WORKER'S DISABILITY COMPENSATION ACT OF 1969 (EXCERPT)
Act 317 of 1969

CHAPTER 1
COVERAGE AND LIABILITY

418.101 Short title.

Sec. 101. This act shall be known and may be cited as the "worker's disability compensation act of 1969".

History: 1969, Act 317, Eff. Dec. 31, 1969;—Am. 1975, Act 279, Eff. Mar. 31, 1976.

Compiler's note: Former MCL 411.1 to 417.61, deriving from Act 10 of 1912 (1st Ex. Sess.) and pertaining to workmen's compensation, were repealed by Act 317 of 1969.

For transfer of powers and duties relating to the promulgation of rules by the workers' compensation funds board of trustees, the workers compensation appellate commission, and the workers' compensation board of magistrates from the department of labor to the director the department of consumer and industry services, see E.R.O. No. 1996-2, compiled at MCL 445.2001 of the Michigan Compiled Laws.

For abolishment of the qualifications advisory committee and establishment of the new qualifications advisory committee within the worker's compensation agency, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For creation of the new workers' compensation appellate commission as a type I agency within the department of labor and economic growth, see E.R.O. No. 2003-1.

For transfer of powers and duties of the former worker's compensation appellate commission to the new workers' compensation appellate commission, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of department of career development, including any board, commission, council, or similar entity within the department of career development, to the department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Act 317

418.111 Persons subject to act.

Sec. 111. Every employer, public and private, and every employee, unless herein otherwise specifically provided, shall be subject to the provisions of this act and shall be bound thereby.

History: 1969, Act 317, Eff. Dec. 31, 1969.

Popular name: Act 317

418.115 Employers covered; private employers; agricultural employers; medical and hospital coverage.

Sec. 115. This act shall apply to:

(a) All private employers, other than agricultural employers, who regularly employ 3 or more employees at 1 time.

(b) All private employers, other than agricultural employers, who regularly employ less than 3 employees if at least 1 of them has been regularly employed by that same employer for 35 or more hours per week for 13 weeks or longer during the preceding 52 weeks.

(c) All public employers, irrespective of the number of persons employed.

(d) All agricultural employers of 3 or more regular employees paid hourly wages or salaries, and not paid on a piecework basis, who are employed 35 or more hours per week by that same employer for 13 or more consecutive weeks during the preceding 52 weeks. Coverage shall apply only to such regularly employed employees. The average weekly wage for such an employee shall be deemed to be the weeks worked in agricultural employment divided into the total wages which the employee has earned from all agricultural occupations during the 12 calendar months immediately preceding the injury, and no other definition pertaining to average weekly wage shall be applicable.

(e) All agricultural employers of 1 or more employees who are employed 35 or more hours per week by that same employer for 5 or more consecutive weeks shall provide for such employees, in accordance with rules established by the director, medical and hospital coverage as set forth in section 315 for all personal injuries arising out of and in the course of employment suffered by such employees not otherwise covered by this act. The provision of such medical and hospital coverage shall not affect any rights of recovery that an employee would otherwise have against an agricultural employer and such right of recovery shall be subject to any defense the agricultural employer might otherwise have. Section 141 shall not apply to cases, other than medical and hospital coverages provided herein, arising under this subdivision nor shall it apply to actions brought against an agricultural employer who is not voluntarily or otherwise subject to this act. No person shall be considered an employee of an agricultural employer if the person is a spouse, child or other member of the employer's family, as defined in subdivision (b) of section 353 residing in the home or on the premises of the agricultural employer.

All other agricultural employers not included in subdivisions (d) and (e) shall be exempt from the

provisions of this act.

History: 1969, Act 317, Eff. Dec. 31, 1969.

Constitutionality: Special treatment accorded to agricultural employers under this section, not accorded any other private or public employer, is impermissible as being discriminatory and without rational basis. Gallegos v Glaser Crandell Company, 388 Mich 654; 202 NW2d 786 (1972).

