

CERTIFICATION OF ENROLLMENT

ENGROSSED SENATE BILL 5675

60th Legislature
2007 Regular Session

Passed by the Senate April 16, 2007
YEAS 37 NAYS 10

President of the Senate

Passed by the House April 6, 2007
YEAS 68 NAYS 29

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SENATE BILL 5675** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SENATE BILL 5675

AS AMENDED BY THE HOUSE

Passed Legislature - 2007 Regular Session

State of Washington 60th Legislature 2007 Regular Session

By Senators Franklin, Kohl-Welles, Keiser, Murray and Kline

Read first time 01/29/2007. Referred to Committee on Labor,
Commerce, Research & Development.

1 AN ACT Relating to increasing minimum industrial insurance
2 benefits; amending RCW 51.32.050 and 51.32.060; reenacting and amending
3 RCW 51.32.090; creating a new section; and providing an effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 51.32.050 and 1995 c 199 s 6 are each amended to read
6 as follows:

7 (1) Where death results from the injury the expenses of burial not
8 to exceed two hundred percent of the average monthly wage in the state
9 as defined in RCW 51.08.018 shall be paid.

10 (2)(a) Where death results from the injury, a surviving spouse of
11 a deceased worker eligible for benefits under this title shall receive
12 monthly for life or until remarriage payments according to the
13 following schedule:

14 (i) If there are no children of the deceased worker, sixty percent
15 of the wages of the deceased worker (~~((but not less than one hundred
16 eighty five dollars))~~);

17 (ii) If there is one child of the deceased worker and in the legal
18 custody of such spouse, sixty-two percent of the wages of the deceased
19 worker (~~((but not less than two hundred twenty two dollars))~~);

1 (iii) If there are two children of the deceased worker and in the
2 legal custody of such spouse, sixty-four percent of the wages of the
3 deceased worker (~~((but not less than two hundred fifty three dollars))~~);

4 (iv) If there are three children of the deceased worker and in the
5 legal custody of such spouse, sixty-six percent of the wages of the
6 deceased worker (~~((but not less than two hundred seventy six dollars))~~);

7 (v) If there are four children of the deceased worker and in the
8 legal custody of such spouse, sixty-eight percent of the wages of the
9 deceased worker (~~((but not less than two hundred ninety nine dollars))~~);

10 or

11 (vi) If there are five or more children of the deceased worker and
12 in the legal custody of such spouse, seventy percent of the wages of
13 the deceased worker (~~((but not less than three hundred twenty two
14 dollars))~~).

15 (b) Where the surviving spouse does not have legal custody of any
16 child or children of the deceased worker or where after the death of
17 the worker legal custody of such child or children passes from such
18 surviving spouse to another, any payment on account of such child or
19 children not in the legal custody of the surviving spouse shall be made
20 to the person or persons having legal custody of such child or
21 children. The amount of such payments shall be five percent of the
22 monthly benefits payable as a result of the worker's death for each
23 such child but such payments shall not exceed twenty-five percent.
24 Such payments on account of such child or children shall be subtracted
25 from the amount to which such surviving spouse would have been entitled
26 had such surviving spouse had legal custody of all of the children and
27 the surviving spouse shall receive the remainder after such payments on
28 account of such child or children have been subtracted. Such payments
29 on account of a child or children not in the legal custody of such
30 surviving spouse shall be apportioned equally among such children.

31 (c) Payments to the surviving spouse of the deceased worker shall
32 cease at the end of the month in which remarriage occurs: PROVIDED,
33 That a monthly payment shall be made to the child or children of the
34 deceased worker from the month following such remarriage in a sum equal
35 to five percent of the wages of the deceased worker for one child and
36 a sum equal to five percent for each additional child up to a maximum
37 of five such children. Payments to such child or children shall be
38 apportioned equally among such children. Such sum shall be in place of

1 any payments theretofore made for the benefit of or on account of any
2 such child or children. If the surviving spouse does not have legal
3 custody of any child or children of the deceased worker, or if after
4 the death of the worker, legal custody of such child or children passes
5 from such surviving spouse to another, any payment on account of such
6 child or children not in the legal custody of the surviving spouse
7 shall be made to the person or persons having legal custody of such
8 child or children.

