
SENATE BILL 5510

State of Washington 64th Legislature 2015 Regular Session

By Senators Braun, Baumgartner, Rivers, and Angel

Read first time 01/22/15. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to simplifying and adding certainty to the
2 calculation of workers' compensation benefits; amending RCW 51.32.050
3 51.32.060, and 51.32.090; adding a new section to chapter 51.08 RCW;
4 repealing RCW 51.08.178; providing an effective date; and declaring
5 an emergency.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 51.08
8 RCW to read as follows:

9 (1) If a worker is injured in an employment that both the worker
10 and the particular employer intend to be permanent and lasting into
11 the foreseeable future, the worker's monthly wage shall be determined
12 by dividing by twelve the total wages earned from the particular
13 employment and any other concurrent employment, including cash
14 bonuses and overtime, in the twelve months immediately preceding the
15 date of injury or manifestation of occupational disease. If the
16 worker has worked less than twelve months for the particular employer
17 in whose employment the worker was injured or manifested the
18 occupational disease, the monthly wage shall be based on the total
19 wages earned by the worker in the employment, divided by the total
20 number of months the worker actually worked in the employment.

1 (2) If a worker is injured in an employment that either the
2 worker or the particular employer intends to be temporary and not
3 lasting into the foreseeable future, the worker's monthly wage shall
4 be determined by dividing by twelve the total wages earned from all
5 employment, including cash bonuses and overtime, in the twelve months
6 immediately preceding the date of injury or manifestation of
7 occupational disease.

8 (3) "Wages" means the gross monetary remuneration for services
9 performed with respect to a pay period, paid in cash, by check, by
10 electronic transfer, or by other means directly to the worker or to
11 an account designated by the worker. Wages shall include the actual
12 value of board, housing, and fuel received from the employer as part
13 of the contract for hire. Tips shall be included to the extent that
14 such are reported to the employer for federal income tax purposes.
15 Wages shall not include health and welfare benefits, savings matching
16 programs, or fringe benefits including, but not limited to,
17 retirement and financial benefit plans of whatever nature; life,
18 disability, and wage-replacement insurance of whatever nature; unused
19 accrued leave of whatever nature; memberships of any kind; employee
20 discounts or use or consumption of employer services, material,
21 equipment, and facilities of whatever nature; training and education
22 of whatever nature; and other employee or beneficiary benefit plan
23 for the employee's or beneficiaries' benefit resulting from the
24 employment relationship.

25 **Sec. 2.** RCW 51.32.050 and 2010 c 261 s 3 are each amended to
26 read as follows:

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

30 (2)(a)(i) For claims with date of injury or manifestation of
31 occupational disease before July 1, 2015, where death results from
32 the injury, a surviving spouse of a deceased worker eligible for
33 benefits under this title shall receive monthly for life or until
34 remarriage payments according to the following schedule:

35 ~~((+i))~~ (A) If there are no children of the deceased worker,
36 sixty percent of the wages of the deceased worker;

37 ~~((+ii))~~ (B) If there is one child of the deceased worker and in
38 the legal custody of such spouse, sixty-two percent of the wages of
39 the deceased worker;

1 (~~(iii)~~) (C) If there are two children of the deceased worker
2 and in the legal custody of such spouse, sixty-four percent of the
3 wages of the deceased worker;

4 (~~(iv)~~) (D) If there are three children of the deceased worker
5 and in the legal custody of such spouse, sixty-six percent of the
6 wages of the deceased worker;

7 (~~(v)~~) (E) If there are four children of the deceased worker and
8 in the legal custody of such spouse, sixty-eight percent of the wages
9 of the deceased worker; or

10 (~~(vi)~~) (F) If there are five or more children of the deceased
11 worker and in the legal custody of such spouse, seventy percent of
12 the wages of the deceased worker.