The agricultural exclusion contained in this section, which was declared unconstitutional in Gallegos v Glaser Crandell Company, 388 Mich 654; 202 NW2d 786 (1972), was void from the date of its enactment. Stanton v Lloyd Hammond Produce Farms, 400 Mich 135; 253 NW2d 114 (1977).

Classifications in the workers' compensation act between agricultural employers and other employers are rationally related to the permissible goal of recognizing the economic uniqueness of agricultural employers and do not violate the right of equal protection of the law. Eastway v Eisenga, 420 Mich 410; 362 NW2d 684 (1984).

Popular name: Act 317

418.118 Domestic servants.

Sec. 118. (1) No household domestic servant shall be considered an employee if the person is a wife, child or other member of the employer's family residing in the home, and no householder shall be deemed a statutory principal within the meaning of section 171 for the purposes of this section.

(2) No private employer shall be liable under this act to any person who is employed by him as a household domestic servant for less than 35 hours per week for 13 weeks or longer during the preceding 52 weeks, notwithstanding the provisions of section 611 or any other provision of this act, unless such person assume liability under section 121.

(3) A household domestic servant or domestic as used in this act means a person who engages in work or activity relating to the operation of a household and its surroundings whether or not he resides therein.

History: 1969, Act 317, Eff. Dec. 31, 1969.

Popular name: Act 317

418.119 Licensed real estate salesperson or associate real estate broker as employee.

Sec. 119. A person who is licensed as a real estate salesperson or associate real estate broker under article 25 of Act No. 299 of the Public Acts of 1980, being sections 339.2501 to 339.2515 of the Michigan Compiled Laws, shall not be considered an employee for purposes of this act if both of the following conditions have been met:

(a) Not less than 75% of the remuneration of the salesperson or associate real estate broker is directly related to the volume of sales of real estate and not to the number of hours worked.

(b) The salesperson or associate real estate broker has a written agreement with the real estate broker who employs the salesperson or associate real estate broker, which states that the salesperson or associate real estate broker, as applicable, is not considered an employee for tax purposes.

History: Add. 1985, Act 103, Imd. Eff. July 30, 1985.

Compiler's note: For legislative intent as to severability, see Compiler's note to MCL 418.213.

Popular name: Act 317

418.120 Employee of franchisee as employee of franchisor.

Sec. 120. An employee of a franchisee is not an employee of the franchisor for purposes of this act unless both of the following apply:

(a) The franchisee and franchisor share in the determination of or codetermine the matters governing the essential terms and conditions of the employee's employment.

(b) The franchisee and franchisor both directly and immediately control matters relating to the employment relationship, such as hiring, firing, discipline, supervision, and direction.

History: Add. 2015, Act 267, Eff. Mar. 22, 2016.

Popular name: Act 317

418.121 Private employers; voluntary assumption of coverage.

Sec. 121. Any private employer not otherwise included by sections 115 and 118 may assume the liability for compensation and benefits imposed by this act upon employers. The purchase and acceptance by an employer of a valid compensation insurance policy, except in the case of domestics and agricultural employees, constitutes an assumption by him of such liability without any further act on his part, which assumption of liability shall take effect from the effective date of the policy and continue only as long as the policy remains in force, in which case the employer shall be subject to no liability other than workmen's compensation as provided for in this act. Agricultural and domestic employees may be voluntarily included by specific indorsement to a workmen's compensation policy in those cases where such coverage is not

required.

History: 1969, Act 317, Eff. Dec. 31, 1969.

Popular name: Act 317

418.125 Consistent discharges to evade act; presumption, penalty.

Sec. 125. Any employer otherwise subject to the provisions of this act who consistently discharges employees within the minimum time specified in this chapter and replaces such discharged employees without a work stoppage will be presumed to have discharged them to evade the provisions of this act and is guilty of a misdemeanor.

History: 1969, Act 317, Eff. Dec. 31, 1969.

