

CERTIFICATION OF ENROLLMENT  
**ENGROSSED SUBSTITUTE HOUSE BILL 1248**

53rd Legislature  
1993 Regular Session

Passed by the House April 20, 1993  
Yeas 56 Nays 41

\_\_\_\_\_  
**Speaker of the  
House of Representatives**

Passed by the Senate April 15, 1993  
Yeas 25 Nays 20

\_\_\_\_\_  
**President of the Senate**

Approved

\_\_\_\_\_  
**Governor of the State of Washington**

CERTIFICATE

I, Alan Thompson, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1248** as passed by the House of Representatives and the Senate on the dates hereon set forth.

\_\_\_\_\_  
**Chief Clerk**

FILED

**Secretary of State  
State of Washington**

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**ENGROSSED SUBSTITUTE HOUSE BILL 1248**

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AS AMENDED BY THE SENATE

Passed Legislature - 1993 Regular Session

**State of Washington                      53rd Legislature                      1993 Regular Session**

**By** House Committee on Appropriations (originally sponsored by Representatives King, Heavey, Franklin, Orr, Jones, G. Cole, Veloria and Johanson)

Read first time 03/03/93.

1            AN ACT Relating to increasing industrial insurance death and  
2 disability benefits; amending RCW 51.32.050, 51.32.060, and 51.32.090;  
3 providing an effective date; and declaring an emergency.

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

5            **Sec. 1.** RCW 51.32.050 and 1991 c 88 s 2 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 thousand dollars shall be paid.

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

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

16            (ii) If there is one child of the deceased worker and in the legal  
17 custody of such spouse, sixty-two percent of the wages of the deceased  
18 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; or

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

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

29 (c) Payments to the surviving spouse of the deceased worker shall  
30 cease at the end of the month in which remarriage occurs: PROVIDED,  
31 That a monthly payment shall be made to the child or children of the  
32 deceased worker from the month following such remarriage in a sum equal  
33 to five percent of the wages of the deceased worker for one child and  
34 a sum equal to five percent for each additional child up to a maximum  
35 of five such children. Payments to such child or children shall be  
36 apportioned equally among such children. Such sum shall be in place of  
37 any payments theretofore made for the benefit of or on account of any  
38 such child or children. If the surviving spouse does not have legal  
39 custody of any child or children of the deceased worker, or if after

1 the death of the worker, legal custody of such child or children passes  
2 from such surviving spouse to another, any payment on account of such  
3 child or children not in the legal custody of the surviving spouse  
4 shall be made to the person or persons having legal custody of such  
5 child or children.

6 (d) In no event shall the monthly payments provided in subsection  
7 (2) of this section exceed (~~one hundred percent~~) the applicable  
8 percentage of the average monthly wage in the state as computed under  
9 RCW 51.08.018(~~-~~) as follows:

10	<u>AFTER</u>	<u>PERCENTAGE</u>
11	<u>June 30, 1993</u>	<u>105%</u>
12	<u>June 30, 1994</u>	<u>110%</u>
13	<u>June 30, 1995</u>	<u>115%</u>
14	<u>June 30, 1996</u>	<u>120%</u>

15 (e) In addition to the monthly payments provided for in (2)(a)  
16 through (2)(c) of this section, a surviving spouse or child or children  
17 of such worker if there is no surviving spouse, or dependent parent or  
18 parents, if there is no surviving spouse or child or children of any  
19 such deceased worker shall be forthwith paid the sum of one thousand  
20 six hundred dollars, any such children, or parents to share and share  
21 alike in said sum.

22 (f) Upon remarriage of a surviving spouse the monthly payments for  
23 the child or children shall continue as provided in this section, but  
24 the monthly payments to such surviving spouse shall cease at the end of  
25 the month during which remarriage occurs. However, after September 8,  
26 1975, an otherwise eligible surviving spouse of a worker who died at  
27 any time prior to or after September 8, 1975, shall have an option of:

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

37 (ii) If a surviving spouse does not choose the option specified in  
38 (2)(f)(i) of this section to accept the lump sum payment, the

1 remarriage of the surviving spouse of a worker shall not bar him or her  
2 from claiming the lump sum payment authorized in (2)(f)(i) of this  
3 section during the life of the remarriage, or shall not prevent  
4 subsequent monthly payments to him or to her if the remarriage has been  
5 terminated by death or has been dissolved or annulled by valid court  
6 decree provided he or she has not previously accepted the lump sum  
7 payment.

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

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

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

24 (3) If there is a child or children and no surviving spouse of the  
25 deceased worker or the surviving spouse is not eligible for benefits  
26 under this title, a sum equal to thirty-five percent of the wages of  
27 the deceased worker shall be paid monthly for one child and a sum  
28 equivalent to fifteen percent of such wage shall be paid monthly for  
29 each additional child, the total of such sum to be divided among such  
30 children, share and share alike: PROVIDED, That benefits under this  
31 subsection or subsection (4) of this section shall not exceed the  
32 lesser of sixty-five percent of the wages of the deceased worker at the  
33 time of his or her death or ((one hundred percent)) the applicable  
34 percentage of the average monthly wage in the state as defined in RCW  
35 51.08.018, ((whichever is the lesser of the two sums.)) as follows:

