



# HOUSE BILL No. 5914

June 21, 2000, Introduced by Reps. Kuipers, Pappageorge, Raczkowski, LaSata, Voorhees, Kukuk, Gosselin and Rick Johnson and referred to the Committee on Employment Relations, Training and Safety.

A bill to amend 1969 PA 317, entitled  
"Worker's disability compensation act of 1969,"  
by amending section 301 (MCL 418.301), as amended by 1987 PA 28.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 301. (1) An employee —, who receives a personal  
2 injury arising out of and in the course of employment by an  
3 employer who is subject to this act at the time of the injury —,  
4 shall be paid compensation as provided in this act. In the case  
5 of death resulting from the personal injury to the employee, com-  
6 pensation shall be paid to the employee's dependents as provided  
7 in this act. Time of injury or date of injury as used in this  
8 act in the case of a disease or in the case of an injury not  
9 attributable to a single event shall be the last day of work in  
10 the employment in which the employee was last subjected to the  
11 conditions that resulted in the employee's disability or death.

1           (2) Mental disabilities and conditions of the aging process,  
2 including but not limited to heart and cardiovascular conditions,  
3 shall be compensable if contributed to or aggravated or acceler-  
4 ated by the employment in a significant manner. Mental disabili-  
5 ties shall be compensable when arising out of actual events of  
6 employment, not unfounded perceptions thereof. ACTUAL EVENTS OF  
7 EMPLOYMENT DOES NOT INCLUDE REASONABLE JOB PERFORMANCE EVALU-  
8 ATIONS, REGULAR SUPERVISORY ACTS DIRECTLY RELATED TO EMPLOYMENT,  
9 OR DISCIPLINARY, SUSPENSION, OR TERMINATION PROCEEDINGS FROM  
10 EMPLOYMENT.

11           (3) An employee going to or from his or her work, while on  
12 the premises where the employee's work is to be performed, and  
13 within a reasonable time before and after his or her working  
14 hours, is presumed to be in the course of his or her employment.  
15 Notwithstanding this presumption, an injury incurred in the pur-  
16 suit of an activity the major purpose of which is social or rec-  
17 reational is not covered under this act. Any cause of action  
18 brought for such an injury is not subject to section 131.

19           (4) As used in this chapter, "disability" means a limitation  
20 of an employee's wage earning capacity in work suitable to his or  
21 her qualifications and training resulting from a personal injury  
22 or work related disease. The establishment of disability does  
23 not create a presumption of wage loss.

24           (5) If disability is established pursuant to subsection (4),  
25 entitlement to weekly wage loss benefits shall be determined pur-  
26 suant to this section and as follows:

1 (a) If an employee receives a bona fide offer of reasonable  
2 employment from the previous employer, another employer, or  
3 through the Michigan employment security commission and the  
4 employee refuses that employment without good and reasonable  
5 cause, the employee shall be considered to have voluntarily  
6 removed himself or herself from the work force and is no longer  
7 entitled to any wage loss benefits under this act during the  
8 period of such refusal. A REFUSAL SHALL BE CONSIDERED PERMANENT  
9 AFTER THE PASSAGE OF A REASONABLE PERIOD OF TIME. ANY EMPLOYEE  
10 WHO VOLUNTARILY QUILTS EMPLOYMENT FOR ANY REASON OR WHO IS TERMI-  
11 NATED FOR JUST CAUSE SHALL NOT BE ENTITLED TO FURTHER WAGE LOSS  
12 BENEFITS FROM THE EMPLOYER WHERE THE INJURY OCCURRED.

13 (b) If an employee is employed and the average weekly wage  
14 of the employee is less than that which the employee received  
15 before the date of injury, the employee shall receive weekly ben-  
16 efits under this act equal to 80% of the difference between the  
17 injured employee's after-tax weekly wage before the date of  
18 injury and the after-tax weekly wage which the injured employee  
19 is able to earn after the date of injury, but not more than the  
20 maximum weekly rate of compensation, as determined under section  
21 355.

22 (c) If an employee is employed and the average weekly wage  
23 of the employee is equal to or more than the average weekly wage  
24 the employee received before the date of injury, the employee is  
25 not entitled to any wage loss benefits under this act for the  
26 duration of such employment.

1 (d) If the employee, after having been employed pursuant to  
2 this subsection for 100 weeks or more loses his or her job  
3 through no fault of the employee, the employee shall receive com-  
4 pensation under this act pursuant to the following:

5 (i) If after exhaustion of unemployment benefit eligibility  
6 of an employee, a worker's compensation magistrate or hearing  
7 referee, as applicable, determines for any employee covered under  
8 this subdivision, that the employments since the time of injury  
9 have not established a new wage earning capacity, the employee  
10 shall receive compensation based upon his or her wage at the  
11 original date of injury. There is a presumption of wage earning  
12 capacity established for employments totalling 250 weeks or  
13 more.

14 (ii) The employee must still be disabled as determined pur-  
15 suant to subsection (4). If the employee is still disabled, he  
16 or she shall be entitled to wage loss benefits based on the dif-  
17 ference between the normal and customary wages paid to those per-  
18 sons performing the same or similar employment, as determined at  
19 the time of termination of the employment of the employee, and  
20 the wages paid at the time of the injury.

21 (iii) If the employee becomes reemployed and the employee is  
22 still disabled, he or she shall then receive wage loss benefits  
23 as provided in subdivision (b).

24 (e) If the employee, after having been employed pursuant to  
25 this subsection for less than 100 weeks loses his or her job ~~for~~  
26 ~~whatever reason~~ THROUGH NO FAULT OF THE EMPLOYEE, the employee

1 shall receive compensation based upon his or her wage at the  
2 original date of injury.

3 (6) A carrier shall notify the Michigan employment security  
4 commission of the name of any injured employee who is unemployed  
5 and to which the carrier is paying benefits under this act.

6 (7) The Michigan employment security commission shall give  
7 priority to finding employment for those persons whose names are  
8 supplied to the commission under subsection (6).

9 (8) The Michigan employment security commission shall notify  
10 the bureau in writing of the name of any employee who refuses any  
11 bona fide offer of reasonable employment. Upon notification to  
12 the bureau, the bureau shall notify the carrier who shall termi-  
13 nate the benefits of the employee pursuant to subsection (5)(a).

14 (9) "Reasonable employment", as used in this section, means  
15 work that is within the employee's capacity to perform that poses  
16 no clear and proximate threat to that employee's health and  
17 safety, and that is within a reasonable distance from that  
18 employee's residence. The employee's capacity to perform shall  
19 not be limited to jobs in work suitable to his or her qualifica-  
20 tions and training.

21 (10) Weekly benefits shall not be payable during the period  
22 of confinement to a person who is incarcerated in a penal insti-  
23 tution for violation of the criminal laws of this state or who is  
24 confined in a mental institution pending trial for a violation of  
25 the criminal laws of this state, if the violation or reason for  
26 the confinement occurred while at work and is directly related to  
27 the claim.

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

7           (12) This section shall apply to personal injuries and work  
8 related diseases occurring on or after June 30, 1985.