Popular name: Act 317

418.131 Exclusive remedy; exception; “employee” and “employer” defined.

Sec. 131. (1) The right to the recovery of benefits as provided in this act shall be the employee's exclusive remedy against the employer for a personal injury or occupational disease. The only exception to this exclusive remedy is an intentional tort. An intentional tort shall exist only when an employee is injured as a result of a deliberate act of the employer and the employer specifically intended an injury. An employer shall be deemed to have intended to injure if the employer had actual knowledge that an injury was certain to occur and willfully disregarded that knowledge. The issue of whether an act was an intentional tort shall be a question of law for the court. This subsection shall not enlarge or reduce rights under law.

(2) As used in this section and section 827, "employee" includes the person injured, his or her personal representatives, and any other person to whom a claim accrues by reason of the injury to, or death of, the employee, and "employer" includes the employer's insurer and a service agent to a self-insured employer insofar as they furnish, or fail to furnish, safety inspections or safety advisory services incident to providing worker's compensation insurance or incident to a self-insured employer's liability servicing contract.

History: 1969, Act 317, Eff. Dec. 31, 1969;—Am. 1972, Act 285, Imd. Eff. Oct. 30, 1972;—Am. 1987, Act 28, Imd. Eff. May 14, 1987;—Am. 1993, Act 198, Eff. Dec. 28, 1994.

Compiler's note: Section 3 of Act 198 of 1993 provides as follows:

Except as provided in subsection (2), this amendatory act shall not take effect unless the state administrative board certifies in writing to the secretary of state by December 31, 1994 that an agreement for the transfer of all or substantially all of the assets and the assumption of all or substantially all of the liabilities of the state accident fund has been consummated with a permitted transferee pursuant to the requirements of section 701a of the worker's disability compensation act of 1969, Act No. 317 of the Public Acts of 1969, being section 418.701a of the Michigan Compiled Laws, as added by this amendatory act.

Sections 700 and 701a as added by this amendatory act shall take effect upon the date of enactment of this amendatory act.”

Popular name: Act 317

418.141 Employee; action for personal injury or death, defenses abolished.

Sec. 141. In an action to recover damages for personal injury sustained by an employee in the course of his employment or for death resulting from personal injuries so sustained it shall not be a defense:

(a) That the employee was negligent, unless it shall appear that such negligence was wilful.

(b) That the injury was caused by the negligence of a fellow employee.

(c) That the employee had assumed the risks inherent in or incidental to, or arising out of his employment, or arising from the failure of the employer to provide and maintain safe premises and suitable appliances.

History: 1969, Act 317, Eff. Dec. 31, 1969.

Popular name: Act 317

418.151 Employers subject to act.

Sec. 151. The following constitutes employers subject to this act:

(a) The state; each county, city, township, incorporated village, and school district; each incorporated public board or public commission in this state authorized by law to hold property and to sue or be sued generally; and any library in a county with a population less than 600,000 established under Act No. 138 of the Public Acts of 1917, being sections 397.301 to 397.305 of the Michigan Compiled Laws, if the library board by resolution expresses its intention to be considered as a separate employer from the county where it is located for purposes of this act.

(b) Every person, firm, limited liability company, limited liability partnership, and private corporation, including any public service corporation, who has any person in service under any contract of hire, express or implied, oral or written, unless those employees excluded according to the provisions of section 161(5) comprise all of the employees of the person, firm, limited liability company, limited liability partnership, or corporation.

History: 1969, Act 317, Eff. Dec. 31, 1969;—Am. 1982, Act 202, Imd. Eff. July 1, 1982;—Am. 1985, Act 103, Imd. Eff. July 30, 1985;—Am. 1995, Act 206, Imd. Eff. Nov. 29, 1995.

Compiler's note: For legislative intent as to severability, see Compiler's note to MCL 418.213.

Popular name: Act 317

418.155 Agricultural employer; definition.

Sec. 155. (1) An agricultural employer means one who hires a person performing services:

(a) On a farm, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training and management of livestock, bees, poultry and fur-bearing animals and wildlife.

(b) In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement or maintenance of such farm and its tools and equipment or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm.

(c) In connection with the production or harvesting of maple syrup or maple sugar or any commodity defined as an agricultural commodity or in connection with the raising or harvesting of mushrooms or in connection with the hatching of poultry or in connection with the operation or maintenance of ditches, canals, reservoirs or waterways used exclusively for supplying and storing water for farming purposes.

