

# HOUSE BILL No. 5199

October 18, 1989, Introduced by Reps. Pitoniak, Hickner, DeMars, Brown, Hertel, Stallworth, Emerson, Scott, Jonker, Bennane, Gire, Profit, Leland, Perry Bullard and Kosteva and referred to the Committee on Labor.

A bill to amend section 352 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. 46 of the Public Acts of 1984, being section 418.352 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 352 of Act No. 317 of the Public Acts of  
2 1969, as amended by Act No. 46 of the Public Acts of 1984, being  
3 section 418.352 of the Michigan Compiled Laws, is amended to read  
4 as follows:

5 Sec. 352. (1) Beginning January 1, 1982, an employee  
6 receiving or entitled to receive benefits equal to the maximum  
7 payable to that employee under section 351 or the dependent of a  
8 deceased employee receiving or entitled to receive benefits under  
9 section 321 whose benefits are based on a date of personal injury

1 between September 1, 1965, and December 31, 1979, shall be  
2 entitled to a supplement to weekly compensation. BEGINNING  
3 JANUARY 1, 1990, AN EMPLOYEE RECEIVING OR ENTITLED TO RECEIVE  
4 BENEFITS EQUAL TO THE MAXIMUM PAYABLE TO THAT EMPLOYEE UNDER SEC-  
5 TION 351 OR THE DEPENDENT OF A DECEASED EMPLOYEE RECEIVING OR  
6 ENTITLED TO RECEIVE BENEFITS UNDER SECTION 321 WHOSE BENEFITS ARE  
7 BASED ON A DATE OF PERSONAL INJURY BETWEEN JANUARY 1, 1980, AND  
8 DECEMBER 31, 1981, SHALL BE ENTITLED TO THE SUPPLEMENT TO WEEKLY  
9 COMPENSATION PROVIDED BY THIS SECTION. The supplement shall be  
10 computed using the total annual percentage change in the state  
11 average weekly wage, rounded to the nearest 1/10 of 1%, as deter-  
12 mined under section 355. The supplement shall be computed as a  
13 percentage of the weekly compensation rate which the employee or  
14 the dependent of a deceased employee is receiving or is entitled  
15 to receive on January 1, 1982 had the employee been receiving  
16 benefits at that time, rounded to the nearest dollar. The sup-  
17 plement shall not exceed 5% compounded for each calendar year in  
18 the adjustment period. The percentage change for purposes of the  
19 adjustment shall be computed from the base year through  
20 December 31, 1981. A supplement shall not be paid retroactively  
21 for any period of disability before January 1, 1982.

22 (2) For personal injuries occurring from September 1, 1965,  
23 through December 31, 1968, the base year shall be 1968. For per-  
24 sonal injuries occurring between January 1, 1969 and December 31,  
25 ~~1979~~ 1981, the base year shall be the year in which the per-  
26 sonal injury occurred.

1 (3) Pursuant to subsection (1), the director shall announce  
2 on December 1, 1981, the supplement percentages payable on  
3 January 1, 1982.

4 (4) All personal injuries found compensable under this act  
5 after ~~the effective date of this section~~ JANUARY 1, 1982 with a  
6 personal injury date before January 1, 1980, shall be paid at a  
7 rate determined pursuant to this section.

8 (5) An employee who is eligible to receive differential ben-  
9 efits from the second injury fund shall be paid the supplement  
10 pursuant to this section as reduced by the amount of the differ-  
11 ential payments being made to the employee by the second injury  
12 fund at the time of the payment of the supplement pursuant to  
13 this section.

14 (6) The supplement paid pursuant to this section, when added  
15 to the original benefit, shall not exceed the maximum weekly rate  
16 of compensation provided in section 355 in effect on the date of  
17 the adjustment.

18 (7) An employee is not entitled to supplements under this  
19 section for a personal injury for which the liability has been  
20 redeemed.

21 (8) The supplements under this section shall be paid by an  
22 insurer or self-insurer on a weekly basis. The insurer,  
23 self-insurer, the second injury fund, and the self-insurers'  
24 security fund are entitled to quarterly reimbursement for these  
25 payments from the compensation supplement fund in section 391,  
26 except that an insurer or self-insurer subject to ~~either section~~  
27 ~~440a of the insurance code of 1956, Act No. 218 of the Public~~

~~1 Acts of 1956, being section 500.440a of the Michigan Compiled~~  
~~2 Laws, or section 38b of the single business tax act, Act No. 228~~  
~~3 of the Public Acts of 1975, being section 208.38b of the Michigan~~  
~~4 Compiled Laws, shall take a credit under either section 440a of~~  
~~5 Act No. 218 of the Public Acts of 1956, or section 38b of Act~~  
~~6 No. 228 of the Public Acts of 1975, as applicable~~ THAT SECTION.

7       (9) This section does not apply to an employee receiving  
8 benefits under section 361(1).

9       (10) An insurer, self-insurer, the second injury fund, or  
10 the self-insurers' security fund shall make the supplemental pay-  
11 ments required by this section for each quarter of the state's  
12 fiscal year that the state treasurer certifies that there are  
13 sufficient funds available to meet the obligations of the fund  
14 created in section 391 for that quarter. The state treasurer  
15 shall certify whether there are sufficient funds in the fund cre-  
16 ated in section 391 to meet the obligations of that fund for each  
17 quarter of the fiscal year of the state on or before the first  
18 day of each quarter.

19       (11) An insurer, self-insurer, the second injury fund, or  
20 the self-insurers' security fund shall make the supplemental pay-  
21 ments required by this section for the period July 1, 1982 to  
22 September 30, 1982 and shall be reimbursed for those payments.