

# SENATE BILL NO. 74

February 11, 2025, Introduced by Senators CHERRY and CAVANAGH and referred to Committee on Labor.

A bill to amend 1969 PA 317, entitled "Worker's disability compensation act of 1969," by amending sections 301, 313, 354, 355, 361, 371, 401, and 891 (MCL 418.301, 418.313, 418.354, 418.355, 418.361, 418.371, 418.401, and 418.891), sections 301, 354, 361, and 401 as amended by 2011 PA 266, sections 313, 355, and 371 as amended by 1982 PA 32, and section 891 as amended by 2012 PA 83; and to repeal acts and parts of acts.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

**1**        Sec. 301. (1) An employee ~~—~~who receives a personal injury

1 arising out of and in the course of employment by an employer ~~who~~  
 2 **that** is subject to this act at the time of the injury, ~~shall must~~  
 3 be paid compensation ~~as provided in~~ **accordance with** this act. A  
 4 personal injury under this act is compensable if work causes,  
 5 contributes to, or aggravates pathology in a manner ~~so as to create~~  
 6 **that creates** a pathology that is medically distinguishable from any  
 7 pathology that existed ~~prior to before~~ the injury. ~~In the case of~~  
 8 ~~death resulting from~~ **If an employee dies as the result of** the  
 9 personal injury to the employee, compensation ~~shall must~~ be paid to  
 10 the employee's dependents ~~as provided in~~ **accordance with** this act.  
 11 Time of injury or date of injury as used in this act ~~in the case of~~  
 12 **for** a disease or ~~in the case of an injury~~ not attributable to a  
 13 single event is the last day of work in the employment in which the  
 14 employee was last subjected to the conditions that resulted in the  
 15 employee's disability or death.

16 (2) Mental disabilities and conditions of the aging process,  
 17 including, but not limited to, heart and cardiovascular conditions  
 18 and degenerative arthritis, are compensable if contributed to or  
 19 aggravated or accelerated by the employment in a significant  
 20 manner. Mental disabilities are compensable if arising out of  
 21 actual events of employment, not unfounded perceptions ~~thereof, of~~  
 22 **actual events of employment**, and if the employee's perception of  
 23 the actual events is reasonably grounded in fact or reality.

24 (3) An employee going to or from ~~his or her the employee's~~  
 25 work, while on the premises where the employee's work is to be  
 26 performed, and within a reasonable time before and after ~~his or her~~  
 27 **the employee's** working hours, is presumed to be in the course of  
 28 ~~his or her the employee's~~ employment. Notwithstanding this  
 29 presumption, an injury incurred in the pursuit of an activity ~~the~~

1 ~~that has a~~ major purpose ~~of which that~~ is social or recreational is  
 2 not covered under this act, ~~Any and any~~ cause of action brought  
 3 for ~~such an the~~ injury is not subject to section 131.

4 (4) As used in this chapter:

5 (a) "Disability" means a limitation of an employee's wage  
 6 earning capacity in work suitable to ~~his or her the~~ **employee's**  
 7 qualifications and training resulting from a personal injury or  
 8 work-related disease. A limitation of wage earning capacity occurs  
 9 ~~only if~~ a personal injury covered under this act results in the  
 10 ~~employee's employee~~ being unable to perform ~~all jobs paying the~~  
 11 ~~maximum wages or obtain 1 or more jobs~~ in work **that the employee**  
 12 **performed before or at the time of the personal injury and that is**  
 13 suitable to ~~that the~~ employee's qualifications and training. ~~7~~  
 14 ~~which includes work that may be performed using the employee's~~  
 15 ~~transferable work skills. A disability is total if the employee is~~  
 16 ~~unable to earn in any job paying maximum wages in work suitable to~~  
 17 ~~the employee's qualifications and training. A disability is partial~~  
 18 ~~if the employee retains a wage earning capacity at a pay level less~~  
 19 ~~than his or her maximum wages in work suitable to his or her~~  
 20 ~~qualifications and training. The establishment of disability does~~  
 21 not create a presumption of wage loss.

22 ~~(b) Except as provided in section 302, "wage earning capacity"~~  
 23 ~~means the wages the employee earns or is capable of earning at a~~  
 24 ~~job reasonably available to that employee, whether or not wages are~~  
 25 ~~actually earned. For the purposes of establishing a limitation of~~  
 26 ~~wage earning capacity, an employee has an affirmative duty to seek~~  
 27 ~~work reasonably available to that employee, taking into~~  
 28 ~~consideration the limitations from the work-related personal injury~~  
 29 ~~or disease. A magistrate may consider good faith job search efforts~~

1 ~~to determine whether jobs are reasonably available.~~

2       **(b)** ~~(c)~~ "Wage loss" means ~~the amount of~~ **reduced** wages lost due  
3 **connected** to a disability. The employee ~~shall~~ **must** establish a  
4 connection between the disability and ~~reduced wages in establishing~~  
5 ~~the wage loss. Wage loss may be established, among other methods,~~  
6 ~~by demonstrating the employee's good-faith effort to procure work~~  
7 ~~within his or her wage earning capacity. A partially disabled~~  
8 ~~employee who establishes a good faith effort to procure work but~~  
9 ~~cannot obtain work within his or her wage earning capacity is~~  
10 ~~entitled to weekly benefits under subsection (7) as if totally~~  
11 ~~disabled.~~ **wage loss to receive weekly wage loss benefits. If the**  
12 **employee establishes a connection between disability and wage loss,**  
13 **other factors that contribute to the employee's wage loss do not**  
14 **affect the payment or amount of wage loss benefits due the**  
15 **employee.**

16       ~~(5) To establish an initial showing of disability, an employee~~  
17 ~~shall do all of the following:~~

18       ~~(a) Disclose his or her qualifications and training, including~~  
19 ~~education, skills, and experience, whether or not they are relevant~~  
20 ~~to the job the employee was performing at the time of the injury.~~

21       ~~(b) Provide evidence as to the jobs, if any, he or she is~~  
22 ~~qualified and trained to perform within the same salary range as~~  
23 ~~his or her maximum wage earning capacity at the time of the injury.~~

24       ~~(c) Demonstrate that the work-related injury prevents the~~  
25 ~~employee from performing jobs identified as within his or her~~  
26 ~~qualifications and training that pay maximum wages.~~

27       ~~(d) If the employee is capable of performing any of the jobs~~  
28 ~~identified in subdivision (c), show that he or she cannot obtain~~  
29 ~~any of those jobs. The evidence shall include a showing of a good-~~

~~1 faith attempt to procure post-injury employment if there are jobs~~  
~~2 at the employee's maximum wage earning capacity at the time of the~~  
~~3 injury.~~

~~4 (6) Once an employee establishes an initial showing of a~~  
~~5 disability under subsection (5), the employer bears the burden of~~  
~~6 production of evidence to refute the employee's showing. In~~  
~~7 satisfying its burden of production of evidence, the employer has a~~  
~~8 right to discovery if necessary for the employer to sustain its~~  
~~9 burden and present a meaningful defense. The employee may present~~  
~~10 additional evidence to challenge the evidence submitted by the~~  
~~11 employer.~~

~~12 (5) (7) If~~ **Except as otherwise provided in subsection (7) and**  
~~13 section 311, if~~ a personal injury arising out of the course of  
~~14 employment causes total results in disability and connected to wage~~  
~~15 loss and the injured employee is entitled to wage loss benefits,~~  
~~16 the~~ **does not receive wages in any week after the injury, the**  
~~17 employer shall pay or cause to be paid to the injured employee as~~  
~~18 provided in this section weekly compensation for each week the~~  
~~19 injured employee did not receive wages that is~~ equal to 80% of the  
~~20 injured employee's after-tax average weekly wage, but not more than~~  
~~21 the maximum weekly rate determined under section 355. Compensation~~  
~~22 shall must~~ be paid for the duration of the disability.