(d) In handling, planting, drying, packing, packaging, processing, freezing, grading, storing or delivering to storage or to market or to a carrier for transportation to market, any agricultural or horticultural commodity but only if such service is performed as an incident to ordinary farming operations or in the case of fruits and vegetables as an incident to the preparation of such fruits or vegetables for market. The provisions of this subdivision shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

(2) As used in this section, farm includes stock, dairy, poultry, fruit, fur-bearing animals and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities and orchards.

History: 1969, Act 317, Eff. Dec. 31, 1969.

Popular name: Act 317

418.161 “Employee” defined; exclusion from coverage of partner or spouse, child, or parent in employer's family; election by employee to be excluded; notice of election; duration of elected exclusion.

Sec. 161. (1) As used in this act, "employee" means:

(a) A person in the service of the state, a county, city, township, village, or school district, under any appointment, or contract of hire, express or implied, oral or written. A person employed by a contractor who has contracted with a county, city, township, village, school district, or the state, through its representatives, shall not be considered an employee of the state, county, city, township, village, or school district that made the contract, if the contractor is subject to this act.

(b) Nationals of foreign countries employed pursuant to section 102(a)(1) of the mutual educational and cultural exchange act of 1961, Public Law 87-256, 22 USC 2452, shall not be considered employees under this act.

(c) Police officers, fire fighters, or employees of the police or fire departments, or their dependents, in municipalities or villages of this state providing like benefits, may waive the provisions of this act and accept like benefits that are provided by the municipality or village but are not entitled to like benefits from both the municipality or village and this act. However, this waiver does not prohibit those employees or their dependents from being reimbursed under section 315 for the medical expenses or portion of medical expenses that are not otherwise provided for by the municipality or village. This act shall not be construed as limiting, changing, or repealing any of the provisions of a charter of a municipality or village of this state relating to benefits, compensation, pensions, or retirement independent of this act, provided for employees.

(d) On-call members of a fire department of a county, city, village, or township shall be considered to be employees of the county, city, village, or township, and entitled to all the benefits of this act if personally injured in the performance of duties as on-call members of the fire department whether the on-call member of the fire department is paid or unpaid. On-call members of a fire department of a county, city, village, or township shall be considered to be receiving the state average weekly wage at the time of injury, as last determined under section 355, from the county, village, city, or township for the purpose of calculating the weekly rate of compensation provided under this act except that if the member's average weekly wage was

greater than the state average weekly wage at the time of the injury, the member's weekly rate of compensation shall be determined based on the member's average weekly wage.

(e) On-call members of a fire department or an on-call member of a volunteer underwater diving team that contracts with or receives reimbursement from 1 or more counties, cities, villages, or townships is entitled to all the benefits of this act if personally injured in the performance of their duties as on-call members of a fire department or as an on-call member of a volunteer underwater diving team whether the on-call member of the fire department or the on-call member of the volunteer underwater diving team is paid or unpaid. On-call members of a fire department shall be considered to be receiving the state average weekly wage at the time of injury, as last determined under section 355, from the fire department for the purpose of calculating the weekly rate of compensation provided under this act except that if the member's average weekly wage was greater than the state average weekly wage at the time of the injury, the member's weekly rate of compensation shall be determined based on the member's average weekly wage. On-call members of a volunteer underwater diving team shall be considered to be receiving the state average weekly wage at the time of injury, as last determined under section 355, from the fire department for the purpose of calculating the weekly rate of compensation provided under this act except that if the member's average weekly wage was greater than the state average weekly wage at the time of the injury, the member's weekly rate of compensation shall be determined based on the member's average weekly wage.

(f) The benefits of this act are available to a safety patrol officer who is engaged in traffic regulation and management for and by authority of a county, city, village, or township, whether the officer is paid or unpaid, in the same manner as benefits are available to on-call members of a fire department under subdivision (d), upon the adoption by the legislative body of the county, city, village, or township of a resolution to that effect. A safety patrol officer or safety patrol force when used in this act includes all persons who volunteer and are registered with a school and assigned to patrol a public thoroughfare used by students of a school.

