

HOUSE BILL No. 4925

June 15, 1989, Introduced by Reps. Crandall, DeLange, Honigman, Bandstra, Walberg, Fitzgerald, Middaugh, Nye, Stacey, Munsell, Randall, Strand, Emmons, Martin, London, Miller, Allen, Ostling, Gilmer, Johnson, Camp, Keith, Ouwinga, Griffin, Bankes and Power and referred to the Committee on Labor.

A bill to amend sections 345, 371, and 801 of Act No. 317 of the Public Acts of 1969, entitled as amended

"Worker's disability compensation act of 1969,"

sections 345 and 801 as amended by Act No. 103 of the Public Acts of 1985 and section 371 as amended by Act No. 32 of the Public Acts of 1982, being sections 418.345, 418.371, and 418.801 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 345, 371, and 801 of Act No. 317 of the
2 Public Acts of 1969, sections 345 and 801 as amended by Act
3 No. 103 of the Public Acts of 1985 and section 371 as amended by
4 Act No. 32 of the Public Acts of 1982, being sections 418.345,
5 418.371, and 418.801 of the Michigan Compiled Laws, are amended
6 to read as follows:

1 Sec. 345. If death results from the injury, the employer
2 shall pay, or cause to be paid, the reasonable expense of the
3 employee's last sickness and burial. The cost of burial shall
4 not exceed ~~\$1,500.00~~ \$4,000.00. Any person who performed such
5 service or incurred such liability is authorized to file an
6 application with the bureau. A hearing referee or worker's com-
7 pensation magistrate, as applicable, may order the employer to
8 pay such sums.

9 Sec. 371. (1) The weekly loss in wages referred to in this
10 act shall consist of the percentage of the average weekly earn-
11 ings of the injured employee computed according to this section
12 as fairly represents the proportionate extent of the impairment
13 of the employee's earning capacity in the employments covered by
14 this act in which the employee was working at the time of the
15 personal injury. The weekly loss in wages shall be fixed as of
16 the time of the personal injury, and determined considering the
17 nature and extent of the personal injury. The compensation pay-
18 able, when added to the employee's wage earning capacity after
19 the personal injury in the same or other employments, shall not
20 exceed the employee's average weekly earnings at the time of the
21 injury.

22 (2) As used in this act, "average weekly wage" means the
23 weekly wage earned by the employee at the time of the employee's
24 injury in all employment, inclusive of overtime, premium pay, and
25 cost of living adjustment, and exclusive of any fringe or other
26 benefits. ~~which continue during the disability. Any fringe or~~
27 ~~other benefit which does not continue during the disability shall~~

~~1 be included for purposes of determining an employee's average~~
~~2 weekly wage to the extent that the inclusion of the fringe or~~
~~3 other benefit will not result in a weekly benefit amount which is~~
~~4 greater than 2/3 of the state average weekly wage at the time of~~
~~5 injury.~~ The average weekly wage shall be determined by computing
6 the total wages paid in the highest paid 39 weeks of the 52 weeks
7 immediately preceding the date of injury, and dividing by 39.

8 (3) If the employee worked less than 39 weeks in the employ-
9 ment in which the employee was injured, the average weekly wage
10 shall be based upon the total wages earned by the employee
11 divided by the total number of weeks actually worked. For pur-
12 poses of this subsection, only those weeks in which work is per-
13 formed shall be considered in computing the total wages earned
14 and the number of weeks actually worked.

15 (4) If an employee sustains a compensable injury before com-
16 pleting his or her first work week, the average weekly wage shall
17 be calculated by determining the number of hours of work per week
18 contracted for by that employee multiplied by the employee's
19 hourly rate, or the weekly salary contracted for by the
20 employee.

21 (5) If the hourly earning of the employee cannot be ascer-
22 tained, or if the pay has not been designated for the work
23 required, the wage, for the purpose of calculating compensation,
24 shall be taken to be the usual wage for similar services if the
25 services are rendered by paid employees.

26 (6) If there are special circumstances under which the
27 average weekly wage cannot justly be determined by applying

1 subsections (2) to (5), an average weekly wage may be computed by
2 dividing the aggregate earnings during the year before the injury
3 by the number of days when work was performed and multiplying
4 that daily wage by the number of working days customary in the
5 employment, but not less than 5.

6 (7) The average weekly wage as determined under this section
7 shall be rounded to the nearest dollar.

8 Sec. 801. (1) Compensation shall be paid promptly and
9 directly to the person entitled thereto and shall become due and
10 payable on the fourteenth day after the employer has notice or
11 knowledge of the disability or death, on which date all compensa-
12 tion then accrued shall be paid. Thereafter compensation shall
13 be paid in weekly installments. Every carrier shall keep a
14 record of all payments made under this act and of the time and
15 manner of making the payments and shall furnish reports, based
16 upon these records, to the bureau as the director may reasonably
17 require.

18 (2) If weekly compensation benefits or accrued weekly bene-
19 fits are not paid within 30 days after becoming due and payable,
20 in cases where there is not an ongoing dispute, \$50.00 per day
21 shall be added and paid to the worker for each day over 30 days
22 in which the benefits are not paid. Not more than \$1,500.00 in
23 total may be added pursuant to this subsection FOR ALL VIOLATIONS
24 OF THE TIME REQUIREMENTS OF THIS SUBSECTION ARISING OUT OF A
25 SINGLE INJURY. NO PENALTY SHALL BE PAYABLE WHEN COMPENSATION HAS
26 BEEN PAID VOLUNTARILY, AND IT IS LATER ASSERTED OR ESTABLISHED
27 THAT THE RATE BEING PAID WAS ERRONEOUS OR MISCALCULATED.

1 (3) If medical bills or travel allowance are not paid within
2 30 days after the carrier has received notice of nonpayment by
3 certified mail, in cases where there is no ongoing dispute,
4 \$50.00 or the amount of the bill due, whichever is less, shall be
5 added and paid to the worker for each day over 30 days in which
6 the medical bills or travel allowance are not paid. Not more
7 than \$1,500.00 in total may be added pursuant to this subsection
8 FOR ALL VIOLATIONS OF THE TIME REQUIREMENTS OF THIS SUBSECTION
9 ARISING OUT OF A SINGLE INJURY.

10 (4) For purposes of rate-making, daily charges paid under
11 subsection (2) shall not constitute elements of loss.

12 (5) An employer who has notice or knowledge of the disabil-
13 ity or death and fails to give notice to the carrier shall pay
14 the penalty provided for in subsection (2) for the period during
15 which the employer failed to notify the carrier.

16 (6) When weekly compensation is paid pursuant to an award of
17 a hearing referee or worker's compensation magistrate, as appli-
18 cable, an arbitrator, the board, the appellate commission, or a
19 court, interest on the compensation shall be paid at the rate of
20 10% per annum from the date each payment was due, until paid.