
HOUSE BILL 2935

State of Washington 54th Legislature 1996 Regular Session

By Representatives McMorris, Lisk, Horn, Thompson and Silver

Read first time 01/30/96. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to limitations on industrial insurance permanent
2 and temporary total disability payments; amending RCW 51.32.060; and
3 reenacting and amending RCW 51.32.090.

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

5 **Sec. 1.** RCW 51.32.060 and 1993 c 521 s 2 are each amended to read
6 as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (3) In case of permanent total disability, if the character of the
32 injury is such as to render the worker so physically helpless as to
33 require the hiring of the services of an attendant, the department
34 shall make monthly payments to such attendant for such services as long
35 as such requirement continues, but such payments shall not obtain or be
36 operative while the worker is receiving care under or pursuant to the
37 provisions of chapter 51.36 RCW and RCW 51.04.105.

38 (4) Should any further accident result in the permanent total
39 disability of an injured worker, he or she shall receive the pension to

1 which he or she would be entitled, notwithstanding the payment of a
2 lump sum for his or her prior injury.

3 (5) In no event shall the monthly payments provided in this section
4 exceed the applicable percentage of the average monthly wage in the
5 state as computed under the provisions of RCW 51.08.018 as follows:

6	AFTER	PERCENTAGE
7	June 30, 1993	105%
8	June 30, 1994	110%
9	June 30, 1995	115%
10	((June 30, 1996	120%))

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

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

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

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

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

24 (2) Any compensation payable under this section for children not in
25 the custody of the injured worker as of the date of injury shall be
26 payable only to such person as actually is providing the support for
27 such child or children pursuant to the order of a court of record
28 providing for support of such child or children.

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

34 (i) For claims for injuries that occurred before May 7, 1993,
35 continue in the proportion which the new earning power shall bear to
36 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) of
8 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 to
10 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 (4)(a) Whenever the employer of injury requests that a worker who
14 is entitled to temporary total disability under this chapter be
15 certified by a physician as able to perform available work other than
16 his or her usual work, the employer shall furnish to the physician,
17 with a copy to the worker, a statement describing the work available
18 with the employer of injury in terms that will enable the physician to
19 relate the physical activities of the job to the worker's disability.
20 The physician shall then determine whether the worker is physically
21 able to perform the work described. The worker's temporary total
22 disability payments shall continue until the worker is released by his
23 or her physician for the work, and begins the work with the employer of
24 injury. If the work thereafter comes to an end before the worker's
25 recovery is sufficient in the judgment of his or her physician to
26 permit him or her to return to his or her usual job, or to perform
27 other available work offered by the employer of injury, the worker's
28 temporary total disability payments shall be resumed. Should the
29 available work described, once undertaken by the worker, impede his or
30 her recovery to the extent that in the judgment of his or her physician
31 he or she should not continue to work, the worker's temporary total
32 disability payments shall be resumed when the worker ceases such work.

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

38 (c) If the worker returns to work under this subsection (4), any
39 employee health and welfare benefits that the worker was receiving at

1 the time of injury shall continue or be resumed at the level provided
2 at the time of injury. Such benefits shall not be continued or resumed
3 if to do so is inconsistent with the terms of the benefit program, or
4 with the terms of the collective bargaining agreement currently in
5 force.

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

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

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

22 (7) In no event shall the monthly payments provided in this section
23 exceed the applicable percentage of the average monthly wage in the
24 state as computed under the provisions of RCW 51.08.018 as follows:

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

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

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