(g) A volunteer civil defense worker who is a member of the civil defense forces as provided by law and is registered on the permanent roster of the civil defense organization of the state or a political subdivision of the state shall be considered to be an employee of the state or the political subdivision on whose permanent roster the employee is enrolled if engaged in the performance of duty and shall be considered to be receiving the state average weekly wage at the time of injury, as last determined under section 355, from the state or political subdivision for purposes of calculating the weekly rate of compensation provided under this act.

(h) A volunteer licensed under section 20950 or 20952 of the public health code, 1978 PA 368, MCL 333.20950 and 333.20952, who is an on-call member of a life support agency as defined under section 20906 of the public health code, 1978 PA 368, MCL 333.20906, shall be considered to be an employee of the county, city, village, or township and entitled to the benefits of this act if personally injured in the performance of duties as an on-call member of a life support agency whether the on-call member of the life support agency is paid or unpaid. An on-call member of a life support agency shall be considered to be receiving the state average weekly wage at the time of injury, as last determined under section 355, from the county, city, village, or township for purposes of calculating the weekly rate of compensation provided under this act except that if the member's average weekly wage was greater than the state average weekly wage at the time of the injury, the member's weekly rate of compensation shall be determined based on the member's average weekly wage.

(i) A volunteer licensed under section 20950 or 20952 of the public health code, 1978 PA 368, MCL 333.20950 and 333.20952, who is an on-call member of a life support agency as defined under section 20906 of the public health code, 1978 PA 368, MCL 333.20906, that contracts with or receives reimbursement from 1 or more counties, cities, villages, or townships is entitled to all the benefits of this act if personally injured in the performance of his or her duties as an on-call member of a life support agency whether the on-call member of the life support agency is paid or unpaid. An on-call member of a life support agency shall be considered to be receiving the state average weekly wage at the time of injury, as last determined under section 355, from the life support agency for the purpose of calculating the weekly rate of compensation provided under this act except that if the member's average weekly wage was greater than the state average weekly wage at the time of the injury, the member's weekly rate of compensation shall be determined based on the member's average weekly wage.

(j) If a member of an organization recognized by 1 or more counties, cities, villages, or townships within this state as an emergency rescue team is employed by a state, county, city, village, or township within this state as a police officer, fire fighter, emergency medical technician, or ambulance driver and is injured in the normal scope of duties including training, but excluding activation, as a member of the emergency rescue team, he or she shall be considered to be engaged in the performance of his or her normal duties for the state, county, city, village, or township. If the member of the emergency rescue team is not employed by a state, county, city, village, or township within this state as a police officer, fire fighter, emergency medical

technician, or ambulance driver, and is injured in the normal scope of duties, including training, as a member of the emergency rescue team, he or she shall be considered to be an employee of the team. For the purpose of securing the payment of compensation under this act, on activation, each member of the team shall be considered to be covered by a policy obtained by the team unless the employer of a member of the team agrees in writing to provide coverage for that member under its policy. Members of an emergency rescue team shall be considered to be receiving the state average weekly wage at the time of injury, as last determined under section 355, from the team for the purpose of calculating the weekly rate of compensation provided under this act except that if the member's average weekly wage was greater than the state average weekly wage at the time of the injury, the member's weekly rate of compensation shall be determined based on the member's average weekly wage. As used in this subdivision, "activation" means a request by the emergency management coordinator appointed pursuant to section 8 or 9 of the emergency management act, 1976 PA 390, MCL 30.408 and 30.409, made of and accepted by an emergency rescue team.

(k) A political subdivision of this state is not required to provide compensation insurance for a peace officer of the political subdivision with respect to the protection and compensation provided by 1937 PA 329, MCL 419.101 to 419.104.

