

HOUSE BILL No. 6225

June 5, 2008, Introduced by Reps. Agema, Robertson, Elsenheimer, Rocca, Steil, Knollenberg, Stahl, Mayes, LaJoy, Opsommer, Pearce, Marleau, Garfield, Hoogendyk, Sheen, Amos and Rick Jones and referred to the Committee on Oversight and Investigations.

A bill to amend 1969 PA 317, entitled "Worker's disability compensation act of 1969," by amending sections 141 and 230 (MCL 418.141 and 418.230), section 230 as amended by 2002 PA 566, and by adding section 307.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 141. (1) In an action to recover damages for personal
2 injury sustained by an employee in the course of his employment or
3 for death resulting from personal injuries so sustained it shall
4 not be a defense:

5 (a) That the employee was negligent, unless it shall appear
6 that such negligence was wilful.

7 (b) That the injury was caused by the negligence of a fellow
8 employee.

1 (c) That the employee had assumed the risks inherent in or
2 incidental to, or arising out of his employment, or arising from
3 the failure of the employer to provide and maintain safe premises
4 and suitable appliances.

5 (2) IN AN ACTION BASED ON NEGLIGENCE OR GROSS NEGLIGENCE THAT
6 SEEKS DAMAGES FOR PERSONAL INJURY SUSTAINED BY AN EMPLOYEE IN THE
7 COURSE OF EMPLOYMENT OR FOR DEATH RESULTING FROM PERSONAL INJURIES
8 SUSTAINED IN THE COURSE OF EMPLOYMENT, IT IS AN ABSOLUTE DEFENSE IF
9 ALL OF THE FOLLOWING CONDITIONS ARE PRESENT:

10 (A) THE EMPLOYEE IS AN UNDOCUMENTED ALIEN WHO IS NOT PERMITTED
11 TO WORK IN THE UNITED STATES UNDER FEDERAL LAW.

12 (B) THE EMPLOYEE PRESENTED FRAUDULENT IDENTIFICATION TO THE
13 EMPLOYER.

14 (C) THE EMPLOYER DID NOT KNOW AND HAD NO REASON TO BELIEVE
15 THAT THE EMPLOYEE WAS NOT PERMITTED TO WORK IN THE UNITED STATES.

16 Sec. 230. (1) Except as otherwise provided in this section,
17 the following records are confidential and exempt from disclosure
18 under the freedom of information act, 1976 PA 442, MCL 15.231 to
19 15.246:

20 (a) Records submitted by an individual employer or a group of
21 employers to the bureau in support of an application for self-
22 insured status in the manner provided in section 611.

23 (b) Information concerning the injury of and benefits paid to
24 an individual worker. This includes, but is not limited to, all
25 forms, records, and reports filed with or maintained by the bureau
26 concerning the injury of or benefits paid to a worker.

27 (c) Worker's disability compensation insurance policy

1 information submitted to the bureau by an individual employer or
2 group of employers in accordance with section 615 or a notice of
3 issuance of a policy submitted to the bureau by an insurer in
4 accordance with section 625.

5 (2) The bureau may release, disclose, or publish information
6 described in subsection (1) under the following circumstances:

7 (a) In the case of subsection (1)(a), (b), or (c), the bureau
8 may disclose or publish aggregate information for statistical or
9 research purposes so long as it is disclosed or published in such a
10 way that the confidentiality of information concerning individual
11 workers and the financial records of individual employers or self-
12 insured employers or insurers is protected. The bureau may also
13 release individual records to a recognized academic or scholarly
14 institution for research purposes if it is provided with sufficient
15 assurance that the outside individual or agency will preserve the
16 confidentiality of information concerning individual workers and
17 the financial records of individual self-insured employers.

18 (b) In the case of subsection (1)(b), the bureau may release
19 information to another governmental agency if the governmental
20 agency provides the bureau with sufficient assurance that it will
21 preserve the confidentiality of the information. The other agency
22 may use this information to determine the eligibility of an
23 individual for benefits provided or regulated by that agency. The
24 bureau or another agency may disclose the information if it
25 determines that the individual is receiving benefits to which he or
26 she is not entitled as the result of receiving more than 1 benefit
27 at the same time.