13 (ii) For claims with date of injury or manifestation of
14 occupational disease on or after July 1, 2015, where death results
15 from the injury, a surviving spouse of a deceased worker eligible for
16 benefits under this title shall receive monthly for life or until
17 remarriage payments of sixty-six and two-thirds percent of the wages
18 of the deceased worker.

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

36 (c) Payments to the surviving spouse of the deceased worker shall
37 cease at the end of the month in which remarriage occurs: PROVIDED,
38 That a monthly payment shall be made to the child or children of the
39 deceased worker from the month following such remarriage in a sum
40 equal to five percent of the wages of the deceased worker for one

1 child and a sum equal to five percent for each additional child up to
2 a maximum of five such children. Payments to such child or children
3 shall be apportioned equally among such children. Such sum shall be
4 in place of any payments theretofore made for the benefit of or on
5 account of any such child or children. If the surviving spouse does
6 not have legal custody of any child or children of the deceased
7 worker, or if after the death of the worker, legal custody of such
8 child or children passes from such surviving spouse to another, any
9 payment on account of such child or children not in the legal custody
10 of the surviving spouse shall be made to the person or persons having
11 legal custody of such child or children.

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

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

16	AFTER	PERCENTAGE
17		
18	June 30, 1993	105%
19	June 30, 1994	110%
20	June 30, 1995	115%
21	June 30, 1996	120%

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

33 (e) In addition to the monthly payments provided for in
34 subsection (2)(a) through (c) of this section, a surviving spouse or
35 child or children of such worker if there is no surviving spouse, or
36 dependent parent or parents, if there is no surviving spouse or child
37 or children of any such deceased worker shall be forthwith paid a sum

1 equal to one hundred percent of the average monthly wage in the state
2 as defined in RCW 51.08.018, any such children, or parents to share
3 and share alike in said sum.

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

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

21 (B) If a surviving spouse is the surviving spouse of a member of
22 the law enforcement officers' and firefighters' retirement system
23 under chapter 41.26 RCW or the state patrol retirement system under
24 chapter 43.43 RCW, the surviving spouse may receive a lump sum of
25 thirty-six times the monthly compensation rate in effect on the date
26 of remarriage allocable to the spouse for himself or herself pursuant
27 to subsection (2)(a)(i)(A) of this section and RCW 51.32.075(3) or
28 fifty percent of the remaining annuity value of his or her pension
29 provided under this chapter, whichever is the lesser: PROVIDED, That
30 if the injury occurred prior to July 28, 1991, the lump sum benefit
31 shall be as provided in the remarriage benefit schedules then in
32 effect; or

33 (ii) If a surviving spouse does not choose the option specified
34 in subsection (2)(f)(i) of this section to accept the lump sum
35 payment, the remarriage of the surviving spouse of a worker shall not
36 bar him or her from claiming the lump sum payment authorized in
37 subsection (2)(f)(i) of this section during the life of the
38 remarriage, or shall not prevent subsequent monthly payments to him
39 or to her if the remarriage has been terminated by death or has been

1 dissolved or annulled by valid court decree provided he or she has
2 not previously accepted the lump sum payment.

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

9 (h) The effective date of resumption of payments under subsection
10 (2)(f)(ii) of this section to a surviving spouse based upon
11 termination of a remarriage by death, annulment, or dissolution shall
12 be the date of the death or the date the judicial decree of annulment
13 or dissolution becomes final and when application for the payments
14 has been received.