9 (d) In no event shall the monthly payments provided in subsection
10 (2) of this section:

11 (i) Exceed the applicable percentage of the average monthly wage in
12 the state as computed under RCW 51.08.018 as follows:

AFTER	PERCENTAGE
June 30, 1993	105%
June 30, 1994	110%
June 30, 1995	115%
June 30, 1996	120%

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18 (ii) For dates of injury or disease manifestation after July 1,
19 2008, be less than fifteen percent of the average monthly wage in the
20 state as computed under RCW 51.08.018 plus an additional ten dollars
21 per month for a surviving spouse and an additional ten dollars per
22 month for each child of the worker up to a maximum of five children.
23 However, if the monthly payment computed under this subsection
24 (2)(d)(ii) is greater than one hundred percent of the wages of the
25 deceased worker as determined under RCW 51.08.178, the monthly payment
26 due to the surviving spouse shall be equal to the greater of the
27 monthly wages of the deceased worker or the minimum benefit set forth
28 in this section on June 30, 2008.

29 (e) In addition to the monthly payments provided for in subsection
30 (2)(a) through (c) of this section, a surviving spouse or child or
31 children of such worker if there is no surviving spouse, or dependent
32 parent or parents, if there is no surviving spouse or child or children
33 of any such deceased worker shall be forthwith paid a sum equal to one
34 hundred percent of the average monthly wage in the state as defined in
35 RCW 51.08.018, any such children, or parents to share and share alike
36 in said sum.

1 (f) Upon remarriage of a surviving spouse the monthly payments for
2 the child or children shall continue as provided in this section, but
3 the monthly payments to such surviving spouse shall cease at the end of
4 the month during which remarriage occurs. However, after September 8,
5 1975, an otherwise eligible surviving spouse of a worker who died at
6 any time prior to or after September 8, 1975, shall have an option of:

7 (i) Receiving, once and for all, a lump sum of twenty-four times
8 the monthly compensation rate in effect on the date of remarriage
9 allocable to the spouse for himself or herself pursuant to subsection
10 (2)(a)(i) of this section and subject to any modifications specified
11 under subsection (2)(d) of this section and RCW 51.32.075(3) or fifty
12 percent of the then remaining annuity value of his or her pension,
13 whichever is the lesser: PROVIDED, That if the injury occurred prior
14 to July 28, 1991, the remarriage benefit lump sum available shall be as
15 provided in the remarriage benefit schedules then in effect; or

16 (ii) If a surviving spouse does not choose the option specified in
17 subsection (2)(f)(i) of this section to accept the lump sum payment,
18 the remarriage of the surviving spouse of a worker shall not bar him or
19 her from claiming the lump sum payment authorized in subsection
20 (2)(f)(i) of this section during the life of the remarriage, or shall
21 not prevent subsequent monthly payments to him or to her if the
22 remarriage has been terminated by death or has been dissolved or
23 annulled by valid court decree provided he or she has not previously
24 accepted the lump sum payment.

25 (g) If the surviving spouse during the remarriage should die
26 without having previously received the lump sum payment provided in
27 subsection (2)(f)(i) of this section, his or her estate shall be
28 entitled to receive the sum specified under subsection (2)(f)(i) of
29 this section or fifty percent of the then remaining annuity value of
30 his or her pension whichever is the lesser.

31 (h) The effective date of resumption of payments under subsection
32 (2)(f)(ii) of this section to a surviving spouse based upon termination
33 of a remarriage by death, annulment, or dissolution shall be the date
34 of the death or the date the judicial decree of annulment or
35 dissolution becomes final and when application for the payments has
36 been received.

37 (i) If it should be necessary to increase the reserves in the
38 reserve fund or to create a new pension reserve fund as a result of the

1 amendments in chapter 45, Laws of 1975-'76 2nd ex. sess., the amount of
2 such increase in pension reserve in any such case shall be transferred
3 to the reserve fund from the supplemental pension fund.

