

# HOUSE BILL No. 4924

June 14, 1989, Introduced by Rep. Sparks 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.  
5 Nationals of foreign countries employed pursuant to section  
6 102(a)(1) of the mutual educational and cultural exchange act of  
7 1961, 22 U.S.C. 2452, shall not be considered employees under  
8 this act. Police officers, fire fighters, or employees of the  
9 police or fire departments, or their dependents, in municipali-  
10 ties or villages of this state providing like benefits, may waive  
11 the provisions of this act and accept like benefits that are pro-  
12 vided by the municipality or village but shall not be entitled to  
13 like benefits from both the municipality or village and this act;  
14 however, this waiver shall not prohibit such employees or their  
15 dependents from being reimbursed under section 315 for the medi-  
16 cal expenses or portion of medical expenses that are not other-  
17 wise provided for by the municipality or village. This act shall  
18 not be construed as limiting, changing, or repealing any of the  
19 provisions of a charter of a municipality or village of this  
20 state relating to benefits, compensation, pensions, or retirement  
21 independent of this act, provided for employees. Members of a  
22 volunteer fire department of a city, village, or township shall  
23 be considered to be employees of the city, village, or township,  
24 and entitled to all the benefits of this act when personally  
25 injured in the performance of duties as members of the volunteer  
26 fire department. Members of a volunteer fire department of a  
27 city, village, or township shall be considered to be receiving

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

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

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

26 (c) Every person engaged in a federally funded training  
27 program or work experience program which mandates the provision

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

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

20 (2) EXCEPT AS PROVIDED IN SUBSECTION (1), A VOLUNTEER WHO  
21 PERFORMS A SERVICE FOR OR ON BEHALF OF A CHARITABLE ORGANIZATION  
22 SHALL NOT BE CONSIDERED AN EMPLOYEE OF THAT CHARITABLE ORGANI-  
23 ZATION FOR PURPOSES OF THIS ACT. A VOLUNTEER IS A PERSON WHO  
24 RECEIVES NO SALARY, PAYMENT, REMUNERATION, OR STIPEND IN EXCHANGE  
25 FOR HIS OR HER EFFORTS FOR OR ON BEHALF OF THE ORGANIZATION.  
26 PAYMENT OF TRAVEL OR OTHER INCIDENTAL EXPENSES INCURRED OR  
27 PROVIDING MEALS, UNIFORMS, EQUIPMENT, OR PROMOTIONAL MATERIALS TO

1 A VOLUNTEER DURING THE COURSE OF HIS OR HER EFFORTS FOR OR ON  
2 BEHALF OF THE CHARITABLE ORGANIZATION SHALL NOT MAKE THE VOLUN-  
3 TEER AN EMPLOYEE. A TESTIMONIAL OR APPRECIATION DINNER OR EVENT  
4 TO WHICH A VOLUNTEER IS INVITED AS AN HONOREE SHALL NOT MAKE THE  
5 VOLUNTEER AN EMPLOYEE.

6 (3) ~~(2)~~ A policy or contract of worker's compensation  
7 insurance, by endorsement, may exclude coverage as to any 1 or  
8 more named partners or the spouse, child, or parent in the  
9 employer's family. A person excluded pursuant to this subsection  
10 shall not be subject to this act and shall not be considered an  
11 employee for the purposes of section 115.

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

25 (5) ~~(4)~~ If the persons to be excluded from coverage under  
26 this act pursuant to subsection ~~(2) or (3)~~ (3) OR (4) comprise  
27 all of the employees of the employer, those persons may elect to

1 be excluded from being considered employees under this act by  
2 submitting written notice of that election to the director upon a  
3 form prescribed by the director. The exclusion shall remain in  
4 effect until revoked by giving written notice to the director.