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

20 (3) If there is a child or children and no surviving spouse of
21 the deceased worker or the surviving spouse is not eligible for
22 benefits under this title, a sum equal to thirty-five percent of the
23 wages of the deceased worker shall be paid monthly for one child and
24 a sum equivalent to fifteen percent of such wage shall be paid
25 monthly for each additional child, the total of such sum to be
26 divided among such children, share and share alike: PROVIDED, That
27 benefits under this subsection or subsection (4) of this section
28 shall not exceed the lesser of sixty-five percent of the wages of the
29 deceased worker at the time of his or her death or the applicable
30 percentage of the average monthly wage in the state as defined in RCW
31 51.08.018, as follows:

32	AFTER	PERCENTAGE
33		
34	June 30, 1993	105%
35	June 30, 1994	110%
36	June 30, 1995	115%
37	June 30, 1996	120%

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

4 (5) If the worker leaves no surviving spouse or child, but leaves
5 a dependent or dependents, a monthly payment shall be made to each
6 dependent equal to fifty percent of the average monthly support
7 actually received by such dependent from the worker during the twelve
8 months next preceding the occurrence of the injury, but the total
9 payment to all dependents in any case shall not exceed the lesser of
10 sixty-five percent of the wages of the deceased worker at the time of
11 his or her death or the applicable percentage of the average monthly
12 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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19 If any dependent is under the age of eighteen years at the time
20 of the occurrence of the injury, the payment to such dependent shall
21 cease when such dependent reaches the age of eighteen years except
22 such payments shall continue until the dependent reaches age twenty-
23 three while permanently enrolled at a full time course in an
24 accredited school. The payment to any dependent shall cease if and
25 when, under the same circumstances, the necessity creating the
26 dependency would have ceased if the injury had not happened.

27 (6) For claims filed prior to July 1, 1986, if the injured worker
28 dies during the period of permanent total disability, whatever the
29 cause of death, leaving a surviving spouse, or child, or children,
30 the surviving spouse or child or children shall receive benefits as
31 if death resulted from the injury as provided in subsections (2)
32 through (4) of this section. Upon remarriage or death of such
33 surviving spouse, the payments to such child or children shall be
34 made as provided in subsection (2) of this section when the surviving
35 spouse of a deceased worker remarries.

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

4 **Sec. 3.** RCW 51.32.060 and 2007 c 284 s 2 are each amended to
5 read as follows:

6 (1) Except as provided in subsection (2) of this section, when
7 the supervisor of industrial insurance shall determine that permanent
8 total disability results from the injury, the worker shall receive
9 monthly during the period of such disability:

10 (a) If married at the time of injury, sixty-five percent of his
11 or her wages.

12 (b) If married with one child at the time of injury, sixty-seven
13 percent of his or her wages.

14 (c) If married with two children at the time of injury, sixty-
15 nine percent of his or her wages.

16 (d) If married with three children at the time of injury,
17 seventy-one percent of his or her wages.

18 (e) If married with four children at the time of injury, seventy-
19 three percent of his or her wages.

20 (f) If married with five or more children at the time of injury,
21 seventy-five percent of his or her wages.

22 (g) If unmarried at the time of the injury, sixty percent of his
23 or her wages.

24 (h) If unmarried with one child at the time of injury, sixty-two
25 percent of his or her wages.

26 (i) If unmarried with two children at the time of injury, sixty-
27 four percent of his or her wages.

28 (j) If unmarried with three children at the time of injury,
29 sixty-six percent of his or her wages.

30 (k) If unmarried with four children at the time of injury, sixty-
31 eight percent of his or her wages.

32 (l) If unmarried with five or more children at the time of
33 injury, seventy percent of his or her wages.

34 (2) For any claim with date of injury or manifestation of
35 occupational disease on or after July 1, 2015, when the supervisor of
36 industrial insurance determines that permanent total disability
37 results from the injury, the worker shall receive monthly during the
38 period of such disability sixty-six and two-thirds percent of his or

1 her wages as determined under section 1 of this act, but not less
2 than two hundred seventy-six dollars per month.

3 (3) For any period of time where both husband and wife are
4 entitled to compensation as temporarily or totally disabled workers,
5 only that spouse having the higher wages of the two shall be entitled
6 to claim their child or children for compensation purposes under
7 subsection (1) of this section.