(*l*) Every person in the service of another, under any contract of hire, express or implied, including aliens; a person regularly employed on a full-time basis by his or her spouse having specified hours of employment at a specified rate of pay; working members of partnerships receiving wages from the partnership irrespective of profits; a person insured for whom and to the extent premiums are paid based on wages, earnings, or profits; and minors, who shall be considered the same as and have the same power to contract as adult employees. Any minor under 18 years of age whose employment at the time of injury is shown to be illegal, in the absence of fraudulent use of permits or certificates of age in which case only single compensation shall be paid, shall receive compensation double that provided in this act.

(m) Every person engaged in a federally funded training program or work experience program that mandates the provision of appropriate worker's compensation for participants and that is sponsored by the state, a county, city, township, village, or school district, or an incorporated public board or public commission in the state authorized by law to hold property and to sue or be sued generally, or any consortium thereof, shall be considered, for the purposes of this act, to be an employee of the sponsor and entitled to the benefits of this act. The sponsor is responsible for the provision of worker's compensation and shall secure the payment of compensation by a method permitted under section 611. If a sponsor contracts with a public or private organization to operate a program, the sponsor may require the organization to secure the payment of compensation by a method permitted under section 611.

(n) Every person performing service in the course of the trade, business, profession, or occupation of an employer at the time of the injury, if the person in relation to this service does not maintain a separate business, does not hold himself or herself out to and render service to the public, and is not an employer subject to this act. On and after January 1, 2013, services are employment if the services are performed by an individual whom the Michigan administrative hearing system determines to be in an employer-employee relationship using the 20-factor test announced by the internal revenue service of the United States department of treasury in revenue ruling 87-41, 1 C.B. 296. An individual for whom an employer is required to withhold federal income tax is prima facie considered to perform service in employment under this act. If a business entity requests the Michigan administrative hearing system to determine whether 1 or more individuals performing service for the entity in this state are in covered employment, the Michigan administrative hearing system shall issue a determination of coverage of service performed by those individuals and any other individuals performing similar services under similar circumstances.

(o) An individual registered with the state of Michigan verification system described in 42 USC 247d-7b shall be considered an employee of the state of Michigan when engaged in the performance of duties or services as a registrant, or when training to provide those duties or services, except if another employer provides coverage for that individual specifically for duties and services arising from registration with this state. That individual shall be considered to be receiving the state average weekly wage at the time of injury or death, as last determined under section 355, from the state of Michigan for purposes of calculating the weekly rate of compensation provided under this act, except that if the individual's average weekly wage was greater than the state average weekly wage at the time of injury or death the individual's weekly rate of compensation shall be determined based upon the individual's weekly average wage. The state of Michigan shall exercise all the rights and obligations of an employer and carrier as provided for under this act.

(2) A policy or contract of worker's compensation insurance, by endorsement, may exclude coverage as to any 1 or more named partners or the spouse, child, or parent in the employer's family. A person excluded pursuant to this subsection is not subject to this act and shall not be considered an employee for the purposes of section 115.

(3) An employee who is subject to this act, including an employee covered pursuant to section 121, who is an employee of a limited liability company of not more than 10 members and who is also a manager and member, as defined in section 102 of the Michigan limited liability company act, 1993 PA 23, MCL 450.4102, and who owns at least a 10% interest in that limited liability company, with the consent of the limited liability company as approved by a majority vote of the members, or if the limited liability company has more than 1 manager, all of the managers who are also members, except as otherwise provided in an operating agreement, may elect to be individually excluded from this act by giving a notice of the election in writing to the carrier with the consent of the limited liability company endorsed on the notice. The exclusion remains in effect until revoked by the employee by giving notice in writing to the carrier. While the exclusion is in effect, section 141 does not apply to any action brought by the employee against the limited liability company.

(4) An employee who is subject to this act, including an employee covered pursuant to section 121, who is an employee of a corporation that has not more than 10 stockholders and who is also an officer and stockholder who owns at least 10% of the stock of that corporation, with the consent of the corporation as approved by its board of directors, may elect to be individually excluded from this act by giving a notice of the election in writing to the carrier with the consent of the corporation endorsed on the notice. The exclusion remains in effect until revoked by the employee by giving a notice in writing to the carrier. While the exclusion is in effect, section 141 does not apply to any action brought by the employee against the corporation.

