



SENATE BILL No. 570

May 30, 1995, Introduced by Senator PETERS and referred to the Committee on Human Resources, Labor and Veterans Affairs.

A bill to amend section 532 of Act No. 317 of the Public Acts of 1969, entitled as amended "Worker's disability compensation act of 1969," as added by Act No. 198 of the Public Acts of 1993, being section 418.532 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 532 of Act No. 317 of the Public Acts of
2 1969, as added by Act No. 198 of the Public Acts of 1993, being
3 section 418.532 of the Michigan Compiled Laws, is amended to read
4 as follows:

5 Sec. 532. (1) The TRUSTEES OF THE uninsured employers'
6 security fund ~~is the fund from which benefits shall be paid by~~
7 ~~the board that~~ SHALL PAY WAGE LOSS BENEFITS AND MEDICAL BENEFITS
8 TO AN EMPLOYEE OR DEPENDENTS OF A DECEASED EMPLOYEE TO WHICH THE
9 EMPLOYEE OR DEPENDENTS OF A DECEASED EMPLOYEE WOULD BE ENTITLED

1 UNDER THE ACT BUT WHICH an employee or the dependents of a
2 deceased employee are unable to receive from an employer because
3 the employer failed to secure the payment of compensation as
4 required under section 611.

5 (2) Money in the uninsured employers' security fund shall
6 only be used with respect to injuries that occur on or after
7 June 29, 1990 AND BEFORE JUNE 29, 1996.

8 (3) As used in this act, "uninsured employer" means an
9 employer that has failed to secure the payment of compensation as
10 provided in section 611.

11 (4) If the director of the bureau determines that a claim
12 for benefits under this act is against an uninsured employer, the
13 director shall make all reasonable attempts to notify the
14 employer in writing of the claim and of the employers' liability
15 under this act. If the employer disputes this determination by
16 the director, it shall file an application in accordance with
17 section 847 within 30 days after the date the director's notifi-
18 cation was mailed.

19 (5) An uninsured employer shall pay the claim as provided in
20 this act or appear and contest the claim as provided in this
21 act. If an uninsured employer fails to pay the claim or to
22 appear and contest the claim, the uninsured employer surrenders
23 all rights to contest the claim. The failure to respond as pro-
24 vided in section 222 shall be considered a failure to appear and
25 defend.

26 (6) If an employer ~~surrenders its rights as provided in~~
27 ~~subsection (5),~~ FAILS TO RESPOND TO NOTICE AS PROVIDED IN

1 SUBSECTION (4) OR FAILS TO EITHER PAY THE CLAIM OR APPEAR AND
2 CONTEST THE CLAIM, THE EMPLOYER SURRENDERS ITS RIGHTS, AND the
3 director shall notify the trustees. The trustees shall then
4 exercise all the rights and obligations of ~~the~~ AN employer and
5 carrier provided by this act, and the trustees shall have the
6 rights and authority of an employer to redeem a claim as provided
7 in section 836. An uninsured employer shall provide that infor-
8 mation necessary to assist the trustees and shall be subject to
9 the inspection and penalty provisions of section 735. The trust-
10 ees shall be reimbursed from the fund for the actual and reason-
11 able costs of defending or administering a claim under this
12 section.

13 (7) If an uninsured employer is found to be liable to pay
14 benefits and fails to pay those benefits, the uninsured
15 employers' security fund shall pay the benefits pursuant to sub-
16 section (11).

17 (8) For injuries occurring on or after June 29, 1990, AND
18 BEFORE JUNE 29, 1996, THE TRUSTEES ARE AUTHORIZED TO SEEK REIM-
19 BURSEMENT FOR ANY MONEY PAID TO AN EMPLOYEE OR DEPENDENTS OF A
20 DECEASED EMPLOYEE FROM an uninsured employer THAT shall ALSO be
21 liable to the uninsured employers' security fund for both of the
22 following:

23 (a) An amount equal to 3 times the benefits TO WHICH AN
24 EMPLOYEE OR DEPENDENTS OF A DECEASED EMPLOYEE ARE ENTITLED UNDER
25 THIS ACT WHICH HAVE BEEN paid or ARE to be paid to an employee OR
26 DEPENDENTS OF A DECEASED EMPLOYEE by the fund.

