

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

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