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**SUBSTITUTE SENATE BILL 5773**

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**State of Washington**

**54th Legislature**

**1995 Regular Session**

**By** Senate Committee on Labor, Commerce & Trade (originally sponsored by Senators Pelz, Newhouse and Deccio; by request of Employment Security Department)

Read first time 02/24/95.

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

6       By accepting benefits, the individual shall be deemed to have  
7 subrogated the employment security department to the individual's right  
8 to recover time loss compensation due the individual under Title 51 RCW  
9 to the extent of such unemployment benefits or time loss compensation,  
10 whichever is less, furnished to the recipient for the period for which  
11 time loss compensation is payable.

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

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

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

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