
SUBSTITUTE HOUSE BILL 1648

State of Washington

54th Legislature

1995 Regular Session

By House Committee on Commerce & Labor (originally sponsored by Representatives Lisk, Romero, Goldsmith and Thompson; by request of Employment Security Department)

Read first time 03/01/95.

1 AN ACT Relating to charges against industrial insurance awards;
2 amending RCW 51.32.040 and 50.20.085; and providing an effective date.

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

4 **Sec. 1.** RCW 51.32.040 and 1987 c 75 s 7 are each amended to read
5 as follows:

6 No money paid or payable under this title shall, except as provided
7 for in RCW 43.20B.720, 50.20.085, or 74.20A.260, prior to the issuance
8 and delivery of the check or warrant therefor, be capable of being
9 assigned, charged, or ever be taken in execution or attached or
10 garnished, nor shall the same pass, or be paid, to any other person by
11 operation of law, or by any form of voluntary assignment, or power of
12 attorney. Any such assignment or charge shall be void, unless the
13 transfer is to a financial institution at the request of a worker or
14 other beneficiary and in accordance with RCW 51.32.045 shall be made:
15 PROVIDED, That if any worker suffers a permanent partial injury, and
16 dies from some other cause than the accident which produced such injury
17 before he or she shall have received payment of his or her award for
18 such permanent partial injury, or if any worker suffers any other
19 injury before he or she shall have received payment of any monthly

1 installment covering any period of time prior to his or her death, the
2 amount of such permanent partial award, or of such monthly payment or
3 both, shall be paid to the surviving spouse, or to the child or
4 children if there is no surviving spouse: PROVIDED FURTHER, That, if
5 any worker suffers an injury and dies therefrom before he or she shall
6 have received payment of any monthly installment covering time loss for
7 any period of time prior to his or her death, the amount of such
8 monthly payment shall be paid to the surviving spouse, or to the child
9 or children if there is no surviving spouse: PROVIDED FURTHER, That
10 any application for compensation under the foregoing provisos of this
11 section shall be filed with the department or self-insuring employer
12 within one year of the date of death: PROVIDED FURTHER, That if the
13 injured worker resided in the United States as long as three years
14 prior to the date of injury, such payment shall not be made to any
15 surviving spouse or child who was at the time of the injury a
16 nonresident of the United States: PROVIDED FURTHER, That any worker
17 receiving benefits under this title who is subsequently confined in, or
18 who subsequently becomes eligible therefor while confined in any
19 institution under conviction and sentence shall have all payments of
20 such compensation canceled during the period of confinement but after
21 discharge from the institution payment of benefits thereafter due shall
22 be paid if such worker would, but for the provisions of this proviso,
23 otherwise be entitled thereto: PROVIDED FURTHER, That if any prisoner
24 is injured in the course of his or her employment while participating
25 in a work or training release program authorized by chapter 72.65 RCW
26 and is subject to the provisions of this title, he or she shall be
27 entitled to payments under this title subject to the requirements of
28 chapter 72.65 RCW unless his or her participation in such program has
29 been canceled, or unless he or she is returned to a state correctional
30 institution, as defined in RCW 72.65.010(3), as a result of revocation
31 of parole or new sentence: PROVIDED FURTHER, That if such incarcerated
32 worker has during such confinement period, any beneficiaries, they
33 shall be paid directly the monthly benefits which would have been paid
34 to him or her for himself or herself and his or her beneficiaries had
35 he or she not been so confined. Any lump sum benefits to which the
36 worker would otherwise be entitled but for the provisions of these
37 provisos shall be paid on a monthly basis to his or her beneficiaries.

1 **Sec. 2.** RCW 50.20.085 and 1991 c 117 s 2 are each amended to read
2 as follows:

3 (1) An individual is disqualified from benefits with respect to any
4 day or days for which he or she is receiving, has received, or will
5 receive compensation under RCW 51.32.060 or 51.32.090.

6 (2)(a) By accepting benefits under this title, the individual shall
7 be deemed to have subrogated the employment security department to the
8 individual's right to recover temporary total disability compensation
9 or permanent total disability compensation, or both, due the individual
10 under Title 51 RCW to the extent of such unemployment benefits or
11 compensation under Title 51 RCW, whichever is less, furnished to the
12 recipient for the period for which compensation under Title 51 RCW is
13 payable.

14 (b)(i) The employment security department may assert and enforce a
15 lien and notice to withhold and deliver as provided in this section to
16 secure reimbursement of any benefits paid for or during the period and
17 for the purposes expressed in this section.

18 (ii) The effective date of the lien and notice to withhold and
19 deliver shall be the day that it is received by the director of the
20 department of labor and industries, an employee of the director's
21 office of suitable discretion, or a self-insurer as defined in chapter
22 51.08 RCW. Service of the lien and notice to withhold and deliver may
23 be made personally, by regular mail postage prepaid, or by electronic
24 transmission. A copy of the lien and notice to withhold and deliver
25 shall be mailed to the individual at his or her last known address by
26 certified mail, return receipt requested, no later than the next
27 business day after the lien and notice to withhold and deliver has been
28 mailed or delivered to the department of labor and industries or to a
29 self-insurer.

30 NEW SECTION. **Sec. 3.** This act shall take effect January 1, 1996.

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