~~23 (6) (8) If~~ **Except as otherwise provided in subsection (7) and**  
~~24 section 311, if~~ a personal injury arising out of the course of  
~~25 employment causes partial results in disability and connected to~~  
~~26 wage loss and the employee is entitled to wage loss benefits,~~  
~~27 receives wages in any week after the personal injury, the employer~~  
~~28 shall pay or cause to be paid to the injured employee as provided~~  
~~29 in this section weekly compensation that is~~ equal to 80% of the

1 difference between the injured employee's after-tax average weekly  
 2 wage before the personal injury and the **injured** employee's wage  
 3 ~~earning capacity~~ **after-tax actual weekly wage paid for each week**  
 4 **the injured employee received wages** after the personal injury, but  
 5 not more than the maximum weekly rate determined under section 355.  
 6 Compensation ~~shall~~ **must** be paid for the duration of the disability.

7 (7) ~~(9)~~ If disability and wage loss are established,  
 8 entitlement to weekly wage loss benefits ~~shall~~ **must** be determined  
 9 as applicable ~~pursuant to~~ **under** this section and as follows:

10 (a) If an employee receives a bona fide offer of reasonable  
 11 employment from the ~~previous~~ **employee's** employer, another employer,  
 12 or through the Michigan unemployment insurance agency and the  
 13 employee refuses that employment without good and reasonable cause,  
 14 the employee ~~shall be~~ **is** considered to have voluntarily removed  
 15 ~~himself or herself~~ **the employee** from the ~~work force~~ **workforce** and  
 16 is not entitled to any wage loss benefits under this act during the  
 17 period of refusal. **The employee's employer has the burden of proof**  
 18 **of establishing that the employee received a bona fide offer of**  
 19 **reasonable employment.**

20 ~~(b) If an employee is terminated from reasonable employment~~  
 21 ~~for fault of the employee, the employee is considered to have~~  
 22 ~~voluntarily removed himself or herself from the work force and is~~  
 23 ~~not entitled to any wage loss benefits under this act.~~

24 ~~(c) If an employee is employed and the weekly wage of the~~  
 25 ~~employee is less than that which the employee received before the~~  
 26 ~~date of injury, the employee shall receive weekly benefits under~~  
 27 ~~this act equal to 80% of the difference between the injured~~  
 28 ~~employee's after-tax weekly wage before the date of injury and the~~  
 29 ~~after-tax weekly wage that the injured employee earns after the~~

1 ~~date of injury, but not more than the maximum weekly rate of~~  
2 ~~compensation, as determined under section 355.~~

3       (b) ~~(d)~~ If an employee is employed and the average weekly wage  
4 ~~of the employee~~ **receives a wage in a week that** is equal to or more  
5 than the average weekly wage the employee received before the date  
6 of injury, the employee is not entitled to any wage loss benefits  
7 under this act for the ~~duration that week~~ of that employment.

8       (c) Except as otherwise provided in this subdivision, if an  
9 employee, after being employed under this subsection for less than  
10 100 weeks, loses the employee's job, the employee's personal injury  
11 is conclusively presumed to result in disability connected to wage  
12 loss, unless the employee's employer establishes that the  
13 employee's willful and serious misconduct resulted in the  
14 termination of the employee's employment.

15       (d) If the conclusive presumption under subdivision (c) does  
16 not apply and the employee, after being employed under this  
17 subsection, loses the employee's job, proof of work-related  
18 disability connected to wage loss is a question of fact.

19       ~~(e) If the employee, after having been employed pursuant to~~  
20 ~~this subsection loses his or her job through no fault of the~~  
21 ~~employee and the employee is still disabled, the employee shall~~  
22 ~~receive compensation under this act as follows:~~

23       ~~(i) If the employee was employed for less than 100 weeks, the~~  
24 ~~employee shall receive compensation based upon his or her average~~  
25 ~~weekly wage at the time of the original injury.~~

26       ~~(ii) If the employee was employed for 100 weeks or more but~~  
27 ~~less than 250 weeks, then after exhausting unemployment benefit~~  
28 ~~eligibility, a worker's compensation magistrate may determine that~~  
29 ~~the employment since the time of the injury has not established a~~

~~new wage earning capacity and, if the magistrate makes that determination, benefits shall be based on his or her average weekly wage at the original date of injury. If the magistrate does not make that determination, the employee is presumed to have established a post-injury wage earning capacity and benefits shall not be paid based on the wage at the original date of injury.~~

~~(iii) If the employee was employed for 250 weeks or more, the employee is presumed to have established a post-injury wage earning capacity.~~

**(8)** ~~(10)~~ The Michigan unemployment insurance agency shall notify the agency in writing of the name of any employee who refuses any bona fide offer of reasonable employment. Upon notification to the agency, the agency shall notify the carrier, ~~who shall~~ **and the carrier must** terminate the benefits of the employee ~~pursuant to~~ **in accordance with** subsection ~~(9)(a)~~ **(7)(a)**.

**(9)** ~~(11)~~ "Reasonable employment", as used in this section, means work that is within ~~the~~ **an** employee's capacity to perform that poses no clear and proximate threat ~~unreasonable risk~~ to that employee's health and safety, and that is within a reasonable distance from ~~that~~ **the** employee's residence. The employee's capacity to perform ~~shall~~ **must** not be limited to jobs in work suitable to ~~his or her~~ **the employee's** qualifications and training.

**(10)** ~~(12)~~ Weekly benefits are not payable during the period of confinement to ~~a person~~ **an individual** who is incarcerated in a penal institution for violation of the criminal laws of this state or who is confined in a mental institution pending trial for a violation of the criminal laws of this state, if the violation or reason for the confinement occurred while at work and is directly related to the claim.



1       (11) ~~(13)~~ A person **or entity** shall not discharge an employee  
 2 or ~~in any manner~~ discriminate against an employee **in any manner**  
 3 because the employee filed a complaint or instituted or caused to  
 4 be instituted a proceeding under this act or because ~~of the~~  
 5 ~~exercise by the employee~~ **exercised a right under this act** on behalf  
 6 of ~~himself or herself~~ **the employee** or others. ~~of a right afforded~~  
 7 ~~by this act.~~

8       (12) ~~(14)~~ This section applies to personal injuries and work  
 9 related diseases ~~occurring~~ **that occur** on or after June 30, 1985.