4 (3) If there is a child or children and no surviving spouse of the
5 deceased worker or the surviving spouse is not eligible for benefits
6 under this title, a sum equal to thirty-five percent of the wages of
7 the deceased worker shall be paid monthly for one child and a sum
8 equivalent to fifteen percent of such wage shall be paid monthly for
9 each additional child, the total of such sum to be divided among such
10 children, share and share alike: PROVIDED, That benefits under this
11 subsection or subsection (4) of this section shall not exceed the
12 lesser of sixty-five percent of the wages of the deceased worker at the
13 time of his or her death or the applicable percentage of the average
14 monthly wage in the state as defined in RCW 51.08.018, as follows:

AFTER	PERCENTAGE
June 30, 1993	105%
June 30, 1994	110%
June 30, 1995	115%
June 30, 1996	120%

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20 (4) In the event a surviving spouse receiving monthly payments
21 dies, the child or children of the deceased worker shall receive the
22 same payment as provided in subsection (3) of this section.

23 (5) If the worker leaves no surviving spouse or child, but leaves
24 a dependent or dependents, a monthly payment shall be made to each
25 dependent equal to fifty percent of the average monthly support
26 actually received by such dependent from the worker during the twelve
27 months next preceding the occurrence of the injury, but the total
28 payment to all dependents in any case shall not exceed the lesser of
29 sixty-five percent of the wages of the deceased worker at the time of
30 his or her death or the applicable percentage of the average monthly
31 wage in the state as defined in RCW 51.08.018 as follows:

AFTER	PERCENTAGE
June 30, 1993	105%

1	June 30, 1994	110%
2	June 30, 1995	115%
3	June 30, 1996	120%

4 If any dependent is under the age of eighteen years at the time of the
5 occurrence of the injury, the payment to such dependent shall cease
6 when such dependent reaches the age of eighteen years except such
7 payments shall continue until the dependent reaches age twenty-three
8 while permanently enrolled at a full time course in an accredited
9 school. The payment to any dependent shall cease if and when, under
10 the same circumstances, the necessity creating the dependency would
11 have ceased if the injury had not happened.

12 (6) For claims filed prior to July 1, 1986, if the injured worker
13 dies during the period of permanent total disability, whatever the
14 cause of death, leaving a surviving spouse, or child, or children, the
15 surviving spouse or child or children shall receive benefits as if
16 death resulted from the injury as provided in subsections (2) through
17 (4) of this section. Upon remarriage or death of such surviving
18 spouse, the payments to such child or children shall be made as
19 provided in subsection (2) of this section when the surviving spouse of
20 a deceased worker remarries.

21 (7) For claims filed on or after July 1, 1986, every worker who
22 becomes eligible for permanent total disability benefits shall elect an
23 option as provided in RCW 51.32.067.

24 **Sec. 2.** RCW 51.32.060 and 1993 c 521 s 2 are each amended to read
25 as follows:

26 (1) When the supervisor of industrial insurance shall determine
27 that permanent total disability results from the injury, the worker
28 shall receive monthly during the period of such disability:

29 (a) If married at the time of injury, sixty-five percent of his or
30 her wages (~~((but not less than two hundred fifteen dollars per month))~~).

31 (b) If married with one child at the time of injury, sixty-seven
32 percent of his or her wages (~~((but not less than two hundred fifty two
33 dollars per month))~~).

34 (c) If married with two children at the time of injury, sixty-nine
35 percent of his or her wages (~~((but not less than two hundred
36 eighty three dollars))~~).

1 (d) If married with three children at the time of injury,
2 seventy-one percent of his or her wages (~~((but not less than three
3 hundred six dollars per month))~~).

4 (e) If married with four children at the time of injury,
5 seventy-three percent of his or her wages (~~((but not less than three
6 hundred twenty nine dollars per month))~~).

7 (f) If married with five or more children at the time of injury,
8 seventy-five percent of his or her wages (~~((but not less than three
9 hundred fifty two dollars per month))~~).

10 (g) If unmarried at the time of the injury, sixty percent of his or
11 her wages (~~((but not less than one hundred eighty five dollars per
12 month))~~).

13 (h) If unmarried with one child at the time of injury, sixty-two
14 percent of his or her wages (~~((but not less than two hundred twenty two
15 dollars per month))~~).

