

WORKER'S DISABILITY COMPENSATION ACT OF 1969 (EXCERPT)
Act 317 of 1969

418.827 Third party liability.

Sec. 827.

(1) Where the injury for which compensation is payable under this act was caused under circumstances creating a legal liability in some person other than a natural person in the same employ or the employer to pay damages in respect thereof, the acceptance of compensation benefits or the taking of proceedings to enforce compensation payments shall not act as an election of remedies but the injured employee or his or her dependents or personal representative may also proceed to enforce the liability of the third party for damages in accordance with this section. If the injured employee or his or her dependents or personal representative does not commence the action within 1 year after the occurrence of the personal injury, then the employer or carrier, within the period of time for the commencement of actions prescribed by statute, may enforce the liability of such other person in the name of that person. Not less than 30 days before the commencement of action by any party under this section, the parties shall notify, by certified mail at their last known address, the bureau, the injured employee, or in the event of the employee's death, his or her known dependents or personal representative or known next of kin, his or her employer, and the carrier. Any party in interest shall have a right to join in the action.

(2) Prior to the entry of judgment, either the employer or carrier or the employee or the employee's personal representative may settle their claims as their interest shall appear and may execute releases therefor.

(3) Settlement and release by the employee is not a bar to action by the employer or carrier to proceed against the third party for any interest or claim it might have.

(4) If the injured employee or his or her dependents or personal representative settle their claim for injury or death or commence proceedings thereon against the third party before the payment of worker's compensation, such recovery or commencement of proceedings shall not act as an election of remedies and any moneys so recovered shall be applied as herein provided.

(5) In an action to enforce the liability of a third party, the plaintiff may recover any amount which the employee or his or her dependents or personal representative would be entitled to recover in an action in tort. Any recovery against the third party for damages resulting from personal injuries or death only, after deducting expenses of recovery, shall first reimburse the employer or carrier for any amounts paid or payable under this act to date of recovery and the balance shall immediately be paid to the employee or his or her dependents or personal representative and shall be treated as an advance payment by the employer on account of any future payments of compensation benefits.

(6) Expenses of recovery shall be the reasonable expenditures, including attorney fees, incurred in effecting recovery. Attorney fees, unless otherwise agreed upon, shall be divided among the attorneys for the plaintiff as directed by the court. Expenses of recovery shall be apportioned by the court between the parties as their interests appear at the time of the recovery.

(7) Compensation benefits referred to in this section shall in each instance include but not be limited to all expenses incurred under sections 315 and 345.

(8) The furnishing of, or failure to furnish, safety inspections or safety advisory services incident to providing worker's compensation insurance, or pursuant to a contract providing for safety inspections or safety advisory services between the employer and a self-insurance service organization or a union shall not subject the insurer or self-insured service organization, or their agents or employees, or the union, its members or the members of its safety committee, to third party liability for damages for injury, death or loss resulting therefrom.

History: 1969, Act 317, Eff. Dec. 31, 1969 ;-- Am. 1972, Act 285, Imd. Eff. Oct. 30, 1972 ;-- Am. 1993, Act 198, Eff. Dec. 28, 1994

Compiler's Notes: Section 3 of Act 198 of 1993 provides as follows: "Section 3. (1) Except as provided in subsection (2), this amendatory act shall not take effect unless the state administrative board certifies in writing to the secretary of state by December 31, 1994 that an agreement for the transfer of all or substantially all of the assets and the assumption of all or substantially all of the liabilities of the state accident fund has been consummated with a permitted transferee pursuant to the requirements of section 701a of the worker's disability compensation act of 1969, Act No. 317 of the Public Acts of 1969, being section 418.701a of the Michigan Compiled Laws, as added by this amendatory act." (2) Sections 700 and 701a as added by this amendatory act shall take effect upon the date of enactment of this amendatory act."

Popular Name: Act 317