10       Sec. 313. (1) As used in this act, "after-tax average weekly  
 11 wage" means average weekly wage as defined in section 371 reduced  
 12 by the prorated weekly amount ~~which~~ **that** would have been paid under  
 13 the federal insurance contributions act, 26 ~~U.S.C.~~ **USC** 3101 to  
 14 3126, state income tax and federal income tax, calculated on an  
 15 annual basis using as the number of exemptions the disabled  
 16 employee's dependents plus the employee, and without excess  
 17 itemized deductions. ~~Effective January 1, 1982, and each~~ **Each**  
 18 January 1, ~~thereafter,~~ the applicable federal and state laws in  
 19 effect on the preceding July 1 ~~shall~~ **must** be used in determining  
 20 the after-tax weekly wage.

21       (2) Each December 1, the director shall publish tables of the  
 22 average weekly wage and 80% of after-tax average weekly wage that  
 23 are to be in effect on the following January 1. These tables ~~shall~~  
 24 ~~be~~ **are** conclusive for the purpose of converting an average weekly  
 25 wage into 80% of after-tax average weekly wage.

26       (3) **The tables described under subsection (2) that were**  
 27 **published for the year in which an employee's injury occurred must**  
 28 **be used to calculate the injured employee's after-tax average**  
 29 **weekly wage, wage loss, or amount of benefits to be coordinated**

1 under this act.

2 Sec. 354. (1) This section applies if either weekly or lump  
 3 sum payments are made to an employee ~~as a result~~ **because** of  
 4 liability under section ~~301(7)~~ **301(5)** or ~~(8)~~, **(6)**, 351, or 835 with  
 5 ~~respect to~~ **during** the same time period for which the employee also  
 6 received or is receiving old-age insurance benefit payments under  
 7 the social security act, 42 USC 301 to 1397f, ~~+~~ payments under a  
 8 self-insurance plan, a wage continuation plan, or a disability  
 9 insurance policy provided by the employer, ~~+~~ or **payments under a**  
 10 pension or retirement ~~payments under a plan or program established~~  
 11 or maintained by the employer. Except as otherwise provided in this  
 12 section, the employer's obligation to pay or cause to be paid  
 13 weekly benefits other than specific loss benefits under section  
 14 361(2) and (3) ~~shall~~ **must** be reduced by ~~these~~ **the following**  
 15 amounts:

16 (a) Fifty percent of the amount of the old-age insurance  
 17 benefits received or being received under the social security act,  
 18 chapter 531, 49 ~~Stat.~~ **Stat** 620. However, if the injured employee  
 19 has been receiving old-age insurance benefit payments under the  
 20 social security act, chapter 531, 49 ~~Stat.~~ **Stat** 620, before the  
 21 date of the personal injury or work-related disease, then ~~in no~~  
 22 ~~event shall~~ the weekly benefits payable after the reduction  
 23 provided by this subdivision **must not** be less than 50% of the  
 24 weekly benefits otherwise payable without the reduction.

25 (b) The after-tax amount of the payments received or being  
 26 received under a self-insurance plan, a wage continuation plan, or  
 27 under a disability insurance policy provided by the same employer  
 28 from whom benefits under section ~~301(7)~~ **301(5)** or ~~(8)~~, **(6)**, 351, or  
 29 835 are received if the employee did not contribute directly to the

1 plan or to the payment of premiums regarding the disability  
2 insurance policy. If the self-insurance plans, wage continuation  
3 plans, or disability insurance policies are entitled to repayment  
4 in the event of a worker's compensation benefit recovery, the  
5 carrier shall satisfy that repayment out of funds the carrier has  
6 received through the coordination of benefits provided for under  
7 this section. Notwithstanding ~~the provisions of~~ this subsection,  
8 attorney fees ~~shall~~**must** be paid pursuant to section 821 to the  
9 attorney who secured the worker's compensation recovery.

10 (c) The proportional amount, based on the ratio of the  
11 employer's contributions to the total insurance premiums for the  
12 policy period involved, of the after-tax amount of the payments  
13 received or being received by the employee pursuant to a disability  
14 insurance policy provided by the same employer from whom benefits  
15 under section ~~301(7)~~**301(5)** or ~~(8)~~**(6)**, 351, or 835 are received,  
16 if the employee did contribute directly to the payment of premiums  
17 regarding the disability insurance policy.

18 (d) Subject to subsection (12), the after-tax amount of the  
19 pension or retirement payments received or being received by the  
20 employee, or which the employee is currently eligible to receive if  
21 the employee has suffered total and permanent disability and has  
22 reached full retirement age, pursuant to a plan or program  
23 established or maintained by the same employer from whom benefits  
24 under section ~~301(7)~~**301(5)** or ~~(8)~~**(6)**, 351, or 835 are received,  
25 if the employee did not contribute directly to the pension or  
26 retirement plan or program. Subsequent increases in a pension or  
27 retirement program ~~shall~~**do** not affect the coordination of these  
28 benefits.

29 (e) The proportional amount, based on the ratio of the

1 employer's contributions to the total contributions to the plan or  
 2 program, of the after-tax amount of the pension or retirement  
 3 payments received or being received by the employee pursuant to a  
 4 plan or program established or maintained by the same employer from  
 5 whom benefits under section ~~301(7)~~**301(5)** or ~~(8)~~**(6)**, 351, or 835  
 6 are received, if the employee did contribute directly to the  
 7 pension or retirement plan or program. Subsequent increases in a  
 8 pension or retirement program ~~shall~~**do** not affect the coordination  
 9 of these benefits.

10 (f) For those employers ~~who~~**that** do not provide a pension  
 11 plan, the proportional amount, based on the ratio of the employer's  
 12 contributions to the total contributions made to a qualified profit  
 13 sharing plan under section 401(a) of the internal revenue code **of**  
 14 **1986, 26 USC 401**, or any successor to section 401(a) of the  
 15 internal revenue code, **26 USC 401**, covering a profit sharing plan  
 16 ~~which~~**that** provides for the payment of benefits only upon  
 17 retirement, disability, death, or other separation of employment to  
 18 the extent that benefits are vested under the plan.

19 (2) To satisfy any remaining obligations under section ~~301(7)~~  
 20 **301(5)** or ~~(8)~~**(6)**, 351, or 835, the employer shall pay or cause to  
 21 be paid to the employee the balance due in either weekly or lump  
 22 sum payments after the application of subsection (1).

23 (3) In the application of subsection (1) any credit or  
 24 reduction ~~shall~~**must** occur ~~pursuant to~~**in accordance with** this  
 25 section and all of the following:

26 (a) The agency shall promulgate rules to provide for  
 27 notification by an employer or carrier to an employee of possible  
 28 eligibility for ~~social security~~**Social Security** benefits and the  
 29 requirements for establishing proof of application for those

benefits. ~~Notification shall be~~ **The employer or carrier shall**  
 promptly ~~mailed~~ **mail the notification** to the employee after the  
 date on which by reason of age the employee may be entitled to  
~~social security~~ **Social Security** benefits. A copy of the  
 notification of possible eligibility ~~shall~~ **must** be filed with the  
 agency by the employer or carrier.

(b) ~~Within~~ **Not more than** 30 days after receipt of the  
 notification of possible employee eligibility the employee shall **do**  
**all of the following:**

(i) Apply for ~~social security~~ **Social Security** benefits.

(ii) Provide the employer or carrier with proof of that  
 application.

