

HOUSE BILL No. 4879

May 30, 1989, Introduced by Rep. Nye and referred to the Committee on Labor.

A bill to amend section 161 of Act No. 317 of the Public Acts of 1969, entitled as amended
"Worker's disability compensation act of 1969,"
as amended by Act No. 103 of the Public Acts of 1985, being section 418.161 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 161 of Act No. 317 of the Public Acts of
2 1969, as amended by Act No. 103 of the Public Acts of 1985, being
3 section 418.161 of the Michigan Compiled Laws, is amended to read
4 as follows:

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

6 (a) A person in the service of the state, a county, city,
7 township, village, or school district, under any appointment, or
8 contract of hire, express or implied, oral or written. A person
9 employed by a contractor who has contracted with a county, city,

1 township, village, school district, or the state, through its
2 representatives, shall not be considered an employee of the
3 state, county, city, township, village, or school district which
4 made the contract, when the contractor is subject to this act. A
5 PERSON WHO PERFORMS DAILY HOUSEHOLD AND PERSONAL CARE SERVICES
6 FOR A RECIPIENT OF ASSISTANCE FROM THE STATE DEPARTMENT OF SOCIAL
7 SERVICES SHALL NOT BE CONSIDERED AN EMPLOYEE OF THE STATE FOR
8 PURPOSES OF THIS ACT. Nationals of foreign countries employed
9 pursuant to section 102(a)(1) of the mutual educational and cul-
10 tural exchange act of 1961, 22 U.S.C. 2452, shall not be consid-
11 ered employees under this act. Police officers, fire fighters,
12 or employees of the police or fire departments, or their depen-
13 dents, in municipalities or villages of this state providing like
14 benefits, may waive the provisions of this act and accept like
15 benefits that are provided by the municipality or village but
16 shall not be entitled to like benefits from both the municipality
17 or village and this act; however, this waiver shall not prohibit
18 such employees or their dependents from being reimbursed under
19 section 315 for the medical expenses or portion of medical
20 expenses that are not otherwise provided for by the municipality
21 or village. This act shall not be construed as limiting, chang-
22 ing, or repealing any of the provisions of a charter of a munici-
23 pality or village of this state relating to benefits, compensa-
24 tion, pensions, or retirement independent of this act, provided
25 for employees. Members of a volunteer fire department of a city,
26 village, or township shall be considered to be employees of the
27 city, village, or township, and entitled to all the benefits of

1 this act when personally injured in the performance of duties as
2 members of the volunteer fire department. Members of a volunteer
3 fire department of a city, village, or township shall be consid-
4 ered to be receiving the state average weekly wage at the time of
5 injury, as last determined under section 355, from the village,
6 city, or township for the purpose of calculating the weekly rate
7 of compensation provided under this act. The benefits of this
8 act shall be available to a safety patrol officer who is engaged
9 in traffic regulation and management for and by authority of a
10 county, city, village, or township, whether the officer is paid
11 or unpaid, in the same manner as benefits are available to volun-
12 teer fire fighters, upon the adoption by the legislative body of
13 the county, city, village, or township of a resolution to that
14 effect. A safety patrol officer or safety patrol force when used
15 in this act shall be considered to include all persons who volun-
16 teer and are registered with a school and assigned to patrol a
17 public thoroughfare used by students of a school. A volunteer
18 civil defense worker who is a member of the civil defense forces
19 as provided by law and is registered on the permanent roster of
20 the civil defense organization of the state or a political subdi-
21 vision of the state shall be considered to be an employee of the
22 state or the political subdivision on whose permanent roster the
23 employee is enrolled when engaged in the performance of duty and
24 shall be considered to be receiving the state average weekly wage
25 at the time of injury, as last determined under section 355, from
26 the state or political subdivision for purposes of calculating
27 the weekly rate of compensation provided under this act. A

1 volunteer ambulance driver or attendant shall be considered to be
2 an employee of the county, city, village, or township and enti-
3 tled to the benefits of this act when personally injured in the
4 performance of duties as a volunteer ambulance driver or atten-
5 dant and shall be considered to be receiving the state average
6 weekly wage at the time of injury, as last determined under sec-
7 tion 355, from the county, city, village, or township for pur-
8 poses of calculating the weekly rate of compensation provided
9 under this act. A political subdivision of this state shall not
10 be required to provide compensation insurance for a peace officer
11 of the political subdivision with respect to the protection and
12 compensation provided by Act No. 329 of the Public Acts of 1937,
13 as amended, being sections 419.101 to 419.104 of the Michigan
14 Compiled Laws.

15 (b) Every person in the service of another, under any con-
16 tract of hire, express or implied, including aliens; a person
17 regularly employed on a full-time basis by his or her spouse
18 having specified hours of employment at a specified rate of pay;
19 working members of partnerships receiving wages from the partner-
20 ship irrespective of profits; a person insured for whom and to
21 the extent premiums are paid based on wages, earnings, or prof-
22 its; and minors, who shall be considered the same as and have the
23 same power to contract as adult employees. Any minor under 18
24 years of age whose employment at the time of injury shall be
25 shown to be illegal, in the absence of fraudulent use of permits
26 or certificates of age in which case only single compensation

1 shall be paid, shall receive compensation double that provided in
2 this act.

3 (c) Every person engaged in a federally funded training pro-
4 gram or work experience program which mandates the provision of
5 appropriate worker's compensation for participants and which is
6 sponsored by the state, a county, city, township, village, or
7 school district, or an incorporated public board or public com-
8 mission in the state authorized by law to hold property and to
9 sue or be sued generally, or any consortium thereof, shall be
10 considered, for the purposes of this act, to be an employee of
11 the sponsor and entitled to the benefits of this act. The spon-
12 sor shall be responsible for the provision of worker's compensa-
13 tion and shall secure the payment of compensation by a method
14 permitted under section 611. If a sponsor contracts with a
15 public or private organization to operate a program, the sponsor
16 may require the organization to secure the payment of compensa-
17 tion by a method permitted under section 611.

18 (d) Every person performing service in the course of the
19 trade, business, profession, or occupation of an employer at the
20 time of the injury, provided the person in relation to this serv-
21 ice does not maintain a separate business, does not hold himself
22 or herself out to and render service to the public, and is not an
23 employer subject to this act.

24 (2) A policy or contract of worker's compensation insurance,
25 by endorsement, may exclude coverage as to any 1 or more named
26 partners or the spouse, child, or parent in the employer's
27 family. A person excluded pursuant to this subsection shall not

1 be subject to this act and shall not be considered an employee
2 for the purposes of section 115.

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

16 (4) If the persons to be excluded from coverage under this
17 act pursuant to subsection (2) or (3) comprise all of the employ-
18 ees of the employer, those persons may elect to be excluded from
19 being considered employees under this act by submitting written
20 notice of that election to the director upon a form prescribed by
21 the director. The exclusion shall remain in effect until revoked
22 by giving written notice to the director.