1 (c) Except as otherwise provided, information disclosed in
2 accordance with subdivision (a) or (b) shall continue to be exempt
3 from disclosure under the freedom of information act, 1976 PA 442,
4 MCL 15.231 to 15.246.

5 (d) In the case of subsection (1)(b), the bureau may release
6 individual records to a nonprofit health care corporation, as
7 defined in section 105 of the nonprofit health care corporation
8 reform act, 1980 PA 350, MCL 550.1105, for the sole purpose of
9 determining financial liability for the payment of benefits
10 provided by the corporation. Any information provided to the
11 nonprofit health care corporation shall be confidential, as
12 provided in section 406 of the nonprofit health care corporation
13 reform act, 1980 PA 350, MCL 550.1406. In a dispute over who
14 assumes liability for the payment of benefits for a particular
15 claim, the nonprofit health care corporation shall initiate payment
16 of benefits pending resolution of the dispute.

17 (e) In the case of subsection (1)(c), in response to a request
18 that pertains to a specific employer and includes the employer's
19 address and the date of injury of the claim for which the
20 information is requested, the bureau may disclose the name and
21 address of the insurer that, according to the records of the
22 bureau, provided coverage on the date of injury, but shall not
23 disclose the effective date or expiration date of the policy.

24 (3) The confidentiality provided for in subsection (1) does
25 not apply to records maintained by the bureau that are part of or
26 directly related to a contested case. For the purposes of this
27 subsection, a matter shall be considered a contested case when it

1 is the subject of a request for a formal hearing before the
2 director or an application filed in accordance with section 847.

3 (4) Any employee is entitled to inspect and obtain a copy of
4 any record maintained by the bureau concerning himself or herself.
5 Any employer is entitled to inspect and obtain a copy of any record
6 maintained by the bureau concerning itself.

7 (5) The confidentiality provided for in subsection (1)(a) does
8 not apply to the records of a self-insured employer that becomes
9 unable to pay benefits under this act due to insolvency or
10 declaration of bankruptcy.

11 (6) This section does not limit the power of a court of law to
12 subpoena records relevant to a matter pending before it.

13 (7) Notwithstanding this section, the bureau shall release
14 information to the **TITLE** IV-D agency in accordance with section 4
15 of the office of child support act, 1971 PA 174, MCL ~~400.231~~ to
16 ~~400.239~~ **400.234**. As used in this subsection, "**TITLE** IV-D agency"
17 means that term as defined in section 2 of the support and
18 parenting time enforcement act, 1982 PA 295, MCL 552.602.

19 **(8) NOTWITHSTANDING SUBSECTION (1), AN OFFICER OR EMPLOYEE OF**
20 **THE BUREAU WHO RECEIVES INFORMATION INDICATING OR GIVING REASON TO**
21 **BELIEVE THAT A CLAIM FOR BENEFITS UNDER THIS ACT HAS BEEN FILED BY**
22 **AN UNDOCUMENTED ALIEN SHALL IMMEDIATELY REPORT THAT INFORMATION TO**
23 **EITHER THE FEDERAL BUREAU OF INVESTIGATION OR THE FEDERAL**
24 **IMMIGRATION AND NATURALIZATION SERVICE.**

25 **SEC. 307. NO COMPENSATION SHALL BE PAID UNDER THIS ACT FOR AN**
26 **INJURY SUSTAINED BY AN EMPLOYEE IF ALL OF THE FOLLOWING**
27 **CIRCUMSTANCES ARE PRESENT:**

1 (A) THE EMPLOYEE IS AN UNDOCUMENTED ALIEN WHO IS NOT PERMITTED
2 TO WORK IN THE UNITED STATES UNDER FEDERAL LAW.

3 (B) THE EMPLOYEE PRESENTED FRAUDULENT IDENTIFICATION TO THE
4 EMPLOYER.

5 (C) THE EMPLOYER DID NOT KNOW AND HAD NO REASON TO BELIEVE
6 THAT THE EMPLOYEE WAS NOT PERMITTED TO WORK IN THE UNITED STATES.