

CERTIFICATION OF ENROLLMENT

SENATE BILL 5513

Chapter 355, Laws of 2002

57th Legislature
2002 Regular Session

DEPARTMENT OF TRANSPORTATION EMPLOYEES--ASSAULTS BY MOTORISTS

EFFECTIVE DATE: 6/13/02

Passed by the Senate January 30, 2002
YEAS 48 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House March 8, 2002
YEAS 80 NAYS 16

FRANK CHOPP

**Speaker of the
House of Representatives**

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5513** as passed by the Senate and the House of Representatives on the dates hereon set forth.

TONY M. COOK

Secretary

Approved April 3, 2002

FILED

April 3, 2002 - 12:38 p.m.

GARY F. LOCKE

Governor of the State of Washington

**Secretary of State
State of Washington**

SENATE BILL 5513

Passed Legislature - 2002 Regular Session

State of Washington **57th Legislature** **2001 Regular Session**

By Senators Haugen, Shin, T. Sheldon, Sheahan, Oke and Gardner

Read first time 01/25/2001. Referred to Committee on Transportation.

1 AN ACT Relating to motorist assault upon department of
2 transportation employees; and adding a new section to chapter 47.04
3 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 47.04 RCW
6 to read as follows:

7 (1) For the purposes of this section only, "assault" means an act
8 by a motorist that results in physical injury to an employee of the
9 department while engaged in highway construction or maintenance
10 activities along a roadway right-of-way (fence line to fence line,
11 landscaped areas) or in the loading and unloading of passenger vehicles
12 in service of the vessel as a maritime employee not covered under
13 chapter 51.32 RCW or engaged in those work activities as a Washington
14 State Ferries terminal employee covered under chapter 51.32 RCW.

15 (2) In recognition of the nature of employment in departmental
16 highway construction or maintenance activities and by the Washington
17 State Ferries, this section provides a supplementary program to
18 reimburse employees of the department for some of their costs

1 attributable to their being the victims of assault by motorists. This
2 program is limited to the reimbursement provided in this section.

3 (3) An employee is entitled to receive the reimbursement provided
4 in this section only if the secretary finds that each of the following
5 has occurred:

6 (a) A motorist has assaulted the employee who is engaged in highway
7 construction or maintenance along a roadway right-of-way (fence line to
8 fence line, landscaped areas) or service of the vessel as a maritime
9 employee or terminal employee engaged in the loading or unloading of
10 passenger vehicles and as a result the employee has sustained
11 demonstrated physical injuries that have required the employee to miss
12 one or more days of work;

13 (b) The assault is not attributable to any extent to the employee's
14 negligence, misconduct, or failure to comply with any rules or
15 conditions of employment; and

16 (c) The department of labor and industries has approved the
17 employee's workers' compensation application under chapter 51.32 RCW,
18 or for maritime employees the department of transportation risk
19 management office has approved maintenance and cure benefits under 46
20 U.S.C. Sec. 688 et seq.

21 (4) The reimbursement authorized under this section is as follows:

22 (a) The employee's accumulated sick leave days will not be reduced
23 for the workdays missed. The injured worker who qualifies for and
24 receives assault benefits will also receive full standard benefits
25 (vacation leave, sick leave, health insurance, etc.) as if uninjured;

26 (b) For an employee covered by chapter 51.32 RCW, for each workday
27 missed for which the employee is not eligible to receive compensation
28 under chapter 51.32 RCW, the employee will receive the full amount of
29 the injured worker's net pay at the time of injury; and

30 (c) In respect to workdays missed for which the employee will
31 receive or has received compensation under chapter 51.32 RCW, or under
32 federal maritime law benefits, including the Jones Act, for an employee
33 deemed a maritime employee assigned to work in service of the vessel or
34 a nonmaritime terminal employee covered under chapter 51.32 RCW, the
35 employee will be reimbursed in an amount that, when added to that
36 compensation, will result in the employee receiving no more than full
37 net pay (gross pay less mandatory and voluntary deductions) for the
38 workdays missed.

1 (5) Reimbursement under this section may not last longer than three
2 hundred sixty-five consecutive days after the date of the injury. No
3 application for assault benefits is valid nor may a claim be enforced
4 unless it was made within one year after the day upon which the injury
5 occurred.

6 (6) The employee is not entitled to the reimbursement provided in
7 subsection (4) of this section for a workday for which the secretary or
8 an applicable designee finds that the employee has not diligently
9 pursued his or her compensation remedies under chapter 51.32 RCW or
10 federal maritime law, including the Jones Act.

11 (7) The reimbursement may be made only for absences that the
12 secretary or an applicable designee believes are justified.

13 (8) While the employee is receiving reimbursement under this
14 section, he or she will continue to be classified as a state employee,
15 and the reimbursement amount is considered as salary or wages.

16 (9) The department shall make all reimbursement payments required
17 to be made to employees under this section. The payments are
18 considered as a salary or wage expense and must be paid by the
19 department in the same manner and from the same appropriations as other
20 salary and wage expenses for the department.

21 (10) Nothing in this section precludes the department from
22 recovering the supplemental payments authorized by this section from
23 the assaulting motorist, and that recovery is considered exclusive of
24 recovery under chapter 51.24 RCW.

25 (11) If the legislature revokes the reimbursement authorized under
26 this section or repeals this section, no affected employee is entitled
27 after that to receive the reimbursement as a matter of contractual
28 right.

Passed the Senate January 30, 2002.

Passed the House March 8, 2002.

Approved by the Governor April 3, 2002.

Filed in Office of Secretary of State April 3, 2002.