(iii) Provide the employer or carrier with an authority for  
 release of information ~~which shall be utilized by that~~ the employer  
 or carrier **must use** to obtain necessary benefit entitlement and  
 amount information from the ~~social security administration.~~ **Social**  
**Security Administration.** The authority for release of information  
~~shall be~~ **is** effective for 1 year.

(4) If the employee fails to provide the proof of application  
 or the authority for release of information as prescribed in  
 subsection (3), the employer or carrier, with the approval of the  
 agency, may discontinue the compensation benefits payable to the  
 employee under section ~~301(7)~~ **301(5)** or ~~(8)~~ **(6)**, 351, or 835 until  
 the proof of application and the authority for release of  
 information is provided. Compensation benefits withheld ~~shall~~ **must**  
 be reimbursed to the employee upon providing the required proof of  
 application, or the authority for release of information, or both.

(5) If the employer or carrier is required to submit a new  
 authority for release of information to the ~~social security~~

1 ~~administration~~ **Social Security Administration** in order to receive  
 2 information necessary to comply with this section, the employee  
 3 shall provide the new authority for release of information ~~within~~  
 4 **not more than** 30 days ~~of~~ **after** a request by the employer or  
 5 carrier. If the employee fails to provide the new authority for  
 6 release of information, the employer or carrier, with the approval  
 7 of the agency, may discontinue benefits until the authority for  
 8 release of information is provided as prescribed in this  
 9 subsection. Compensation benefits withheld ~~shall~~ **must** be reimbursed  
 10 to the employee upon providing the new authority for release of  
 11 information.

12 (6) ~~Within~~ **Not more than** 30 days after either the date of  
 13 first payment of compensation benefits under section ~~301(7)~~ **301(5)**  
 14 or ~~(8)~~ **(6)**, 351, or 835, or 30 days after the date of application  
 15 for any benefit under subsection (1)(b), (c), (d), or (e),  
 16 whichever is later, the employee shall provide the employer or  
 17 carrier with a properly executed authority for release of  
 18 information, ~~which shall be utilized by~~ **and** the employer or carrier  
 19 **shall use the authority for release of information** to obtain  
 20 necessary benefit entitlement and amount information from the  
 21 appropriate source. The authority for release of information is  
 22 effective for 1 year. ~~Failure of~~ **If** the employee **fails** to provide a  
 23 properly executed authority for release of information, ~~allows~~ the  
 24 employer or carrier **may**, with the approval of the agency, ~~to~~  
 25 discontinue the compensation benefits payable under section ~~301(7)~~  
 26 **301(5)** or ~~(8)~~ **(6)**, 351, or 835 to the employee until the authority  
 27 for release of information is provided. Compensation benefits  
 28 withheld ~~shall~~ **must** be reimbursed to the employee upon **the employee**  
 29 providing the required authority for release of information. If the

1 employer or carrier is required to submit a new authority for  
 2 release of information to the appropriate source in order to  
 3 receive information necessary to comply with this section, the  
 4 employee shall provide a properly executed new authority for  
 5 release of information ~~within~~**not more than** 30 days after a request  
 6 by the employer or carrier. ~~Failure of~~**If** the employee **fails** to  
 7 provide a properly executed new authority for release of  
 8 information, ~~allows~~ the employer or carrier **may**, with the approval  
 9 of the agency, ~~to~~ discontinue benefits under section ~~301(7)~~**301(5)**  
 10 or ~~(8)~~**(6)**, 351, or 835 until the authority for release of  
 11 information is provided as prescribed in this subsection.  
 12 Compensation benefits withheld ~~shall~~**must** be reimbursed to the  
 13 employee upon the **employee** providing ~~of~~ the new authority for  
 14 release of information.

15 (7) A credit or reduction under this section ~~shall~~**must** not  
 16 occur because of an increase granted by the ~~social security~~  
 17 ~~administration~~**Social Security Administration** as a cost of living  
 18 adjustment.

19 (8) Except as provided in subsections (4), (5), and (6), a  
 20 credit or reduction of benefits otherwise payable for any week  
 21 ~~shall~~**must** not be taken under this section until there has been a  
 22 determination of the benefit amount otherwise payable to the  
 23 employee under section ~~301(7)~~**301(5)** or ~~(8)~~**(6)**, 351, or 835 and  
 24 the employee has begun receiving the benefit payments.

25 (9) Except as otherwise provided in this section, any benefit  
 26 payments under the social security act, or any fund, policy, or  
 27 program as specified in subsection (1) that the employee has  
 28 received or is receiving after March 31, 1982 and during a period  
 29 in which the employee was receiving unreduced compensation benefits

1 under section ~~301(7)~~**301(5)** or ~~(8)~~**, (6)**, 351, or 835 ~~shall be~~**are**  
 2 considered to have created an overpayment of compensation benefits  
 3 for that period. The employer or carrier shall calculate the amount  
 4 of the overpayment and send a notice of overpayment and a request  
 5 for reimbursement to the employee. ~~Failure by~~**If** the employee **fails**  
 6 to reimburse the employer or carrier within 30 days after the  
 7 mailing date of the notice of request for reimbursement, ~~allows the~~  
 8 employer or carrier **may**, with the approval of the agency, ~~to~~  
 9 discontinue 50% of future weekly compensation payments under  
 10 section ~~301(7)~~**301(5)** or ~~(8)~~**, (6)**, 351, or 835. The compensation  
 11 payments withheld ~~shall~~**must** be credited against the amount of the  
 12 overpayment. Payment of the appropriate compensation benefit ~~shall~~  
 13 ~~resume~~**resumes** when the total amount of the overpayment has been  
 14 withheld.

15 (10) The employer or carrier taking a credit or making a  
 16 reduction as provided in this section shall immediately report to  
 17 the agency the amount of any credit or reduction, and as requested  
 18 by the agency, furnish to the agency satisfactory proof of the  
 19 basis for a credit or reduction.

20 (11) Disability insurance benefit payments under the social  
 21 security act ~~shall be~~**are** considered to be payments from funds  
 22 provided by the employer and to be primary payments on the  
 23 employer's obligation under section ~~301(7)~~**301(5)** or ~~(8)~~**, (6)**, 351,  
 24 or 835 as old-age benefit payments under the social security act  
 25 are considered ~~pursuant to~~**under** this section. The coordination of  
 26 ~~social security~~**Social Security** disability benefits ~~shall commence~~  
 27 **begins** on the date of the award certificate of the ~~social security~~  
 28 **Social Security** disability benefits. Any accrued ~~social security~~  
 29 **Social Security** disability benefits ~~shall~~**must** not be coordinated.



1 However, ~~social security~~ **Social Security** disability insurance  
 2 benefits ~~shall~~ **must** only be so considered if section 224 of the  
 3 social security act, 42 USC 424a, is revised so that a reduction of  
 4 ~~social security~~ **Social Security** disability insurance benefits is  
 5 not made because of the receipt of worker's compensation benefits  
 6 by the employee.

7 ~~(12) Nothing in this section shall be considered to compel an~~  
 8 **An employee is not required** to apply for early federal ~~social~~  
 9 ~~security~~ **Social Security** old-age insurance benefits or to apply for  
 10 early or reduced pension or retirement benefits.