8 ((+3)) (4) In case of permanent total disability, if the
9 character of the injury is such as to render the worker so physically
10 helpless as to require the hiring of the services of an attendant,
11 the department shall make monthly payments to such attendant for such
12 services as long as such requirement continues, but such payments
13 shall not obtain or be operative while the worker is receiving care
14 under or pursuant to the provisions of chapter 51.36 RCW and RCW
15 51.04.105.

16 ((+4)) (5) Should any further accident result in the permanent
17 total disability of an injured worker, he or she shall receive the
18 pension to which he or she would be entitled, notwithstanding the
19 payment of a lump sum for his or her prior injury.

20 ((+5)) (6) In no event shall the monthly payments provided in
21 this section:

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

	AFTER	PERCENTAGE
25		
26		
27	June 30, 1993	105%
28	June 30, 1994	110%
29	June 30, 1995	115%
30	June 30, 1996	120%

31 (b) For dates of injury or disease manifestation after July 1,
32 2008, but before June 30, 2015, be less than fifteen percent of the
33 average monthly wage in the state as computed under RCW 51.08.018
34 plus an additional ten dollars per month if a worker is married and
35 an additional ten dollars per month for each child of the worker up
36 to a maximum of five children. However, if the monthly payment
37 computed under this subsection ((+5)) (6)(b) is greater than one

1 hundred percent of the wages of the worker as determined under ((RCW
2 51.08.178)) section 1 of this act, the monthly payment due to the
3 worker shall be equal to the greater of the monthly wages of the
4 worker or the minimum benefit set forth in this section on June 30,
5 2008.

6 The limitations under this subsection shall not apply to the
7 payments provided for in subsection ((+3)) (4) of this section.

8 ((+6)) (7) In the case of new or reopened claims, if the
9 supervisor of industrial insurance determines that, at the time of
10 filing or reopening, the worker is voluntarily retired and is no
11 longer attached to the workforce, benefits shall not be paid under
12 this section.

13 ((+7)) (8) The benefits provided by this section are subject to
14 modification under RCW 51.32.067.

15 **Sec. 4.** RCW 51.32.090 and 2011 1st sp.s. c 37 s 101 are each
16 amended to read as follows:

17 (1) When the total disability is only temporary, for claims with
18 a date of injury or manifestation of occupational disease before June
19 30, 2015, the schedule of payments contained in RCW 51.32.060 (1) and
20 ((+2)) (3) shall apply, so long as the total disability continues.
21 For claims with a date of injury or manifestation of occupational
22 disease on or after July 1, 2015, the schedule of payments contained
23 in RCW 51.32.060(2) shall apply, so long as the total disability
24 continues.

25 (2) Any compensation payable under this section for children not
26 in the custody of the injured worker as of the date of injury shall
27 be payable only to such person as actually is providing the support
28 for such child or children pursuant to the order of a court of record
29 providing for support of such child or children. This subsection does
30 not apply to claims with a date of injury or manifestation of
31 occupational disease on or after July 1, 2015.

32 (3)(a) As soon as recovery is so complete that the present
33 earning power of the worker, at any kind of work, is restored to that
34 existing at the time of the occurrence of the injury, the payments
35 shall cease. If and so long as the present earning power is only
36 partially restored and the worker is working, the payments shall:

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

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

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

13 (c) The prior closure of the claim or the receipt of permanent
14 partial disability benefits shall not affect the rate at which loss
15 of earning power benefits are calculated upon reopening the claim.

16 (d) The injured worker remains eligible for the benefits provided
17 in this subsection only until the injured worker's condition is
18 medically fixed and stable.

19 (4)(a) The legislature finds that long-term disability and the
20 cost of injuries is significantly reduced when injured workers remain
21 at work following their injury. To encourage employers at the time of
22 injury to provide light duty or transitional work for their workers,
23 wage subsidies and other incentives are made available to employers
24 insured with the department.

