

SENATE BILL No. 211

February 20, 2013, Introduced by Senators ROCCA, HOOD, JONES, NOFS, HOPGOOD, ANDERSON and BIEDA and referred to the Committee on Judiciary.

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

1 and the deputies of the county sheriff; ~~members~~ **A MEMBER** of the
 2 state police; ~~A conservation officers, and~~ **OFFICER; OR AN OFFICER**
 3 **OF THE** motor carrier inspectors of the Michigan public service
 4 ~~commission~~ **ENFORCEMENT DIVISION OF THE DEPARTMENT OF STATE POLICE,**
 5 "personal injury" ~~shall be construed to include~~ **INCLUDES**
 6 respiratory and heart diseases, or illnesses resulting therefrom,
 7 ~~which~~ **THAT** develop or manifest themselves during a period while the
 8 member of the department is in the active service of the department
 9 and **THAT** result from the performance of duties for the department.

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

21 (3) ~~(2) Such respiratory~~ **RESPIRATORY** and heart diseases ~~or~~ **AND**
 22 illnesses resulting therefrom **UNDER SUBSECTION (1), AND RESPIRATORY**
 23 **TRACT, BLADDER, SKIN, BRAIN, KIDNEY, BLOOD, THYROID, TESTICULAR,**
 24 **PROSTATE, AND LYMPHATIC CANCERS UNDER SUBSECTION (2), are deemed**
 25 **PRESUMED** to arise out of and in the course of employment in the
 26 absence of **AFFIRMATIVE** evidence ~~to the contrary~~ **OF NON-WORK-RELATED**
 27 **CAUSATION OR SPECIFIC INCIDENTS THAT ESTABLISH A CAUSE INDEPENDENT**

1 OF THE EMPLOYMENT. NEITHER MERE EVIDENCE THAT THE CONDITION WAS
 2 PREEXISTING, NOR AN ABSTRACT MEDICAL OPINION THAT THE EMPLOYMENT
 3 WAS NOT THE CAUSE OF THE DISEASE OR CONDITION, IS SUFFICIENT TO
 4 OVERCOME THE PRESUMPTION. RESPIRATORY TRACT, BLADDER, SKIN, BRAIN,
 5 KIDNEY, BLOOD, THYROID, TESTICULAR, PROSTATE, AND LYMPHATIC CANCERS
 6 OF A MEMBER OF A FULLY PAID FIRE DEPARTMENT OR PUBLIC FIRE
 7 AUTHORITY MAY BE SHOWN NOT TO ARISE OUT OF AND IN THE COURSE OF
 8 EMPLOYMENT IF SCIENTIFIC EVIDENCE IS INTRODUCED THAT THE MEMBER OF
 9 THE FULLY PAID FIRE DEPARTMENT OR PUBLIC FIRE AUTHORITY WAS A
 10 SUBSTANTIAL AND CONSISTENT USER OF CIGARETTES OR OTHER TOBACCO
 11 PRODUCTS WITHIN THE 10 YEARS IMMEDIATELY PRECEDING THE DATE OF
 12 INJURY, AND THAT THIS USE WAS A SIGNIFICANT FACTOR IN THE CAUSE,
 13 AGGRAVATION, OR PROGRESSION OF THE CANCER.

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

1 (5) IF AN EMPLOYEE DESCRIBED IN SUBSECTION (1) OR (2) IS
2 ELIGIBLE FOR ANY PENSION BENEFITS, THAT ELIGIBILITY DOES NOT
3 PROHIBIT THE EMPLOYEE OR DEPENDENTS OF THAT EMPLOYEE FROM RECEIVING
4 BENEFITS UNDER SECTION 315 FOR THE MEDICAL EXPENSES OR PORTION OF
5 MEDICAL EXPENSES THAT ARE NOT PROVIDED FOR BY THE PENSION PROGRAM.
6 THE PRESUMPTION IN SUBSECTION (3) APPLIES TO THE MEDICAL BENEFITS
7 PROVIDED UNDER SECTION 315.