

SENATE BILL No. 109

January 28, 2009, Introduced by Senators GARCIA, KAHN, ANDERSON, BASHAM, PRUSI, CHERRY and McMANUS 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; ~~, or~~**A MEMBER OF A FULLY PAID PUBLIC FIRE AUTHORITY**
 8 **EMPLOYED AND COMPENSATED UPON A FULL-TIME BASIS**; a county sheriff
 9 and the deputies of the county sheriff; ~~, or~~**A MEMBER** of the
 10 state police; ~~, or~~**A** conservation officers, ~~and~~**OFFICER**; **OR AN OFFICER**

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

8 (2) FOR A MEMBER OF A FULLY PAID FIRE DEPARTMENT OR PUBLIC
 9 FIRE AUTHORITY WHO IS EMPLOYED 60 MONTHS OR MORE, "PERSONAL INJURY"
 10 INCLUDES ALL RESPIRATORY TRACT, BLADDER, SKIN, BRAIN, KIDNEY,
 11 BLOOD, AND LYMPHATIC CANCERS. THIS SUBSECTION ONLY APPLIES TO A
 12 MEMBER OF A FULLY PAID FIRE DEPARTMENT OR PUBLIC FIRE AUTHORITY WHO
 13 IS EXPOSED TO THE HAZARDS INCIDENTAL TO FIRE SUPPRESSION, RESCUE,
 14 OR EMERGENCY MEDICAL SERVICES IN THE PERFORMANCE OF HIS OR HER
 15 WORK-RELATED DUTIES FOR THE DEPARTMENT OR AUTHORITY.

16 (3) ~~(2) Such respiratory~~-RESPIRATORY and heart diseases ~~or~~-AND
 17 illnesses resulting therefrom UNDER SUBSECTION (1), AND RESPIRATORY
 18 TRACT, BLADDER, SKIN, BRAIN, KIDNEY, BLOOD, AND LYMPHATIC CANCERS
 19 UNDER SUBSECTION (2), are ~~deemed~~-CONSIDERED to arise out of and in
 20 the course of employment in the absence of AFFIRMATIVE evidence ~~to~~
 21 ~~the contrary~~-OF NON-WORK-RELATED CAUSATION OR SPECIFIC INCIDENTS
 22 THAT ESTABLISH A CAUSE INDEPENDENT OF THE EMPLOYMENT AND NOT MERELY
 23 EVIDENCE OF A PREEXISTING CONDITION OR AN ABSTRACT MEDICAL OPINION
 24 THAT EMPLOYMENT WAS NOT THE CAUSE OF THE DISEASE OR CONDITION.
 25 RESPIRATORY TRACT, BLADDER, SKIN, BRAIN, KIDNEY, BLOOD, AND
 26 LYMPHATIC CANCERS OF A MEMBER OF A FULLY PAID FIRE DEPARTMENT OR
 27 PUBLIC FIRE AUTHORITY ARE NOT CONSIDERED TO ARISE OUT OF AND IN THE

1 COURSE OF EMPLOYMENT IF EVIDENCE IS SHOWN THAT THE MEMBER OF THE
2 FULLY PAID FIRE DEPARTMENT OR PUBLIC FIRE AUTHORITY WAS A
3 CONSISTENT SMOKER OF CIGARETTES OR OTHER TOBACCO PRODUCTS WITHIN
4 THE 5 YEARS IMMEDIATELY PRECEDING THE DATE OF FILING A CLAIM UNDER
5 THIS ACT.

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

20 (5) IF AN EMPLOYEE DESCRIBED IN SUBSECTION (1) OR (2) IS
21 ELIGIBLE FOR ANY PENSION BENEFITS, THAT ELIGIBILITY SHALL NOT
22 PROHIBIT THE EMPLOYEE OR DEPENDENTS OF THAT EMPLOYEE FROM RECEIVING
23 BENEFITS UNDER SECTION 315 FOR THE MEDICAL EXPENSES OR PORTION OF
24 MEDICAL EXPENSES THAT ARE NOT PROVIDED FOR BY THE PENSION PROGRAM.
25 THE PRESUMPTION IN SUBSECTION (3) SHALL APPLY TO THE MEDICAL
26 BENEFITS PROVIDED UNDER SECTION 315.