

SUBSTITUTE FOR
HOUSE BILL NO. 4473

A bill to amend 1969 PA 317, entitled
"Worker's disability compensation act of 1969,"
by amending section 405 (MCL 418.405), as amended by 1980 PA 457.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 405. (1) In the case of a member of a ~~full~~**FULLY** paid
2 fire department of an airport ~~run~~**OPERATED** by a county, ~~read~~
3 ~~commission in counties of 1,000,000 population or more~~**PUBLIC**
4 **AIRPORT AUTHORITY**, or ~~by a~~ state university or college; ~~, or~~**A**
5 **MEMBER** of a ~~full~~**FULLY** paid fire or police department of a city,
6 township, or incorporated village employed and compensated upon a
7 full-time basis; ~~, A MEMBER OF A FULLY PAID PUBLIC FIRE AUTHORITY~~
8 **EMPLOYED AND COMPENSATED UPON A FULL-TIME BASIS**; a county sheriff
9 and the deputies of the county sheriff; ~~, members~~**A MEMBER** of the
10 state police; ~~, A conservation officers, and~~**OFFICER; OR AN OFFICER**

1 ~~OF THE motor carrier inspectors of the Michigan public service~~
 2 ~~commission~~ **ENFORCEMENT DIVISION OF THE DEPARTMENT OF STATE POLICE,**
 3 "personal injury" ~~shall be construed to include~~ **INCLUDES**
 4 respiratory and heart diseases, or illnesses resulting therefrom,
 5 ~~which~~ **THAT** develop or manifest themselves during a period while the
 6 member of the department is in the active service of the department
 7 and **THAT** result from the performance of duties for the department.

8 (2) **FOR A MEMBER OF A FULLY PAID FIRE DEPARTMENT OR PUBLIC**
 9 **FIRE AUTHORITY WHO IS EMPLOYED 60 MONTHS OR MORE, "PERSONAL INJURY"**
 10 **INCLUDES ALL RESPIRATORY TRACT, BLADDER, SKIN, BRAIN, KIDNEY,**
 11 **BLOOD, AND LYMPHATIC CANCERS. THIS SUBSECTION ONLY APPLIES TO A**
 12 **MEMBER OF A FULLY PAID FIRE DEPARTMENT OR PUBLIC FIRE AUTHORITY WHO**
 13 **IS IN THE ACTIVE SERVICE OF THE DEPARTMENT OR AUTHORITY, WHO IS IN**
 14 **ACTIVE SERVICE FOR 60 MONTHS OR MORE AT THE TIME THE CANCER**
 15 **MANIFESTS ITSELF, AND WHO IS EXPOSED TO THE HAZARDS INCIDENTAL TO**
 16 **FIRE SUPPRESSION, RESCUE, OR EMERGENCY MEDICAL SERVICES IN THE**
 17 **PERFORMANCE OF HIS OR HER WORK-RELATED DUTIES FOR THE DEPARTMENT OR**
 18 **AUTHORITY.**

19 (3) ~~(2) Such respiratory~~ **RESPIRATORY** and heart diseases ~~or~~ **AND**
 20 illnesses resulting therefrom **UNDER SUBSECTION (1), AND RESPIRATORY**
 21 **TRACT, BLADDER, SKIN, BRAIN, KIDNEY, BLOOD, AND LYMPHATIC CANCERS**
 22 **UNDER SUBSECTION (2), are deemed** ~~PRESUMED~~ **PRESUMED** to arise out of and in
 23 the course of employment in the absence of **AFFIRMATIVE** evidence ~~to~~
 24 ~~the contrary~~ **OF NON-WORK-RELATED CAUSATION OR SPECIFIC INCIDENTS**
 25 **THAT ESTABLISH A CAUSE INDEPENDENT OF THE EMPLOYMENT. NEITHER MERE**
 26 **EVIDENCE THAT THE CONDITION WAS PREEXISTING, NOR AN ABSTRACT**
 27 **MEDICAL OPINION THAT THE EMPLOYMENT WAS NOT THE CAUSE OF THE**

House Bill No. 4473 (H-1) as amended April 2, 2009

1 DISEASE OR CONDITION, IS SUFFICIENT TO OVERCOME THE PRESUMPTION.
 2 RESPIRATORY TRACT, BLADDER, SKIN, BRAIN, KIDNEY, BLOOD, AND
 3 LYMPHATIC CANCERS OF A MEMBER OF A FULLY PAID FIRE DEPARTMENT OR
 4 PUBLIC FIRE AUTHORITY MAY BE SHOWN NOT TO ARISE OUT OF AND IN THE
 5 COURSE OF EMPLOYMENT IF SCIENTIFIC EVIDENCE IS INTRODUCED THAT THE
 6 MEMBER OF THE FULLY PAID FIRE DEPARTMENT OR PUBLIC FIRE AUTHORITY
 7 WAS A SUBSTANTIAL AND CONSISTENT USER OF CIGARETTES OR OTHER
 8 TOBACCO PRODUCTS WITHIN THE [10] YEARS IMMEDIATELY PRECEDING THE DATE
 9 OF INJURY, AND THAT THIS USE WAS A SIGNIFICANT FACTOR IN THE CAUSE,
 10 AGGRAVATION, OR PROGRESSION OF THE CANCER.

11 (4) ~~(3)~~ As a condition precedent to filing an application for
 12 benefits, the claimant, if he or she is ~~one of those enumerated~~ A
 13 PERSON DESCRIBED in subsection (1) OR (2), shall first make
 14 application for ~~—~~and do all things necessary to qualify for any
 15 pension benefits TO which he or she, or his or her decedent, may be
 16 entitled ~~to~~ OR SHALL DEMONSTRATE THAT HE OR SHE, OR HIS OR HER
 17 DECEDENT, IS INELIGIBLE FOR ANY PENSION BENEFITS. If a final
 18 determination is made that pension benefits shall not be awarded OR
 19 THAT THE CLAIMANT OR HIS OR HER DECEDENT IS INELIGIBLE FOR ANY
 20 PENSION BENEFITS, then the presumption of "personal injury" as
 21 provided in this section shall apply. The employer or employee may
 22 request 2 copies of the determination denying pension benefits, 1
 23 copy of which may be filed with the ~~bureau~~ WORKERS' COMPENSATION
 24 AGENCY.

25 (5) IF AN EMPLOYEE DESCRIBED IN SUBSECTION (1) OR (2) IS
 26 ELIGIBLE FOR ANY PENSION BENEFITS, THAT ELIGIBILITY SHALL NOT
 27 PROHIBIT THE EMPLOYEE OR DEPENDENTS OF THAT EMPLOYEE FROM RECEIVING

1 BENEFITS UNDER SECTION 315 FOR THE MEDICAL EXPENSES OR PORTION OF
2 MEDICAL EXPENSES THAT ARE NOT PROVIDED FOR BY THE PENSION PROGRAM.
3 THE PRESUMPTION IN SUBSECTION (3) SHALL APPLY TO THE MEDICAL
4 BENEFITS PROVIDED UNDER SECTION 315.