

CERTIFICATION OF ENROLLMENT

**HOUSE BILL 1246**

Chapter 299, Laws of 1993

53rd Legislature  
1993 Regular Session

WORKERS' COMPENSATION--COMPENSATION AND BENEFITS FOR  
EMPLOYEE RETURNING TO WORK

EFFECTIVE DATE: 7/1/93

Passed by the House April 20, 1993  
Yeas 69 Nays 28

BRIAN EBERSOLE  
**Speaker of the  
House of Representatives**

Passed by the Senate April 15, 1993  
Yeas 36 Nays 9

JOEL PRITCHARD  
**President of the Senate**

Approved May 12, 1993

MIKE LOWRY  
**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 **HOUSE BILL 1246** as passed by the House of Representatives and the Senate on the dates hereon set forth.

ALAN THOMPSON  
**Chief Clerk**

FILED

May 12, 1993 - 10:24 a.m.

**Secretary of State  
State of Washington**

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HOUSE BILL 1246

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AS AMENDED BY THE SENATE

Passed Legislature - 1993 Regular Session

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. Such benefits shall not be continued or resumed  
33 if to do so is inconsistent with the terms of the benefit program, or  
34 with the terms of the collective bargaining agreement currently in  
35 force.

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

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

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

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

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

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

Passed the House April 20, 1993.

Passed the Senate April 15, 1993.

Approved by the Governor May 12, 1993.

Filed in Office of Secretary of State May 12, 1993.