11 (13) As used in this section, "after-tax amount" means the  
 12 gross amount of any benefit under subsection (1)(b), ~~(1)(c),~~  
 13 ~~(1)(d), or (1)(e)~~ **(c), (d), or (e)** reduced by the prorated weekly  
 14 amount ~~which~~ **that** would have been paid, if any, under the federal  
 15 insurance contributions act, 26 USC 3101 to 3128, and state income  
 16 tax and federal income tax, calculated on an annual basis using as  
 17 the number of exemptions the disabled employee's dependents plus  
 18 the employee, and without excess itemized deductions. In  
 19 determining the ~~"after-tax amount"~~ **after-tax amount**, the tables  
 20 provided for in section 313(2) shall be used. The gross amount of  
 21 any benefit under subsection (1)(b), ~~(1)(c), (1)(d), or (1)(e)~~  
 22 ~~shall be (c), (d), or (e)~~ **is** presumed to be the same as the average  
 23 weekly wage for purposes of the table. The applicable 80% of after-  
 24 tax amount as provided in the table ~~will~~ **must** be multiplied by 1.25  
 25 which will be conclusive for determining the ~~"after-tax amount"~~  
 26 **after-tax amount** of benefits under subsection (1)(b), ~~(1)(c),~~  
 27 ~~(1)(d), or (1)(e).~~ **(c), (d), or (e).**

28 (14) This section does not apply to any payments received or  
 29 to be received under a disability pension plan **that is** provided by

1 the same employer ~~, which plan and that~~ is in existence on March  
 2 31, 1982. Any disability pension plan entered into or renewed after  
 3 March 31, 1982 may provide that the payments under that disability  
 4 pension plan provided by the employer ~~shall~~**must** not be coordinated  
 5 ~~pursuant to~~**under** this section.

6 (15) With respect to volunteer ~~fire fighters,~~**firefighters,**  
 7 volunteer safety patrol officers, volunteer civil defense workers,  
 8 and volunteer ambulance drivers and attendants who are considered  
 9 employees for purposes of this act ~~pursuant to~~**under** section  
 10 161(1)(a), the reduction of weekly benefits provided for disability  
 11 insurance payments under subsection (1)(b) and (c) and subsection  
 12 (11) may be waived by the employer. An employer that is not a self-  
 13 insurer may make the waiver provided for under this subsection only  
 14 at the time a worker's compensation insurance policy is entered  
 15 into or renewed.

16 (16) This section does not apply to payments made to an  
 17 employee as a result of liability ~~pursuant to~~**under** section 361(2)  
 18 and (3) for the specific loss period ~~set forth therein.~~**described**  
 19 **in section 361(2) and (3).** It is the intent of the legislature  
 20 that, because benefits under section 361(2) and (3) are benefits  
 21 that recognize human factors substantially in addition to the wage  
 22 loss concept, coordination of benefits should not apply to those  
 23 benefits.

24 (17) The decision of the Michigan ~~Supreme Court~~**supreme court**  
 25 in ~~Franks v White Pine Copper Division,~~**Franks v White Pine Copper**  
 26 **Division,** 422 Mich 636 (1985) is declared to have been erroneously  
 27 rendered insofar as it interprets this section, it having been and  
 28 being the legislative intention not to coordinate payments under  
 29 this section resulting from liability pursuant to section ~~301(7)~~

1 **301(5)** or ~~(8), (6)~~, 351, or 835 for personal injuries occurring  
 2 before March 31, 1982. It is the purpose of the amendatory act that  
 3 added this subsection to so affirm. This remedial and curative  
 4 amendment ~~shall~~**must** be liberally construed to effectuate this  
 5 purpose.

6 (18) This section applies only to payments ~~resulting that~~  
 7 **result** from liability ~~pursuant to under~~ section ~~301(7)~~**301(5)** or  
 8 ~~(8), (6)~~, 351, or 835 for personal injuries ~~occurring that occur~~ on  
 9 or after March 31, 1982. Any payments made to an employee ~~resulting~~  
 10 **that result** from liability ~~pursuant to under~~ section ~~301(7)~~**301(5)**  
 11 or ~~(8), (6)~~, 351, or 835 for a personal injury ~~occurring that~~  
 12 **occurred** before March 31, 1982 that have not been coordinated under  
 13 this section as of the effective date of this subsection ~~shall~~**must**  
 14 not be coordinated, ~~shall~~**are** not be considered to have created an  
 15 overpayment of compensation benefits, and ~~shall~~**are** not be subject  
 16 to reimbursement to the employer or carrier.

17 (19) Notwithstanding any other section of this act, any  
 18 payments made to an employee ~~resulting that result~~ from liability  
 19 ~~pursuant to under~~ section ~~301(7)~~**301(5)** or ~~(8), (6)~~, 351, or 835  
 20 for a personal injury ~~occurring that occurred~~ before March 31, 1982  
 21 that have been coordinated before May 14, 1987 ~~shall be~~**are**  
 22 considered to be an underpayment of compensation benefits, and the  
 23 **employer or carrier shall reimburse the** amounts withheld pursuant  
 24 to coordination ~~shall be reimbursed with interest, by July 13,~~  
 25 1987, to the employee. ~~by the employer or carrier.~~

26 (20) Notwithstanding any other section of this act, any  
 27 employee who has paid an employer or carrier money alleged by the  
 28 employer or carrier to be owed the employer or carrier because that  
 29 employee's benefits had not been coordinated under this section and

1 whose date of personal injury was before March 31, 1982 ~~shall~~**must**  
 2 be reimbursed with interest, by July 13, 1987, that money by the  
 3 employer or carrier.

4 ~~(21) If any portion of this section is subsequently found to~~  
 5 ~~be unconstitutional or in violation of applicable law, it shall not~~  
 6 ~~affect the validity of the remainder of this section.~~

7 Sec. 355. (1) The maximum weekly rate ~~shall~~**must** be adjusted  
 8 ~~once each year~~**annually** in accordance with the increase or decrease  
 9 in the average weekly wage in covered employment, as determined by  
 10 the Michigan ~~employment security commission~~**unemployment insurance**  
 11 **agency**.

12 (2) ~~Effective January 1, 1982, and~~**Except as otherwise**  
 13 **provided in subsection (3),** each January 1, ~~thereafter,~~ the maximum  
 14 weekly rate of compensation for injuries ~~occurring~~**that occur**  
 15 within that year ~~shall~~**must** be established as 90% of the state  
 16 average weekly wage as of the ~~prior~~**immediately preceding** June 30,  
 17 adjusted to the next higher multiple of \$1.00.

18 (3) **Beginning on the January 1 after the effective date of the**  
 19 **2025 amendatory act that amended this section, and each January 1**  
 20 **thereafter, the maximum weekly rate of compensation for injuries**  
 21 **that occur within that year must be established as 100% of the**  
 22 **state average weekly wage as of the immediately preceding June 30,**  
 23 **adjusted to the next higher multiple of \$1.00.**

24 (4) ~~(3)~~For the purpose of computing the supplemental benefit  
 25 under section 352, the state average weekly wage for any injury  
 26 year ~~shall be~~**is** the average weekly wage in covered employment  
 27 determined by the Michigan ~~employment security commission~~  
 28 **unemployment insurance agency** for the 12 months ending June 30 of  
 29 the **immediately** preceding year.