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

1 the worker's recovery is sufficient in the judgment of his or her
2 physician or licensed advanced registered nurse practitioner 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
7 or her recovery to the extent that in the judgment of his or her
8 physician or licensed advanced registered nurse practitioner he or
9 she should not continue to work, the worker's temporary total
10 disability payments shall be resumed when the worker ceases such
11 work.

12 (c) To further encourage employers to maintain the employment of
13 their injured workers, an employer insured with the department and
14 that offers work to a worker pursuant to this subsection (4) shall be
15 eligible for reimbursement of the injured worker's wages for light
16 duty or transitional work equal to fifty percent of the basic, gross
17 wages paid for that work, for a maximum of sixty-six work days within
18 a consecutive twenty-four month period. In no event may the wage
19 subsidies paid to an employer on a claim exceed ten thousand dollars.
20 Wage subsidies shall be calculated using the worker's basic hourly
21 wages or basic salary, and no subsidy shall be paid for any other
22 form of compensation or payment to the worker such as tips,
23 commissions, bonuses, board, housing, fuel, health care, dental care,
24 vision care, per diem, reimbursements for work-related expenses, or
25 any other payments. An employer may not, under any circumstances,
26 receive a wage subsidy for a day in which the worker did not actually
27 perform any work, regardless of whether or not the employer paid the
28 worker wages for that day.

29 (d) If an employer insured with the department offers a worker
30 work pursuant to this subsection (4) and the worker must be provided
31 with training or instruction to be qualified to perform the offered
32 work, the employer shall be eligible for a reimbursement from the
33 department for any tuition, books, fees, and materials required for
34 that training or instruction, up to a maximum of one thousand
35 dollars. Reimbursing an employer for the costs of such training or
36 instruction does not constitute a determination by the department
37 that the worker is eligible for vocational services authorized by RCW
38 51.32.095 and 51.32.099.

39 (e) If an employer insured with the department offers a worker
40 work pursuant to this subsection (4), and the employer provides the

1 worker with clothing that is necessary to allow the worker to perform
2 the offered work, the employer shall be eligible for reimbursement
3 for such clothing from the department, up to a maximum of four
4 hundred dollars. However, an employer shall not receive reimbursement
5 for any clothing it provided to the worker that it normally provides
6 to its workers. The clothing purchased for the worker shall become
7 the worker's property once the work comes to an end.

8 (f) If an employer insured with the department offers a worker
9 work pursuant to this subsection (4) and the worker must be provided
10 with tools or equipment to perform the offered work, the employer
11 shall be eligible for a reimbursement from the department for such
12 tools and equipment and related costs as determined by department
13 rule, up to a maximum of two thousand five hundred dollars. An
14 employer shall not be reimbursed for any tools or equipment purchased
15 prior to offering the work to the worker pursuant to this subsection
16 (4). An employer shall not be reimbursed for any tools or equipment
17 that it normally provides to its workers. The tools and equipment
18 shall be the property of the employer.

19 (g) An employer may offer work to a worker pursuant to this
20 subsection (4) more than once, but in no event may the employer
21 receive wage subsidies for more than sixty-six days of work in a
22 consecutive twenty-four month period under one claim. An employer may
23 continue to offer work pursuant to this subsection (4) after the
24 worker has performed sixty-six days of work, but the employer shall
25 not be eligible to receive wage subsidies for such work.

26 (h) An employer shall not receive any wage subsidies or
27 reimbursement of any expenses pursuant to this subsection (4) unless
28 the employer has completed and submitted the reimbursement request on
29 forms developed by the department, along with all related information
30 required by department rules. No wage subsidy or reimbursement shall
31 be paid to an employer who fails to submit a form for such payment
32 within one year of the date the work was performed. In no event shall
33 an employer receive wage subsidy payments or reimbursements of any
34 expenses pursuant to this subsection (4) unless the worker's
35 physician or licensed advanced registered nurse practitioner has
36 restricted him or her from performing his or her usual work and the
37 worker's physician or licensed advanced registered nurse practitioner
38 has released him or her to perform the work offered.

