
ENGROSSED SENATE BILL 5675

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; 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%

13
14
15
16
17
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

1 RCW 51.08.018, any such children, or parents to share and share alike
2 in said sum.

3 (f) Upon remarriage of a surviving spouse the monthly payments for
4 the child or children shall continue as provided in this section, but
5 the monthly payments to such surviving spouse shall cease at the end of
6 the month during which remarriage occurs. However, after September 8,
7 1975, an otherwise eligible surviving spouse of a worker who died at
8 any time prior to or after September 8, 1975, shall have an option of:

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

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

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

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

1 (i) If it should be necessary to increase the reserves in the
2 reserve fund or to create a new pension reserve fund as a result of the
3 amendments in chapter 45, Laws of 1975-'76 2nd ex. sess., the amount of
4 such increase in pension reserve in any such case shall be transferred
5 to the reserve fund from the supplemental pension fund.

6 (3) If there is a child or children and no surviving spouse of the
7 deceased worker or the surviving spouse is not eligible for benefits
8 under this title, a sum equal to thirty-five percent of the wages of
9 the deceased worker shall be paid monthly for one child and a sum
10 equivalent to fifteen percent of such wage shall be paid monthly for
11 each additional child, the total of such sum to be divided among such
12 children, share and share alike: PROVIDED, That benefits under this
13 subsection or subsection (4) of this section shall not exceed the
14 lesser of sixty-five percent of the wages of the deceased worker at the
15 time of his or her death or the applicable percentage of the average
16 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%

17
18
19
20
21
22 (4) In the event a surviving spouse receiving monthly payments
23 dies, the child or children of the deceased worker shall receive the
24 same payment as provided in subsection (3) of this section.

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

	AFTER	PERCENTAGE
1		
2	June 30, 1993	105%
3	June 30, 1994	110%
4	June 30, 1995	115%
5	June 30, 1996	120%

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (3) In case of permanent total disability, if the character of the
36 injury is such as to render the worker so physically helpless as to
37 require the hiring of the services of an attendant, the department
38 shall make monthly payments to such attendant for such services as long

1 as such requirement continues, but such payments shall not obtain or be
2 operative while the worker is receiving care under or pursuant to the
3 provisions of chapter 51.36 RCW and RCW 51.04.105.

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

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

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

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

12
13
14
15
16
17 (b) For dates of injury or disease manifestation after July 1,
18 2008, be less than fifteen percent of the average monthly wage in the
19 state as computed under RCW 51.08.018 plus an additional ten dollars
20 per month if a worker is married and an additional ten dollars per
21 month for each child of the worker up to a maximum of five children.
22 However, if the monthly payment computed under this subsection (5)(b)
23 is greater than one hundred percent of the wages of the worker as
24 determined under RCW 51.08.178, the monthly payment due to the worker
25 shall be equal to the greater of the monthly wages of the worker or the
26 minimum benefit set forth in this section on June 30, 2008.

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

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

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

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

3 (1) When the total disability is only temporary, the schedule of
4 payments contained in RCW 51.32.060 (1) and (2) shall apply, so long as
5 the total disability continues.

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

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

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

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

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

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

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

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

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

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

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

35 (6) Should a worker suffer a temporary total disability and should
36 his or her employer at the time of the injury continue to pay him or
37 her the wages which he or she was earning at the time of such injury,

1 such injured worker shall not receive any payment provided in
2 subsection (1) of this section during the period his or her employer
3 shall so pay such wages.

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

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

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

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

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

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

--- END ---