1       Sec. 361. (1) An employer is not liable for compensation under  
 2       section ~~301(7)~~**301(5)** or ~~(8)~~**, (6)**, 351, 371(1), or ~~401(5)~~**401(3)** or  
 3       ~~(6)~~**(4)** for periods of time that the employee is unable to obtain  
 4       or perform work because of imprisonment or ~~commission of a~~  
 5       ~~crime~~**.incarceration because of a criminal conviction.**

6       (2) In cases included in the following schedule, the  
 7       disability in each case ~~shall be~~**is** considered to continue for the  
 8       period specified, and the compensation paid for the personal injury  
 9       ~~shall be~~**is** 80% of the after-tax average weekly wage subject to the  
 10      maximum and minimum rates of compensation under this act. The  
 11      effect of any internal joint replacement surgery, internal implant,  
 12      or other similar medical procedure ~~shall~~**must** be considered in  
 13      determining whether a specific loss has occurred. The specific loss  
 14      period for the loss ~~shall be~~**is** considered as follows:

15       (a) Thumb, 65 weeks.

16       (b) First finger, 38 weeks.

17       (c) Second finger, 33 weeks.

18       (d) Third finger, 22 weeks.

19       (e) Fourth finger, 16 weeks.

20       The loss of the first phalange of the thumb, or of any finger,  
 21      ~~shall be~~**is** considered to be equal to the loss of 1/2 of that thumb  
 22      or finger, and compensation ~~shall be~~**is** 1/2 of the amount above  
 23      specified.

24       The loss of more than 1 phalange ~~shall be~~**is** considered as the  
 25      loss of the entire finger or thumb. The amount received for more  
 26      than 1 finger ~~shall~~**must** not exceed the amount provided in this  
 27      schedule for the loss of a hand.

28       (f) Great toe, 33 weeks.

29       (g) A toe other than the great toe, 11 weeks.

1       The loss of the first phalange of any toe ~~shall be~~ **is**  
 2       considered to be equal to the loss of 1/2 of that toe, and  
 3       compensation ~~shall be~~ **is** 1/2 of the amount above specified.

4       The loss of more than 1 phalange ~~shall be~~ **is** considered as the  
 5       loss of the entire toe.

6       (h) Hand, 215 weeks.

7       (i) Arm, 269 weeks.

8       An amputation between the elbow and wrist that is 6 or more  
 9       inches below the elbow ~~shall be~~ **is** considered a hand, and an  
 10      amputation above that point ~~shall be~~ **is** considered an arm.

11      (j) Foot, 162 weeks.

12      (k) Leg, 215 weeks.

13      An amputation between the knee and foot 7 or more inches below  
 14      the tibial table (plateau) ~~shall be~~ **is** considered a foot, and an  
 15      amputation above that point ~~shall be~~ **is** considered a leg.

16      (l) Eye, 162 weeks.

17      Eighty percent loss of vision of 1 eye ~~shall constitute~~  
 18      **constitutes** the total loss of that eye.

19      **(m) Serious and permanent scarring or disfigurement to the**  
 20      **face or head, 52 weeks.**

21      (3) Total and permanent disability, compensation for which is  
 22      provided in section 351 means:

23      (a) Total and permanent loss of sight of both eyes.

24      (b) Loss of both legs or both feet at or above the ankle.

25      (c) Loss of both arms or both hands at or above the wrist.

26      (d) Loss of any 2 of the members or faculties in subdivision  
 27      (a), (b), or (c).

28      (e) Permanent and complete paralysis of both legs or both arms  
 29      or of 1 leg and 1 arm.

(f) ~~Incurable insanity or imbecility.~~ **Severe and permanent impairment of function unresponsive to treatment because of 1 of the following:**

(i) **A neurocognitive disorder.**

(ii) **A traumatic or stress-related disorder.**

(g) Permanent and total loss of industrial use of both legs or both hands or both arms or 1 leg and 1 arm. ~~;~~ ~~for~~ **For** the purpose of this subdivision, ~~such permanency shall be~~ **is** determined not less than 30 days before the expiration of 500 weeks from the date of injury.

(4) The amounts specified in this ~~clause~~ **subsection** are ~~all~~ subject to the same limitations as to maximum and minimum ~~as above stated.~~ **rates of compensation under this act.** In case of the loss of 1 member while compensation is being paid for the loss of another member, compensation ~~shall~~ **must** be paid for the loss of the second member for the period provided in this section. Payments for the loss of a second member ~~shall~~ **must** begin at the conclusion of the payments for the first member.

Sec. 371. (1) ~~The weekly loss in wages referred to in this act shall consist of the percentage of the average weekly earnings of the injured employee computed according to this section as fairly represents the proportionate extent of the impairment of the employee's earning capacity in the employments covered by this act in which the employee was working at the time of the personal injury. The weekly loss in wages shall be fixed as of the time of the personal injury, and determined considering the nature and extent of the personal injury. The~~ **Except as otherwise provided in this act, the** compensation payable, when added to the employee's ~~wage earning capacity~~ **earned weekly wage** after the personal injury

1 in the same or other employments, ~~shall~~**must** not exceed the  
 2 employee's average weekly earnings at the time of the injury.

3 (2) As used in this act, "average weekly wage" means the  
 4 weekly wage earned by ~~the~~**an** employee at the time of the employee's  
 5 injury in all employment, inclusive of overtime, premium pay, and  
 6 cost of living adjustment, and exclusive of any fringe or other  
 7 benefits ~~which~~**that** continue during the disability. ~~Any~~**Except as**  
 8 **otherwise provided in this subsection, any** fringe or other benefit  
 9 ~~which~~**that** does not continue during the disability ~~shall be~~**is**  
 10 included for purposes of determining an employee's average weekly  
 11 wage to the extent that the inclusion of the fringe or other  
 12 benefit will not result in a weekly benefit amount ~~which~~**that** is  
 13 greater than 2/3 of the state average weekly wage at the time of  
 14 injury. **If an employee's health insurance, dental insurance, or**  
 15 **both do not continue during the disability, the value of the health**  
 16 **insurance, dental insurance, or both must be included in the**  
 17 **calculation of the employee's average weekly wage regardless of**  
 18 **whether the calculation results in an amount that is greater than**  
 19 **2/3 of the state average weekly wage at the time of injury.** The  
 20 average weekly wage ~~shall be~~**is** determined by computing the total  
 21 wages paid in the highest paid 39 weeks of the 52 weeks immediately  
 22 preceding the date of injury ~~and~~ dividing by 39.

23 (3) If ~~the~~**an** employee worked less than 39 weeks in the  
 24 employment in which the employee was injured, the average weekly  
 25 wage ~~shall be~~**is** based ~~upon~~**on** the total wages earned by the  
 26 employee divided by the total number of weeks **the employee** actually  
 27 worked. For purposes of this subsection, only those weeks in which  
 28 work is performed ~~shall be~~**are** considered in computing the total  
 29 wages earned and the number of weeks actually worked.