1 (b) An amount equal to 3 times any actual and reasonable
2 expenses incurred in processing a claim.

3 (9) An action instituted against an uninsured employer under
4 this section shall also request the relief permitted by civil
5 action under sections 641(1) and 645.

6 (10) To the extent that funds are available in the fund, the
7 trustees shall ~~annually~~ determine the benefits to be paid from
8 the fund. If ~~this~~ THE DETERMINATION IS OF THE TRUSTEES
9 RESULTS IN PAYMENT OF less than the benefits to which the
10 employee OR DEPENDENTS OF A DECEASED EMPLOYEE would otherwise be
11 entitled under this act, the determination shall not constitute a
12 reduction of the statutory benefits to which the employee is oth-
13 erwise entitled. THE TRUSTEES MAY LIMIT PAYMENT OF BENEFITS TO
14 INJURIES OR DISEASES RESULTING IN DEATH OR SERIOUS IMPAIRMENT OF
15 A BODY FUNCTION OR TO A PERCENTAGE OF THE BENEFITS TO WHICH AN
16 EMPLOYEE OR THE DEPENDENTS OF A DECEASED EMPLOYEE WOULD OTHERWISE
17 BE ENTITLED UNDER THIS ACT. AS USED IN THIS SUBSECTION, "SERIOUS
18 IMPAIRMENT OF A BODY FUNCTION" INCLUDES, BUT IS NOT LIMITED TO, 1
19 OR MORE OF THE FOLLOWING:

20 (A) LOSS OF A LIMB OR USE OF A LIMB.

21 (B) LOSS OF A HAND, FOOT, FINGER, OR THUMB OR USE OF A HAND,
22 FOOT, FINGER, OR THUMB.

23 (C) LOSS OF AN EYE OR EAR OR USE OF AN EYE OR EAR.

24 (D) LOSS OR SUBSTANTIAL IMPAIRMENT OF A BODILY FUNCTION.

25 (E) SERIOUS VISIBLE DISFIGUREMENT.

26 (F) A COMATOSE STATE THAT LASTS FOR MORE THAN 3 DAYS.

1 (G) MEASURABLE BRAIN DAMAGE OR MENTAL IMPAIRMENT.

2 (H) A SKULL FRACTURE OR OTHER SERIOUS BONE FRACTURE.

3 (I) SUBDURAL HEMORRHAGE OR SUBDURAL HEMATOMA.

4 (11) The liability of an uninsured employer provided for in
5 subsection (8) shall not be reduced as the result of any reduc-
6 tion in benefits paid as provided in subsection (10). If reim-
7 bursement is obtained from an uninsured employer for a period in
8 which less than 100% of the benefits were paid by the fund to an
9 employee or dependents of a deceased employee, the fund shall pay
10 to the employee or dependents of a deceased employee the differ-
11 ence between the amount paid and the level of benefits to which
12 the employee or dependents of the deceased employee would other-
13 wise be entitled.

14 (12) If an employee of an uninsured employer obtains recov-
15 ery under section 641(2), the uninsured employers' security fund
16 shall be entitled to a dollar-for-dollar offset against its obli-
17 gations under this act. However, the actual and reasonable costs
18 and attorney fees of the employee and interest on any judgment
19 shall first be deducted.

20 (13) The state shall not be liable for the payment of claims
21 under this act, except to the extent that funds are available in
22 the uninsured employers' security fund for this purpose.

23 (14) THIS SECTION APPLIES UNTIL THE TRUSTEES CERTIFY TO THE
24 SECRETARY OF STATE THAT A DETERMINATION AND SETTLEMENT OF ALL
25 CLAIMS FILED WITHIN THE TIME PERIOD PERMITTED BY THIS SECTION
26 HAVE BEEN MADE.