	<u>AFTER</u>	<u>PERCENTAGE</u>
36		
37	<u>June 30, 1993</u>	<u>105%</u>
38	<u>June 30, 1994</u>	<u>110%</u>

1                   June 30, 1995                   115%  
2                   June 30, 1996                   120%

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

6           (5) If the worker leaves no surviving spouse or child, but leaves  
7 a dependent or dependents, a monthly payment shall be made to each  
8 dependent equal to fifty percent of the average monthly support  
9 actually received by such dependent from the worker during the twelve  
10 months next preceding the occurrence of the injury, but the total  
11 payment to all dependents in any case shall not exceed the lesser of  
12 sixty-five percent of the wages of the deceased worker at the time of  
13 ((the)) his or her death or ((one hundred percent)) the applicable  
14 percentage of the average monthly wage in the state as defined in RCW  
15 51.08.018(~~(, whichever is the lesser of the two sums.)~~) as follows:

16	<u>AFTER</u>	<u>PERCENTAGE</u>
17	<u>June 30, 1993</u>	<u>105%</u>
18	<u>June 30, 1994</u>	<u>110%</u>
19	<u>June 30, 1995</u>	<u>115%</u>
20	<u>June 30, 1996</u>	<u>120%</u>

21 If any dependent is under the age of eighteen years at the time of the  
22 occurrence of the injury, the payment to such dependent shall cease  
23 when such dependent reaches the age of eighteen years except such  
24 payments shall continue until the dependent reaches age twenty-three  
25 while permanently enrolled at a full time course in an accredited  
26 school. The payment to any dependent shall cease if and when, under  
27 the same circumstances, the necessity creating the dependency would  
28 have ceased if the injury had not happened.

29           (6) For claims filed prior to July 1, 1986, if the injured worker  
30 dies during the period of permanent total disability, whatever the  
31 cause of death, leaving a surviving spouse, or child, or children, the  
32 surviving spouse or child or children shall receive benefits as if  
33 death resulted from the injury as provided in subsections (2) through  
34 (4) of this section. Upon remarriage or death of such surviving  
35 spouse, the payments to such child or children shall be made as  
36 provided in subsection (2) of this section when the surviving spouse of  
37 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 an  
3 option as provided in RCW 51.32.067.

4 **Sec. 2.** RCW 51.32.060 and 1988 c 161 s 1 are each amended to read  
5 as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (5) In no event shall the monthly payments provided in this section  
23 exceed (~~(one hundred percent)~~) the applicable percentage of the average  
24 monthly wage in the state as computed under the provisions of RCW  
25 51.08.018(~~(, except that this)~~) as follows:

26	<u>AFTER</u>	<u>PERCENTAGE</u>
27	<u>June 30, 1993</u>	<u>105%</u>
28	<u>June 30, 1994</u>	<u>110%</u>
29	<u>June 30, 1995</u>	<u>115%</u>
30	<u>June 30, 1996</u>	<u>120%</u>

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

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

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



1       **Sec. 3.** RCW 51.32.090 and 1988 c 161 s 4 are each amended to read  
2 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) 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 continue in the proportion which the new earning  
16 power shall bear to the old. No compensation shall be payable unless  
17 the loss of earning power shall exceed five percent.

18       (4) Whenever an employer requests that a worker who is entitled to  
19 temporary total disability under this chapter be certified by a  
20 physician as able to perform available work other than his or her usual  
21 work, the employer shall furnish to the physician, with a copy to the  
22 worker, a statement describing the available work in terms that will  
23 enable the physician to relate the physical activities of the job to  
24 the worker's disability. The physician shall then determine whether  
25 the worker is physically able to perform the work described. If the  
26 worker is released by his or her physician for said work, and the work  
27 thereafter comes to an end before the worker's recovery is sufficient  
28 in the judgment of his or her physician to permit him or her to return  
29 to his or her usual job, or to perform other available work, the  
30 worker's temporary total disability payments shall be resumed. Should  
31 the available work described, once undertaken by the worker, impede his  
32 or her recovery to the extent that in the judgment of his or her  
33 physician he or she should not continue to work, the worker's temporary  
34 total disability payments shall be resumed when the worker ceases such  
35 work.

36       Once the worker returns to work under the terms of this subsection,  
37 he or she shall not be assigned by the employer to work other than the  
38 available work described without the worker's written consent, or  
39 without prior review and approval by the worker's physician.

1 In the event of any dispute as to the worker's ability to perform  
2 the available work offered by the employer, the department shall make  
3 the final determination.

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

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

17 (7) In no event shall the monthly payments provided in this section  
18 exceed (~~one hundred percent~~) the applicable percentage of the average  
19 monthly wage in the state as computed under the provisions of RCW  
20 51.08.018(~~(-)~~) as follows:

21	<u>AFTER</u>	<u>PERCENTAGE</u>
22	<u>June 30, 1993</u>	<u>105%</u>
23	<u>June 30, 1994</u>	<u>110%</u>
24	<u>June 30, 1995</u>	<u>115%</u>
25	<u>June 30, 1996</u>	<u>120%</u>

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

29 NEW SECTION. **Sec. 4.** This act is necessary for the immediate  
30 preservation of the public peace, health, or safety, or support of the  
31 state government and its existing public institutions, and shall take  
32 effect July 1, 1993.

--- END ---