(4) If an employee sustains a compensable injury before completing ~~his or her~~ **the employee's** first work week, the average weekly wage ~~shall be~~ **is** calculated by determining the number of hours of work per week contracted for by that employee multiplied by the employee's hourly rate, or the weekly salary contracted for by the employee.

(5) If the hourly ~~earning~~ **earnings** of ~~the~~ **an** employee cannot be ascertained, or if the pay has not been designated for the work required, the wage, for the purpose of calculating compensation, ~~shall~~ **must** be taken to be the usual wage for similar services if the services are rendered by paid employees.

(6) If there are special circumstances under which the average weekly wage cannot justly be determined by applying subsections (2) to (5), an average weekly wage may be computed by dividing the aggregate earnings during the year before the injury by the number of days when work was performed and multiplying that daily wage by the number of working days customary in the employment, but not less than 5.

(7) The average weekly wage as determined under this section ~~shall~~ **must** be rounded to the nearest dollar.

Sec. 401. (1) As used in this chapter, "disability" means a limitation of an employee's wage earning capacity in work suitable to ~~his or her~~ **the employee's** qualifications and training resulting from a personal injury or ~~work-related~~ **work-related** disease. A limitation of wage earning capacity occurs ~~only~~ if a personal injury covered under this act results in the ~~employee's~~ **employee** being unable to perform ~~all jobs paying the maximum wages or obtain 1 or more jobs~~ in work **that the employee performed before or at the time of the personal injury and that is** suitable to ~~that~~ **the**

1 employee's qualifications and training. ~~, which includes work that~~  
 2 ~~may be performed using the employee's transferable work skills. A~~  
 3 ~~disability is total if the employee is unable to earn in any job~~  
 4 ~~paying maximum wages in work suitable to the employee's~~  
 5 ~~qualifications and training. A disability is partial if the~~  
 6 ~~employee retains a wage earning capacity at a pay level less than~~  
 7 ~~his or her maximum wages in work suitable to his or her~~  
 8 ~~qualifications and training. The establishment of disability does~~  
 9 not create a presumption of wage loss.

10 (2) As used in this chapter:

11 (a) "Disablement" means the event of becoming so disabled.

12 (b) "Personal injury" includes a disease or disability that is  
 13 due to causes and conditions that are characteristic of and  
 14 peculiar to the business of the employer and that arises out of and  
 15 in the course of the employment. An ordinary disease of life to  
 16 which the public is generally exposed outside of the employment is  
 17 not compensable. A personal injury under this act is compensable if  
 18 work causes, contributes to, or aggravates pathology in a manner so  
 19 as to create a pathology that is medically distinguishable from any  
 20 pathology that existed ~~prior to~~ **before** the injury. Mental  
 21 disabilities and conditions of the aging process, including, but  
 22 not limited to, heart and cardiovascular conditions, and  
 23 degenerative arthritis ~~shall be~~ **are** compensable if contributed to  
 24 or aggravated or accelerated by the employment in a significant  
 25 manner. Mental disabilities ~~shall be~~ **are** compensable when arising  
 26 out of actual events of employment, not unfounded perceptions  
 27 ~~thereof,~~ **of actual events of employment**, and if the employee's  
 28 perception of the actual events is reasonably grounded in fact or  
 29 reality. A hernia to be compensable must be clearly recent in

1 origin and result from a strain arising out of and in the course of  
2 the employment and be promptly reported to the employer.

3 ~~(c) Except as provided in section 302, "wage earning capacity"~~  
4 ~~means the wages the employee earns or is capable of earning at a~~  
5 ~~job reasonably available to that employee, whether or not actually~~  
6 ~~earned. For the purposes of establishing wage earning capacity, an~~  
7 ~~employee has an affirmative duty to seek work reasonably available~~  
8 ~~to that employee, taking into consideration the limitations from~~  
9 ~~the work-related personal injury or disease. A magistrate may~~  
10 ~~consider good-faith job search efforts to determine whether jobs~~  
11 ~~are reasonably available.~~

12 **(c)** ~~(d)~~—"Wage loss" means the amount of **reduced** wages lost due  
13 **connected** to a disability. The employee ~~shall~~ **must** establish a  
14 connection between the disability and ~~reduced wages in establishing~~  
15 the wage loss. ~~Wage loss may be established, among other methods,~~  
16 ~~by demonstrating the employee's good-faith effort to procure work~~  
17 ~~within his or her wage earning capacity. A partially disabled~~  
18 ~~employee who establishes a good-faith effort to procure work but~~  
19 ~~cannot obtain work within his or her wage earning capacity is~~  
20 ~~entitled to weekly benefits under subsection (5) as if totally~~  
21 ~~disabled.~~ **wage loss to receive weekly wage loss benefits. If the**  
22 **employee establishes a connection between disability and wage loss,**  
23 **other factors that contribute to the employee's wage loss do not**  
24 **affect the payment or amount of wage loss benefits due the**  
25 **employee.**

26 ~~(3) To establish an initial showing of disability, an employee~~  
27 ~~shall do all of the following:~~

28 ~~(a) Disclose his or her qualifications and training, including~~  
29 ~~education, skills, and experience, whether or not they are relevant~~

~~to the job the employee was performing at the time of the injury.~~

~~(b) Provide evidence as to the jobs, if any, he or she is qualified and trained to perform within the same salary range as his or her maximum wage earning capacity at the time of the injury.~~

~~(c) Demonstrate that the work-related injury prevents the employee from performing jobs identified as within his or her qualifications and training that pay maximum wages.~~

~~(d) If the employee is capable of performing any of the jobs identified in subdivision (c), show that he or she cannot obtain any of those jobs. The evidence shall include a showing of a good-faith attempt to procure postinjury employment if there are jobs at the employee's maximum wage earning capacity at the time of the injury.~~

~~(4) Once an employee establishes an initial showing of a disability under subsection (3), the employer bears the burden of production of evidence to refute the employee's showing. In satisfying its burden of production of evidence, the employer has a right to discovery if necessary for the employer to sustain its burden and present a meaningful defense. The employee may present additional evidence to challenge the evidence submitted by the employer.~~

**(3) (5) If Except as otherwise provided under subsection (5) and section 311, if a personal injury arising out of the course of employment causes total results in disability and connected to wage loss and the injured employee is entitled to wage loss benefits, does not receive wages in any week after the injury, the employer shall pay or cause to be paid to the injured employee as provided in this section weekly compensation for each week the injured employee did not receive wages that is equal to 80% of the injured**

1 employee's after-tax average weekly wage, but not more than the  
 2 maximum weekly rate determined under section 355. Compensation  
 3 ~~shall~~**must** be paid for the duration of the disability.

4 **(4) ~~(6)~~ If Except as otherwise provided under subsection (5)**  
 5 **and section 311, if** a personal injury arising out of the course of  
 6 employment ~~causes partial results in~~ disability ~~and connected to~~  
 7 wage loss and the employee ~~is entitled to wage loss benefits,~~  
 8 **receives wages in any week after the personal injury,** the employer  
 9 shall pay or cause to be paid to the injured employee as provided  
 10 in this section ~~weekly compensation~~ **that is** equal to 80% of the  
 11 difference between the injured employee's after-tax average weekly  
 12 wage before the personal injury and the **injured** employee's ~~wage~~  
 13 ~~earning capacity~~ **after-tax actual weekly wage paid for each week**  
 14 **the injured employee received wages** after the personal injury, but  
 15 not more than the maximum weekly rate determined under section 355.  
 16 Compensation ~~shall~~**must** be paid for the duration of the disability.

