
HOUSE BILL 1246

State of Washington

53rd Legislature

1993 Regular Session

By Representatives G. Cole, Heavey, King, Franklin, Jones, Veloria and Johanson

Read first time 01/20/93. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to employee compensation and benefits during return
2 to work; amending RCW 51.32.090; providing an effective date; and
3 declaring an emergency.

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

5 **Sec. 1.** RCW 51.32.090 and 1988 c 161 s 4 are each amended to read
6 as follows:

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

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

15 (3) As soon as recovery is so complete that the present earning
16 power of the worker, at any kind of work, is restored to that existing
17 at the time of the occurrence of the injury, the payments shall cease.
18 If and so long as the present earning power is only partially restored,
19 the payments shall continue in the proportion which the new earning

1 power shall bear to the old. No compensation shall be payable unless
2 the loss of earning power shall exceed five percent.

3 (4)(a) Whenever ~~((an))~~ the employer of injury requests that a
4 worker who is entitled to temporary total disability under this chapter
5 be certified by a physician as able to perform available work other
6 than his or her usual work, the employer shall furnish to the
7 physician, with a copy to the worker, a statement describing the
8 ~~((available))~~ work available with the employer of injury in terms that
9 will enable the physician to relate the physical activities of the job
10 to the worker's disability. The physician shall then determine whether
11 the worker is physically able to perform the work described. ~~((If))~~
12 The worker's temporary total disability payments shall continue until
13 the worker is released by his or her physician for ~~((said))~~ the work,
14 and begins the work with the employer of injury. If the work
15 thereafter comes to an end before the worker's recovery is sufficient
16 in the judgment of his or her physician to permit him or her to return
17 to his or her usual job, or to perform other available work offered by
18 the employer of injury, the worker's temporary total disability
19 payments shall be resumed. Should the available work described, once
20 undertaken by the worker, impede his or her recovery to the extent that
21 in the judgment of his or her physician he or she should not continue
22 to work, the worker's temporary total disability payments shall be
23 resumed when the worker ceases such work.

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

29 (c) If the worker returns to work under this subsection (4), any
30 employee health and welfare benefits that the worker was receiving at
31 the time of injury shall continue or be resumed at the level provided
32 at the time of injury.

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

36 (5) No worker shall receive compensation for or during the day on
37 which injury was received or the three days following the same, unless
38 his or her disability shall continue for a period of fourteen
39 consecutive calendar days from date of injury: PROVIDED, That attempts

1 to return to work in the first fourteen days following the injury shall
2 not serve to break the continuity of the period of disability if the
3 disability continues fourteen days after the injury occurs.

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

10 (7) In no event shall the monthly payments provided in this section
11 exceed one hundred percent of the average monthly wage in the state as
12 computed under the provisions of RCW 51.08.018.

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

16 NEW SECTION. **Sec. 2.** This act is necessary for the immediate
17 preservation of the public peace, health, or safety, or support of the
18 state government and its existing public institutions, and shall take
19 effect July 1, 1993.

--- END ---