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**SFA****BILL ANALYSIS**

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Senate Bill 158 (Substitute S-2 as amended on Third Reading)

Sponsor: Senator Mike Rogers

Committee: Human Resources, Labor, Senior Citizens and Veterans Affairs

## **CONTENT**

The bill would amend the Worker's Disability Compensation Act to specify that benefits under the Act would not be payable to an employee for a claim based on an injury that was caused by or resulted from the employee's "impaired ability to perform his or her job due to the consumption of intoxicating liquor or a controlled substance not prescribed by a physician", or a combination of liquor and a nonprescribed controlled substance. The bill would not apply to an employee who was injured when unexpectedly required to return to work within 12 hours after the end of a previous shift, or a police officer, firefighter, or other emergency personnel who, due to the unique and sensitive nature of his or her employment, was required to respond to an emergency while not on duty.

If an employee were injured by an employer or an employer's representative while the employer or representative was intoxicated or under the influence of an illegally obtained controlled substance, the employee's right to sue the employer would not be barred by the Act, and the employee's right to recover workers' compensation benefits would not be his or her exclusive remedy against the employer.

"Impaired ability to perform his or her job due to the voluntary consumption of intoxicating liquor or a controlled substance not prescribed by a physician" would mean that, due to an employee's drinking, ingesting, smoking, or otherwise consuming liquor or a nonprescribed controlled substance, the employee's senses were impaired to the point that the ability to perform his or her normal employment duties was diminished from what it normally would be had the employee not consumed the liquor or controlled substance. A person would be presumed to have an impaired ability to perform his or her job if, under the standards prescribed for drunk driving in the Michigan Vehicle Code, a presumption would arise that his or her ability to operate a vehicle was impaired (MCL 257.625a). (Under the Vehicle Code, if a driver had more than .07 gram but less than .10 gram of alcohol per 100 milliliters of blood, 210 liters of breath, or 67 milliliters of urine, it is presumed that his or her ability to operate a vehicle was impaired.)

MCL 418.306

Legislative Analyst: P. Affholter

## **FISCAL IMPACT**

According to the Department of Consumer and Industry Services, this bill would create a new defense for employers being sued for workers' compensation benefits. This new defense could create additional appeals, which are handled by the Board of Magistrates and the Appellate Commission, both of which are funded with General Fund dollars. The fiscal impact of this bill is indeterminate as the number of new appeals is not known. However, if the number exceeded the current level to the extent that additional staff and resources would be necessary, then an increase in this appropriation could be necessary.

Date Completed: 7-16-99

Fiscal Analyst: M. Tyszkiewicz

[floor/sb158](#)

Analysis available @ <http://www.michiganlegislature.org>

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