17 **(5) ~~(7)~~ If** disability and wage loss are established,  
 18 entitlement to weekly wage loss benefits ~~shall~~**must** be determined  
 19 as applicable ~~pursuant to~~ **in accordance with** this section and as  
 20 follows:

21 (a) If an employee receives a bona fide offer of reasonable  
 22 employment from the ~~previous~~**employee's** employer, another employer,  
 23 or through the Michigan unemployment insurance agency and the  
 24 employee refuses that employment without good and reasonable cause,  
 25 the employee ~~shall be~~**is** considered to have voluntarily removed  
 26 ~~himself or herself~~**the employee** from the ~~work force~~**workforce** and  
 27 is ~~no longer~~**not** entitled to any wage loss benefits under this act  
 28 during the period of refusal. **The employee's employer has the**  
 29 **burden of proof of establishing that the employee received a bona**

1 **vide offer of reasonable employment.**

2 ~~(b) If an employee is terminated from reasonable employment~~  
 3 ~~for fault of the employee, the employee is considered to have~~  
 4 ~~voluntarily removed himself or herself from the work force and is~~  
 5 ~~not entitled to any wage loss benefits under this act.~~

6 ~~(c) If an employee is employed and the average weekly wage of~~  
 7 ~~the employee is less than that which the employee received before~~  
 8 ~~the date of injury, the employee shall receive weekly benefits~~  
 9 ~~under this act equal to 80% of the difference between the injured~~  
 10 ~~employee's after-tax weekly wage before the date of injury and the~~  
 11 ~~after-tax weekly wage that the injured employee earns after the~~  
 12 ~~date of injury, but not more than the maximum weekly rate of~~  
 13 ~~compensation, as determined under section 355.~~

14 **(b)** ~~(d)~~ If an employee is employed and the average weekly wage  
 15 of the employee **receives a wage in a week that** is equal to or more  
 16 than the average weekly wage the employee received before the date  
 17 of injury, the employee is not entitled to any wage loss benefits  
 18 under this act for ~~the duration~~ **that week** of ~~that~~ employment.

19 ~~(e) If the employee, after having been employed pursuant to~~  
 20 ~~this subsection, loses his or her job through no fault of the~~  
 21 ~~employee and the employee is still disabled, the employee shall~~  
 22 ~~receive compensation under this act as follows:~~

23 ~~(i) If the employee was employed for less than 100 weeks, the~~  
 24 ~~employee shall receive compensation based upon his or her wage at~~  
 25 ~~the time of the original injury.~~

26 ~~(ii) If the employee was employed for 100 weeks or more but~~  
 27 ~~less than 250 weeks, then after the employee exhausts unemployment~~  
 28 ~~benefit eligibility, a worker's compensation magistrate may~~  
 29 ~~determine that the employment since the time of the injury has not~~

~~established a new wage earning capacity and, if the magistrate makes that determination, benefits shall be based on the employee's wage at the original date of injury. If the magistrate does not make that determination, the employee is presumed to have established a post-injury wage earning capacity and benefits shall not be paid based on the wage at the original date of injury.~~

~~(iii) If the employee was employed for 250 weeks or more, the employee is presumed to have established a post-injury wage earning capacity.~~

**(c) Except as otherwise provided in this subdivision, if an employee, after being employed under this subsection for less than 100 weeks, loses the employee's job, the employee's personal injury is conclusively presumed to result in disability connected to wage loss, unless the employee's employer establishes that the employee's willful and serious misconduct resulted in the termination of the employee's employment.**

**(d) If the conclusive presumption under subdivision (c) does not apply and the employee, after being employed under this subsection, loses the employee's job, proof of work-related disability connected to wage loss is a question of fact.**

**(6) ~~(8)~~**The Michigan unemployment insurance agency shall notify the agency in writing of the name of any employee who refuses any bona fide offer of reasonable employment. Upon notification to the agency, the agency shall notify the carrier ~~who shall and the carrier must~~ terminate the benefits of the employee ~~pursuant to in accordance with subsection ~~(7)(a)~~. **(5) (a)**.~~

**(7) ~~(9)~~**As used in this section, "reasonable employment" means **suitable** work that is within ~~the~~ **an** employee's capacity to perform that poses no clear and proximate threat ~~unreasonable risk~~ to that

1 employee's health and safety, and that is within a reasonable  
 2 distance from that employee's residence. The employee's capacity to  
 3 perform ~~shall must~~ not be limited to work suitable to ~~his or her~~  
 4 **the employee's** qualifications and training.

5 (8) ~~(10) This section shall apply~~ **applies** to personal injuries  
 6 or work related diseases occurring on or after June 30, 1985.

7 Sec. 891. (1) To the extent that they are reenacted herein,  
 8 all the provisions of former 1965 PA 44 apply only to personal  
 9 injuries occurring on or after September 1, 1965, except as  
 10 otherwise provided in that act and except for the amendment to part  
 11 2, section 4 of that act, concerning selection of physicians as  
 12 provided in that act.

13 (2) In all cases where the date of injury is on or after  
 14 September 1, 1965, and the employee or ~~his-employee's~~ dependents  
 15 would be entitled to the new maximum weekly benefit rates, the  
 16 employee or ~~his-employee's~~ dependents shall receive, without  
 17 application to the workers' compensation agency, an adjustment to  
 18 the increased maximum rate as it becomes effective September 1,  
 19 1966, or September 1, 1967, for any compensable weeks subsequent to  
 20 the above dates.

21 (3) This act does not affect or impair any right accruing,  
 22 accrued or acquired or any liability developing or imposed prior to  
 23 the time this act takes effect, and all such rights and liabilities  
 24 ~~shall be~~ **are** governed by the provisions of former 1912 (1st Ex  
 25 Sess) PA 10. The first adjustment to the maximum rates of weekly  
 26 compensation provided previously in section 9(f) of part 2 of  
 27 former 1912 (1st Ex Sess) PA 10 ~~, shall remain~~ **remains** in effect to  
 28 the extent provided in such section, and the amount of change in  
 29 the average weekly wage not incorporated in the first adjustment



1 made January 1, 1969 ~~shall be~~**is** carried forward as provided in  
2 such section.

3 (4) Notwithstanding sections ~~301(14)~~**301(12)** and ~~401(10)~~,  
4 **401(8)**, the amendments to this act made by 2011 PA 266 apply to  
5 personal injuries and work-related diseases incurred on or after  
6 December 19, 2011.

7 (5) **Notwithstanding sections 301(12) and 401(8), the**  
8 **amendments to this act made by the amendatory act that added this**  
9 **subsection apply to personal injuries and work-related diseases**  
10 **incurred on or after the effective date of the amendatory act that**  
11 **added this subsection.**

12 Enacting section 1. Sections 302 and 431 of the worker's  
13 disability compensation act of 1969, 1969 PA 317, MCL 418.302 and  
14 418.431, are repealed.