16 (i) If unmarried with two children at the time of injury,
17 sixty-four percent of his or her wages (~~((but not less than two hundred
18 fifty three dollars per month))~~).

19 (j) If unmarried with three children at the time of injury,
20 sixty-six percent of his or her wages (~~((but not less than two hundred
21 seventy six dollars per month))~~).

22 (k) If unmarried with four children at the time of injury,
23 sixty-eight percent of his or her wages (~~((but not less than two hundred
24 ninety nine dollars per month))~~).

25 (l) If unmarried with five or more children at the time of injury,
26 seventy percent of his or her wages (~~((but not less than three hundred
27 twenty two dollars per month))~~).

28 (2) For any period of time where both husband and wife are entitled
29 to compensation as temporarily or totally disabled workers, only that
30 spouse having the higher wages of the two shall be entitled to claim
31 their child or children for compensation purposes.

32 (3) In case of permanent total disability, if the character of the
33 injury is such as to render the worker so physically helpless as to
34 require the hiring of the services of an attendant, the department
35 shall make monthly payments to such attendant for such services as long
36 as such requirement continues, but such payments shall not obtain or be
37 operative while the worker is receiving care under or pursuant to the
38 provisions of chapter 51.36 RCW and RCW 51.04.105.

1 (4) Should any further accident result in the permanent total
2 disability of an injured worker, he or she shall receive the pension to
3 which he or she would be entitled, notwithstanding the payment of a
4 lump sum for his or her prior injury.

5 (5) In no event shall the monthly payments provided in this
6 section:

7 (a) Exceed the applicable percentage of the average monthly wage in
8 the state as computed under the provisions of RCW 51.08.018 as follows:

	AFTER	PERCENTAGE
9		
10	June 30, 1993	105%
11	June 30, 1994	110%
12	June 30, 1995	115%
13	June 30, 1996	120%

14 (b) For dates of injury or disease manifestation after July 1,
15 2008, be less than fifteen percent of the average monthly wage in the
16 state as computed under RCW 51.08.018 plus an additional ten dollars
17 per month if a worker is married and an additional ten dollars per
18 month for each child of the worker up to a maximum of five children.
19 However, if the monthly payment computed under this subsection (5)(b)
20 is greater than one hundred percent of the wages of the worker as
21 determined under RCW 51.08.178, the monthly payment due to the worker
22 shall be equal to the greater of the monthly wages of the worker or the
23 minimum benefit set forth in this section on June 30, 2008.

24 The limitations under this subsection shall not apply to the
25 payments provided for in subsection (3) of this section.

26 (6) In the case of new or reopened claims, if the supervisor of
27 industrial insurance determines that, at the time of filing or
28 reopening, the worker is voluntarily retired and is no longer attached
29 to the work force, benefits shall not be paid under this section.

30 (7) The benefits provided by this section are subject to
31 modification under RCW 51.32.067.

32 **Sec. 3.** RCW 51.32.090 and 1993 c 521 s 3, 1993 c 299 s 1, and 1993
33 c 271 s 1 are each reenacted and amended to read as follows:

34 (1) When the total disability is only temporary, the schedule of

1 payments contained in RCW 51.32.060 (1) and (2) shall apply, so long as
2 the total disability continues.

3 (2) Any compensation payable under this section for children not in
4 the custody of the injured worker as of the date of injury shall be
5 payable only to such person as actually is providing the support for
6 such child or children pursuant to the order of a court of record
7 providing for support of such child or children.

8 (3)(a) As soon as recovery is so complete that the present earning
9 power of the worker, at any kind of work, is restored to that existing
10 at the time of the occurrence of the injury, the payments shall cease.
11 If and so long as the present earning power is only partially restored,
12 the payments shall:

13 (i) For claims for injuries that occurred before May 7, 1993,
14 continue in the proportion which the new earning power shall bear to
15 the old; or

16 (ii) For claims for injuries occurring on or after May 7, 1993,
17 equal eighty percent of the actual difference between the worker's
18 present wages and earning power at the time of injury, but: (A) The
19 total of these payments and the worker's present wages may not exceed
20 one hundred fifty percent of the average monthly wage in the state as
21 computed under RCW 51.08.018; (B) the payments may not exceed one
22 hundred percent of the entitlement as computed under subsection (1) of
23 this section; and (C) the payments may not be less than the worker
24 would have received if (a)(i) of this subsection had been applicable to
25 the worker's claim.