1 (i) Payments made under (b) through (g) of this subsection are
2 subject to penalties under RCW 51.32.240(5) in cases where the funds
3 were obtained through willful misrepresentation.

4 (j) Once the worker returns to work under the terms of this
5 subsection (4), he or she shall not be assigned by the employer to
6 work other than the available work described without the worker's
7 written consent, or without prior review and approval by the worker's
8 physician or licensed advanced registered nurse practitioner. An
9 employer who directs a claimant to perform work other than that
10 approved by the attending physician and without the approval of the
11 worker's physician or licensed advanced registered nurse practitioner
12 shall not receive any wage subsidy or other reimbursements for such
13 work.

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

21 (l) In the event of any dispute as to the validity of the work
22 offered or as to the worker's ability to perform the available work
23 offered by the employer, the department shall make the final
24 determination pursuant to an order that contains the notice required
25 by RCW 51.52.060 and that is subject to appeal subject to RCW
26 51.52.050.

27 (5) An employer's experience rating shall not be affected by the
28 employer's request for or receipt of wage subsidies.

29 (6) The department shall create a Washington stay-at-work account
30 which shall be funded by assessments of employers insured through the
31 state fund for the costs of the payments authorized by subsection (4)
32 of this section and for the cost of creating a reserve for
33 anticipated liabilities. Employers may collect up to one-half the
34 fund assessment from workers.

35 (7) No worker shall receive compensation for or during the day on
36 which injury was received or the three days following the same,
37 unless his or her disability shall continue for a period of fourteen
38 consecutive calendar days from date of injury: PROVIDED, That
39 attempts to return to work in the first fourteen days following the
40 injury shall not serve to break the continuity of the period of

1 disability if the disability continues fourteen days after the injury
2 occurs.

3 (8) Should a worker suffer a temporary total disability and
4 should his or her employer at the time of the injury continue to pay
5 him or her the wages which he or she was earning at the time of such
6 injury, such injured worker shall not receive any payment provided in
7 subsection (1) or (2) of this section during the period his or her
8 employer shall so pay such wages: PROVIDED, That holiday pay,
9 vacation pay, sick leave, or other similar benefits shall not be
10 deemed to be payments by the employer for the purposes of this
11 subsection.

12 (9) In no event shall the monthly payments provided in this
13 section:

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

17	AFTER	PERCENTAGE
18		
19	June 30, 1993	105%
20	June 30, 1994	110%
21	June 30, 1995	115%
22	June 30, 1996	120%

23 (b) For dates of injury or disease manifestation after July 1,
24 2008, be less than fifteen percent of the average monthly wage in the
25 state as computed under RCW 51.08.018 plus an additional ten dollars
26 per month if the worker is married and an additional ten dollars per
27 month for each child of the worker up to a maximum of five children.
28 However, if the monthly payment computed under this subsection (9)(b)
29 is greater than one hundred percent of the wages of the worker as
30 determined under (~~RCW 51.08.178~~) section 1 of this act, the monthly
31 payment due to the worker shall be equal to the greater of the
32 monthly wages of the worker or the minimum benefit set forth in this
33 section on June 30, 2008.

34 (10) If the supervisor of industrial insurance determines that
35 the worker is voluntarily retired and is no longer attached to the
36 workforce, benefits shall not be paid under this section.

1 (11) The department shall adopt rules as necessary to implement
2 this section.

3 NEW SECTION. **Sec. 5.** RCW 51.08.178 ("Wages"—Monthly wages as
4 basis of compensation—Computation thereof) and 2007 c 297 s 1, 1988 c
5 161 s 12, & 1980 c 14 s 5 are each repealed.

6 NEW SECTION. **Sec. 6.** This act is necessary for the immediate
7 preservation of the public peace, health, or safety, or support of
8 the state government and its existing public institutions, and takes
9 effect July 1, 2015.

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