

# HOUSE BILL No. 4186

February 5, 2009, Introduced by Reps. Agema, Rogers, McMillin, Crawford, Opsommer, Pavlov, Lund, Meltzer, Rick Jones, Marleau, Haines, Meekhof, Knollenberg, Bolger, Tyler, Moss, Denby, Ball, Paul Scott, Daley, Lori, Kurtz, DeShazor, Calley, Haveman, Stamas and Walsh and referred to the Committee on Judiciary.

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~~WILLFUL.

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

9       (c) That the employee had assumed the risks inherent in or

1 incidental to, or arising out of his employment, or arising from  
2 the failure of the employer to provide and maintain safe premises  
3 and suitable appliances.

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

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

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

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

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

19 (a) Records submitted by an individual employer or a group of  
20 employers to the ~~bureau~~ **WORKERS' COMPENSATION AGENCY** in support of  
21 an application for self-insured status in the manner provided in  
22 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 **WORKERS' COMPENSATION AGENCY** concerning the injury of or benefits  
27 paid to a worker.

1 (c) Worker's disability compensation insurance policy  
2 information submitted to the ~~bureau~~**WORKERS' COMPENSATION AGENCY** by  
3 an individual employer or group of employers in accordance with  
4 section 615 or a notice of issuance of a policy submitted to the  
5 ~~bureau~~**WORKERS' COMPENSATION AGENCY** by an insurer in accordance  
6 with section 625.

7 (2) The ~~bureau~~**WORKERS' COMPENSATION AGENCY** may release,  
8 disclose, or publish information described in subsection (1) under  
9 the following circumstances:

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

22 (b) In the case of subsection (1)(b), the ~~bureau~~**WORKERS'**  
23 **COMPENSATION AGENCY** may release information to another governmental  
24 agency if the governmental agency provides the ~~bureau~~**WORKERS'**  
25 **COMPENSATION AGENCY** with sufficient assurance that it will preserve  
26 the confidentiality of the information. The other agency may use  
27 this information to determine the eligibility of an individual for

1 benefits provided or regulated by that agency. The ~~bureau~~**WORKERS'**  
2 **COMPENSATION AGENCY** or another agency may disclose the information  
3 if it determines that the individual is receiving benefits to which  
4 he or she is not entitled as the result of receiving more than 1  
5 benefit at the same time.

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

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

22 (e) In the case of subsection (1)(c), in response to a request  
23 that pertains to a specific employer and includes the employer's  
24 address and the date of injury of the claim for which the  
25 information is requested, the ~~bureau~~**WORKERS' COMPENSATION AGENCY**  
26 may disclose the name and address of the insurer that, according to  
27 the records of the ~~bureau~~**WORKERS' COMPENSATION AGENCY**, provided

1 coverage on the date of injury, but shall not disclose the  
2 effective date or expiration date of the policy.

3 (3) The confidentiality provided for in subsection (1) does  
4 not apply to records maintained by the ~~bureau~~**WORKERS' COMPENSATION**  
5 **AGENCY** that are part of or directly related to a contested case.  
6 For the purposes of this subsection, a matter shall be considered a  
7 contested case when it is the subject of a request for a formal  
8 hearing before the director or an application filed in accordance  
9 with section 847.

10 (4) Any employee is entitled to inspect and obtain a copy of  
11 any record maintained by the ~~bureau~~**WORKERS' COMPENSATION AGENCY**  
12 concerning himself or herself. Any employer is entitled to inspect  
13 and obtain a copy of any record maintained by the ~~bureau~~**WORKERS'**  
14 **COMPENSATION AGENCY** concerning itself.

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

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

21 (7) Notwithstanding this section, the ~~bureau~~**WORKERS'**  
22 **COMPENSATION AGENCY** shall release information to the **TITLE IV-D**  
23 agency in accordance with section 4 of the office of child support  
24 act, 1971 PA 174, MCL ~~400.231 to 400.239~~**400.234**. As used in this  
25 subsection, "**TITLE IV-D** agency" means that term as defined in  
26 section 2 of the support and parenting time enforcement act, 1982  
27 PA 295, MCL 552.602.

1           (8) NOTWITHSTANDING SUBSECTION (1), AN OFFICER OR EMPLOYEE OF  
2 THE WORKERS' COMPENSATION AGENCY WHO RECEIVES INFORMATION  
3 INDICATING OR GIVING REASON TO BELIEVE THAT A CLAIM FOR BENEFITS  
4 UNDER THIS ACT HAS BEEN FILED BY AN UNDOCUMENTED ALIEN SHALL  
5 IMMEDIATELY REPORT THAT INFORMATION TO EITHER THE FEDERAL BUREAU OF  
6 INVESTIGATION OR THE FEDERAL IMMIGRATION AND NATURALIZATION  
7 SERVICE.

8           SEC. 307. NO COMPENSATION SHALL BE PAID UNDER THIS ACT FOR AN  
9 INJURY SUSTAINED BY AN EMPLOYEE IF ALL OF THE FOLLOWING  
10 CIRCUMSTANCES ARE PRESENT:

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

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

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