer is engaged in at the time of the
8 issuance of this contract or policy and all other businesses, if
9 any, the employer may engage in during the life of this contract
10 or policy, and all employees the employer may employ in any of
11 his or her businesses during the period covered by this policy;

12 Obligations assumed. (f) That it hereby assumes all obliga-
13 tions imposed upon the employer by his or her acceptance of the
14 Michigan worker's disability compensation act, as far as the pay-
15 ment of compensation, death benefits, medical surgical, hospital
16 care or medicine and rehabilitation services is concerned;

17 Termination notice. (g) That it will file with the bureau
18 of workmen's compensation at Lansing, Michigan, at least 20 days
19 before the taking effect of any termination or cancellation of
20 this contract or policy, a notice giving the date at which it is
21 proposed to terminate or cancel this contract or policy; and that
22 any termination of this policy shall not be effective as far as
23 the employees of the insured employer are concerned until 20 days
24 after notice of proposed termination or cancellation is received
25 by the bureau of workmen's compensation;

26 Conflicting provisions. (h) That all the provisions of this
27 contract, if any, which are not in harmony with this paragraph

1 are to be construed as modified hereby, and all conditions and
2 limitations in the policy, if any conflicting herewith are hereby
3 made null and void; ~~—."~~

4 ANTIFRAUD PROVISIONS. (I) THAT THE LAST PAGE OF THE POLICY
5 IMMEDIATELY ABOVE THE SIGNATURE LINE OR LINES IN NOT LESS THAN
6 12-POINT BOLDFACED TYPE SHALL INCLUDE THE FOLLOWING STATEMENT:
7 "ANY PERSON WHO MAKES OR CAUSES TO BE MADE ANY KNOWINGLY FALSE
8 AND MATERIAL ORAL OR WRITTEN STATEMENT OR REPRESENTATION FOR THE
9 PURPOSE OF OBTAINING OR DENYING COMPENSATION OR OTHER BENEFITS OR
10 PAYMENTS IS GUILTY OF A FELONY."

11 (5) The provisions shall be printed upon or conspicuously
12 attached to every insurance contract or policy issued by the
13 state accident fund or insurer in type size not smaller than
14 10-point and shall constitute a separate paragraph of the
15 policy. Any provision of the policy inconsistent with the under-
16 takings and agreements of the ~~state accident fund or~~ insurer
17 contained in such provisions shall be null and void.

18 ~~(6) This section applies to the state accident fund until~~
19 ~~the state administrative board certifies in writing to the secre-~~
20 ~~tary of state by December 31, 1994 that an agreement for the~~
21 ~~transfer of all or substantially all of the assets and the~~
22 ~~assumption of all or substantially all of the liabilities of the~~
23 ~~state accident fund has been consummated with a permitted trans-~~
24 ~~ference pursuant to the requirements of section 701a.~~