

STATE OF MICHIGAN
89TH LEGISLATURE
REGULAR SESSION OF 1998

Introduced by Senators Rogers, DeBeaussiaert, Stille, Steil, Young, Conroy, Miller, Peters, Vaughn, Byrum, Hart, Berryman, North, Koivisto, V. Smith, O'Brien, McManus, Dingell, A. Smith, Geake, Bouchard, Shugars, Emmons, Schuette, Schwarz, Gougeon and Bennett

ENROLLED SENATE BILL No. 789

AN ACT to amend 1969 PA 317, entitled "An act to revise and consolidate the laws relating to worker's disability compensation; to increase the administrative efficiency of the adjudicative processes of the worker's compensation system; to improve the qualifications of the persons having adjudicative functions within the worker's compensation system; to prescribe certain powers and duties; to create the board of worker's compensation magistrates and the worker's compensation appellate commission; to create certain other boards; to provide certain procedures for the resolution of claims, including mediation and arbitration; to prescribe certain benefits for persons suffering a personal injury under the act; to prescribe certain limitations on obtaining benefits under the act; to create, and provide for the transfer of, certain funds; to prescribe certain fees; to prescribe certain remedies and penalties; to repeal certain parts of this act on specific dates; and to repeal certain acts and parts of acts," by amending section 405 (MCL 418.405), as amended by 1980 PA 457.

The People of the State of Michigan enact:

Sec. 405. (1) In the case of a member of a fully paid fire department of an airport run by a county or a public airport authority, or by a state university or college; or of a fully paid fire or police department of a city, township, or incorporated village employed and compensated upon a full-time basis; a county sheriff and the deputies of the county sheriff; members of the state police; conservation officers; and officers of the motor carrier enforcement division of the department of state police, "personal injury" shall be construed to include respiratory and heart diseases, or illnesses resulting therefrom, which develop or manifest themselves during a period while the member of the department is in the active service of the department and that result from the performance of duties for the department.

(2) For members of fully paid fire departments employed 24 months or more, "personal injury" shall be construed to include all respiratory tract, bladder, skin, brain, kidney, blood, and lymphatic cancers.

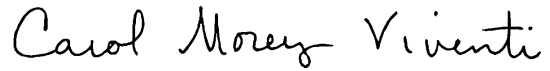
(3) Such respiratory and heart diseases and illnesses resulting therefrom, and all respiratory tract, bladder, skin, brain, kidney, blood, and lymphatic cancers and illnesses resulting therefrom are deemed to arise out of and in the course of employment in the absence of evidence to the contrary. Respiratory tract, bladder, skin, brain, kidney, blood, and lymphatic cancers and illnesses resulting therefrom of a member of a fully paid fire department are not deemed to arise out of and in the course of employment if evidence is shown that the member of the fully paid fire department was a consistent smoker of cigarettes or other tobacco products within the 5 years immediately preceding the date of filing a claim under this act.

(4) As a condition precedent to filing an application for benefits, the claimant, if he or she is one of those enumerated in subsection (1) or (2), shall first make application for, and do all things necessary to qualify for any pension benefits which he or she, or his or her decedent, may be entitled to. If a final determination is made that pension benefits shall

not be awarded, then the presumption of "personal injury" as provided in this section shall apply. The employer or employee may request 2 copies of the determination denying pension benefits, 1 copy of which may be filed with the bureau.

(5) The bureau of workers' compensation shall research the financial and procedural implications of applying a cancer presumption to volunteer firefighters. The study shall include a description of how the workers' compensation act must be amended to apply a cancer presumption on an equal basis to all classifications of firefighters. The report shall be provided to the chair and vice-chair of the senate human resource, labor and veterans affairs committee and the chair and vice-chair of the house labor and occupational safety committee by June 30, 1999.

This act is ordered to take immediate effect.



Secretary of the Senate.



Clerk of the House of Representatives.

Approved _____

Governor.