26 (b) No compensation shall be payable under this subsection (3)
27 unless the loss of earning power shall exceed five percent.

28 (4)(a) Whenever the employer of injury requests that a worker who
29 is entitled to temporary total disability under this chapter be
30 certified by a physician as able to perform available work other than
31 his or her usual work, the employer shall furnish to the physician,
32 with a copy to the worker, a statement describing the work available
33 with the employer of injury in terms that will enable the physician to
34 relate the physical activities of the job to the worker's disability.
35 The physician shall then determine whether the worker is physically
36 able to perform the work described. The worker's temporary total
37 disability payments shall continue until the worker is released by his
38 or her physician for the work, and begins the work with the employer of

1 injury. If the work thereafter comes to an end before the worker's
2 recovery is sufficient in the judgment of his or her physician to
3 permit him or her to return to his or her usual job, or to perform
4 other available work offered by the employer of injury, the worker's
5 temporary total disability payments shall be resumed. Should the
6 available work described, once undertaken by the worker, impede his or
7 her recovery to the extent that in the judgment of his or her physician
8 he or she should not continue to work, the worker's temporary total
9 disability payments shall be resumed when the worker ceases such work.

10 (b) Once the worker returns to work under the terms of this
11 subsection (4), he or she shall not be assigned by the employer to work
12 other than the available work described without the worker's written
13 consent, or without prior review and approval by the worker's
14 physician.

15 (c) If the worker returns to work under this subsection (4), any
16 employee health and welfare benefits that the worker was receiving at
17 the time of injury shall continue or be resumed at the level provided
18 at the time of injury. Such benefits shall not be continued or resumed
19 if to do so is inconsistent with the terms of the benefit program, or
20 with the terms of the collective bargaining agreement currently in
21 force.

22 (d) In the event of any dispute as to the worker's ability to
23 perform the available work offered by the employer, the department
24 shall make the final determination.

25 (5) No worker shall receive compensation for or during the day on
26 which injury was received or the three days following the same, unless
27 his or her disability shall continue for a period of fourteen
28 consecutive calendar days from date of injury: PROVIDED, That attempts
29 to return to work in the first fourteen days following the injury shall
30 not serve to break the continuity of the period of disability if the
31 disability continues fourteen days after the injury occurs.

32 (6) Should a worker suffer a temporary total disability and should
33 his or her employer at the time of the injury continue to pay him or
34 her the wages which he or she was earning at the time of such injury,
35 such injured worker shall not receive any payment provided in
36 subsection (1) of this section during the period his or her employer
37 shall so pay such wages.

1 (7) In no event shall the monthly payments provided in this
2 section:

3 (a) Exceed the applicable percentage of the average monthly wage in
4 the state as computed under the provisions of RCW 51.08.018 as follows:

5	AFTER	PERCENTAGE
6	June 30, 1993	105%
7	June 30, 1994	110%
8	June 30, 1995	115%
9	June 30, 1996	120%

10 (b) For dates of injury or disease manifestation after July 1,
11 2008, be less than fifteen percent of the average monthly wage in the
12 state as computed under RCW 51.08.018 plus an additional ten dollars
13 per month if the worker is married and an additional ten dollars per
14 month for each child of the worker up to a maximum of five children.
15 However, if the monthly payment computed under this subsection (7)(b)
16 is greater than one hundred percent of the wages of the worker as
17 determined under RCW 51.08.178, the monthly payment due to the worker
18 shall be equal to the greater of the monthly wages of the worker or the
19 minimum benefit set forth in this section on June 30, 2008.

20 (8) If the supervisor of industrial insurance determines that the
21 worker is voluntarily retired and is no longer attached to the work
22 force, benefits shall not be paid under this section.

23 NEW SECTION. Sec. 4. This act takes effect July 1, 2008.

24 NEW SECTION. Sec. 5. If specific funding for the purposes of this
25 act, referencing this act by bill or chapter number, is not provided by
26 June 30, 2007, in the omnibus appropriations act, this act is null and
27 void.

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