(5) If the persons to be excluded from coverage under this act pursuant to subsections (2) to (4) comprise all of the employees of the employer, those persons may elect to be excluded from being considered employees under this act by submitting written notice of that election to the director upon a form prescribed by the director. The exclusion shall remain in effect until revoked by giving written notice to the director.

History: 1969, Act 317, Eff. Dec. 31, 1969;—Am. 1975, Act 268, Imd. Eff. Nov. 10, 1975;—Am. 1976, Act 21, Imd. Eff. Feb. 26, 1976;—Am. 1980, Act 357, Eff. Jan. 1, 1982;—Am. 1982, Act 32, Imd. Eff. Mar. 10, 1982;—Am. 1982, Act 282, Imd. Eff. Oct. 7, 1982;—Am. 1983, Act 162, Imd. Eff. July 24, 1983;—Am. 1985, Act 103, Imd. Eff. July 30, 1985;—Am. 1994, Act 97, Imd. Eff. Apr. 13, 1994;—Am. 1994, Act 271, Imd. Eff. July 11, 1994;—Am. 1995, Act 206, Imd. Eff. Nov. 29, 1995;—Am. 1996, Act 460, Imd. Eff. Dec. 26, 1996;—Am. 2002, Act 427, Imd. Eff. June 5, 2002;—Am. 2011, Act 266, Imd. Eff. Dec. 19, 2011;—Am. 2012, Act 83, Imd. Eff. Apr. 11, 2012.

Compiler's note: For legislative intent as to severability, see Compiler's note to MCL 418.213.
Enacting section 2 of Act 266 of 2011 provides:
"Enacting section 2. This amendatory act applies to injuries incurred on or after its effective date."

Popular name: Act 317

418.171 Employer contracting with person not subject to act; liability; applicability of section to principal and contractor; willful circumvention of provisions; employer as contractor; reimbursement agreement.

Sec. 171. (1) If any employer subject to the provisions of this act, in this section referred to as the principal, contracts with any other person, in this section referred to as the contractor, who is not subject to this act or who has not complied with the provisions of section 611, and who does not become subject to this act or comply with the provisions of section 611 prior to the date of the injury or death for which claim is made for the execution by or under the contractor of the whole or any part of any work undertaken by the principal, the principal shall be liable to pay to any person employed in the execution of the work any compensation under this act which he or she would have been liable to pay if that person had been immediately employed by the principal. If compensation is claimed from or proceedings are taken against the principal, then, in the application of this act, reference to the principal shall be substituted for reference to the employer, except that the amount of compensation shall be calculated with reference to the earnings of the person under the employer by whom he or she is immediately employed. A contractor shall be deemed to include subcontractors in all cases where the principal gives permission that the work or any part thereof be performed under subcontract.

(2) If the principal is liable to pay compensation under this section, he or she shall be entitled to be indemnified by the contractor or subcontractor. The employee shall not be entitled to recover at common law against the contractor for any damages arising from such injury if he or she takes compensation from such principal. The principal, in case he or she pays compensation to the employee of such contractor, may recover the amount so paid in an action against such contractor.

(3) This section shall apply to a principal and contractor only if the contractor engages persons to work other than persons who would not be considered employees under section 161(1)(d).

(4) Principals willfully acting to circumvent the provisions of this section or section 611 by using coercion,

intimidation, deceit, or other means to encourage persons who would otherwise be considered employees within the meaning of this act to pose as contractors for the purpose of evading this section or the requirements of section 611 shall be liable subject to the provisions of section 641. Nothing in this section shall be construed to prohibit an employee from becoming a contractor subject to the provisions of section 151. A principal may demand that the contractor enter into a written agreement with the principal agreeing to reimburse the principal for any loss incurred under this section due to a claim filed pursuant to this act for compensation and other benefits.

History: 1969, Act 317, Eff. Dec. 31, 1969;—Am. 1985, Act 103, Imd. Eff. July 30, 1985.

Compiler's note: For legislative intent as to severability, see Compiler's note to MCL 418.213.

Popular name: Act 317