

SENATE BILL No. 102

January 30, 2007, Introduced by Senators GARCIA, KAHN, CHERRY, ANDERSON, BASHAM and PRUSI and referred to the Committee on Commerce and Tourism.

A bill to amend 1969 PA 317, entitled "Worker's disability compensation act of 1969," by amending section 405 (MCL 418.405), as amended by 1980 PA 457.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 405. (1) In the case of a member of a ~~full~~**FULLY** paid
2 fire department of an airport ~~run~~**OPERATED** by a county, ~~read~~
3 ~~commission in counties of 1,000,000 population or more~~**PUBLIC**
4 **AIRPORT AUTHORITY**, or ~~by a state university or college; , or~~**A**
5 **MEMBER** of a ~~full~~**FULLY** paid fire or police department of a city,
6 township, or incorporated village employed and compensated upon a
7 full-time basis; ~~, a county sheriff and the deputies of the county~~
8 ~~sheriff; , members~~**A MEMBER** of the state police; ~~, A~~**A** conservation
9 ~~officers, and~~**OFFICER; OR AN OFFICER OF THE** motor carrier
10 ~~inspectors of the Michigan public service commission~~**ENFORCEMENT**

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1 DIVISION OF THE DEPARTMENT OF STATE POLICE, "personal injury" shall
2 ~~be construed to include~~ **INCLUDES** respiratory and heart diseases, or
3 illnesses resulting therefrom, ~~which~~ **THAT** develop or manifest
4 themselves during a period while the member of the department is in
5 the active service of the department and **THAT** result from the
6 performance of duties for the department.

7 (2) **FOR A MEMBER OF A FULLY PAID FIRE DEPARTMENT WHO IS**
8 **EMPLOYED 24 MONTHS OR MORE, "PERSONAL INJURY" INCLUDES ALL**
9 **RESPIRATORY TRACT, BLADDER, SKIN, BRAIN, KIDNEY, BLOOD, AND**
10 **LYMPHATIC CANCERS.**

11 (3) ~~(2) Such respiratory~~ **RESPIRATORY** and heart diseases ~~or~~ **AND**
12 illnesses resulting therefrom **UNDER SUBSECTION (1), AND RESPIRATORY**
13 **TRACT, BLADDER, SKIN, BRAIN, KIDNEY, BLOOD, AND LYMPHATIC CANCERS**
14 **UNDER SUBSECTION (2), are deemed** **CONSIDERED** to arise out of and in
15 the course of employment in the absence of **AFFIRMATIVE** evidence ~~to~~
16 ~~the contrary~~ **OF NON-WORK-RELATED CAUSATION OR SPECIFIC INCIDENTS**
17 **THAT ESTABLISH A CAUSE INDEPENDENT OF THE EMPLOYMENT AND NOT MERELY**
18 **EVIDENCE OF A PREEXISTING CONDITION OR AN ABSTRACT MEDICAL OPINION**
19 **THAT EMPLOYMENT WAS NOT THE CAUSE OF THE DISEASE OR CONDITION.**
20 **RESPIRATORY TRACT, BLADDER, SKIN, BRAIN, KIDNEY, BLOOD, AND**
21 **LYMPHATIC CANCERS OF A MEMBER OF A FULLY PAID FIRE DEPARTMENT ARE**
22 **NOT CONSIDERED TO ARISE OUT OF AND IN THE COURSE OF EMPLOYMENT IF**
23 **EVIDENCE IS SHOWN THAT THE MEMBER OF THE FULLY PAID FIRE DEPARTMENT**
24 **WAS A CONSISTENT SMOKER OF CIGARETTES OR OTHER TOBACCO PRODUCTS**
25 **WITHIN THE 5 YEARS IMMEDIATELY PRECEDING THE DATE OF FILING A CLAIM**
26 **UNDER THIS ACT.**

27 (4) ~~(3)~~ **As a condition precedent to filing an application for**

1 benefits, the claimant, if he or she is ~~one of those enumerated A~~
2 **PERSON DESCRIBED** in subsection (1) **OR (2)**, shall first make
3 application for ~~,~~ and do all things necessary to qualify for any
4 pension benefits **TO** which he or she, or his or her decedent, may be
5 entitled ~~to~~ **OR SHALL DEMONSTRATE THAT HE OR SHE, OR HIS OR HER**
6 **DECEDENT, IS INELIGIBLE FOR ANY PENSION BENEFITS.** If a final
7 determination is made that pension benefits shall not be awarded **OR**
8 **THAT THE CLAIMANT OR HIS OR HER DECEDENT IS INELIGIBLE FOR ANY**
9 **PENSION BENEFITS,** then the presumption of "personal injury" as
10 provided in this section shall apply. The employer or employee may
11 request 2 copies of the determination denying pension benefits, 1
12 copy of which may be filed with the ~~bureau~~ **WORKERS' COMPENSATION**
13 **AGENCY.**

14 (5) **IF AN EMPLOYEE DESCRIBED IN SUBSECTION (1) OR (2) IS**
15 **ELIGIBLE FOR ANY PENSION BENEFITS, THAT ELIGIBILITY SHALL NOT**
16 **PROHIBIT THE EMPLOYEE OR DEPENDENTS OF THAT EMPLOYEE FROM RECEIVING**
17 **BENEFITS UNDER SECTION 315 FOR THE MEDICAL EXPENSES OR PORTION OF**
18 **MEDICAL EXPENSES THAT ARE NOT PROVIDED FOR BY THE PENSION PROGRAM.**
19 **THE PRESUMPTION IN SUBSECTION (3) SHALL APPLY TO THE MEDICAL**
20 **BENEFITS PROVIDED UNDER SECTION 315.**