

HOUSE BILL No. 5748

June 14, 2012, Introduced by Rep. Olumba and referred to the Committee on Commerce.

A bill to amend 1969 PA 317, entitled
"Worker's disability compensation act of 1969,"
by amending section 131 (MCL 418.131), as amended by 1993 PA 198.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 131. (1) The right to the recovery of benefits as
2 provided in this act ~~shall be the employee's exclusive remedy~~ **AS AN**
3 **ALTERNATIVE TO FILING AN ACTION** against the employer for a personal
4 injury or occupational disease **SHALL BE AT THE OPTION OF THE**
5 **EMPLOYEE**. ~~The only exception to this exclusive remedy is an~~
6 ~~intentional tort. An intentional tort shall exist only when an~~
7 ~~employee is injured as a result of a deliberate act of the employer~~
8 ~~and the employer specifically intended an injury. An employer shall~~
9 ~~be deemed to have intended to injure if the employer had actual~~
10 ~~knowledge that an injury was certain to occur and willfully~~
11 ~~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.~~ IF AN EMPLOYEE PROCEEDS AGAINST THE EMPLOYER UNDER THIS ACT, THE RECOVERY OF BENEFITS AGAINST THE EMPLOYER UNDER THIS ACT FOR A PERSONAL INJURY OR OCCUPATIONAL DISEASE SHALL BE THE EMPLOYEE'S EXCLUSIVE REMEDY.

(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.