

SB 5271 - S AMD 472
By Senator Keiser

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 51.28.055 and 1984 c 159 s 2 are each amended to read
4 as follows:

5 (1) Except as provided in subsection (2) of this section, claims
6 for occupational disease or infection to be valid and compensable must
7 be filed within two years following the date the worker had written
8 notice from a physician: ((+1)) (a) Of the existence of his or her
9 occupational disease, and ((+2)) (b) that a claim for disability
10 benefits may be filed. The notice shall also contain a statement that
11 the worker has two years from the date of the notice to file a claim.
12 The physician shall file the notice with the department. The
13 department shall send a copy to the worker and to the self-insurer if
14 the worker's employer is self-insured. However, a claim is valid if it
15 is filed within two years from the date of death of the worker
16 suffering from an occupational disease.

17 (2)(a) To be valid and compensable, claims for hearing loss due to
18 occupational noise exposure must be filed within the earlier of the
19 following:

20 (i) The time limits specified in subsection (1) of this section; or
21 (ii) The later of two years after the date that the worker retires
22 or one year after the effective date of this section. A worker is
23 deemed retired when he or she no longer receives income, salary, or
24 wages from any employment that is regular, continuous, and gainful.

25 (b) A claim for hearing loss due to occupational noise exposure
26 that is not timely filed under (a) of this subsection may be allowed
27 only for medical aid benefits under chapter 51.36 RCW.

28 (3) For purposes of this section, hearing loss is due to
29 occupational noise exposure when the hearing loss results from

1 prolonged exposure to injurious noise in employment. A part of such
2 exposure may not be construed to be a sudden and tangible traumatic
3 happening for purposes of RCW 51.28.050.

4 (4) The department may adopt rules to implement this section.

5 **Sec. 2.** RCW 51.36.020 and 1999 c 395 s 1 are each amended to read
6 as follows:

7 (1) When the injury to any worker is so serious as to require his
8 or her being taken from the place of injury to a place of treatment,
9 his or her employer shall, at the expense of the medical aid fund, or
10 self-insurer, as the case may be, furnish transportation to the nearest
11 place of proper treatment.

12 (2) Every worker whose injury results in the loss of one or more
13 limbs or eyes shall be provided with proper artificial substitutes and
14 every worker, who suffers an injury to an eye producing an error of
15 refraction, shall be once provided proper and properly equipped lenses
16 to correct such error of refraction and his or her disability rating
17 shall be based upon the loss of sight before correction.

18 (3) Every worker whose accident results in damage to or destruction
19 of an artificial limb, eye, or tooth, shall have same repaired or
20 replaced.

21 (4) Every worker whose hearing aid or eyeglasses or lenses are
22 damaged, destroyed, or lost as a result of an industrial accident shall
23 have the same restored or replaced. The department or self-insurer
24 shall be liable only for the cost of restoring damaged hearing aids or
25 eyeglasses to their condition at the time of the accident.

26 (5)(a) All mechanical appliances necessary in the treatment of an
27 injured worker, such as braces, belts, casts, and crutches, shall be
28 provided and all mechanical appliances required as permanent equipment
29 after treatment has been completed shall continue to be provided or
30 replaced without regard to the date of injury or date treatment was
31 completed, notwithstanding any other provision of law.

32 (b) The department shall assess the benefits to workers and the
33 costs of emerging technologies in determining which hearing devices are
34 provided to workers under this title. Such new technology shall be
35 made available to workers requiring new or replacement devices as
36 deemed appropriate based on the department's assessment.

1 (6) A worker, whose injury is of such short duration as to bring
2 him or her within the time limit provisions of RCW 51.32.090, shall
3 nevertheless receive during the omitted period medical, surgical, and
4 hospital care and service and transportation under the provisions of
5 this chapter.

6 (7) Whenever in the sole discretion of the supervisor it is
7 reasonable and necessary to provide residence modifications necessary
8 to meet the needs and requirements of the worker who has sustained
9 catastrophic injury, the department or self-insurer may be ordered to
10 pay an amount not to exceed the state's average annual wage for one
11 year as determined under RCW 50.04.355, as now existing or hereafter
12 amended, toward the cost of such modifications or construction. Such
13 payment shall only be made for the construction or modification of a
14 residence in which the injured worker resides. Only one residence of
15 any worker may be modified or constructed under this subsection,
16 although the supervisor may order more than one payment for any one
17 home, up to the maximum amount permitted by this section.

18 (8)(a) Whenever in the sole discretion of the supervisor it is
19 reasonable and necessary to modify a motor vehicle owned by a worker
20 who has become an amputee or becomes paralyzed because of an industrial
21 injury, the supervisor may order up to fifty percent of the state's
22 average annual wage for one year, as determined under RCW 50.04.355, to
23 be paid by the department or self-insurer toward the costs thereof.

24 (b) In the sole discretion of the supervisor after his or her
25 review, the amount paid under this subsection may be increased by no
26 more than four thousand dollars by written order of the supervisor.

27 (9) The benefits provided by subsections (7) and (8) of this
28 section are available to any otherwise eligible worker regardless of
29 the date of industrial injury.

30 **Sec. 3.** RCW 51.32.080 and 1993 c 520 s 1 are each amended to read
31 as follows:

32 (1)(a) Until July 1, 1993, for the permanent partial disabilities
33 here specifically described, the injured worker shall receive
34 compensation as follows:

LOSS BY AMPUTATION

1		
2	Of leg above the knee joint with short	
3	thigh stump (3" or less below the	
4	tuberosity of ischium)	\$54,000.00
5	Of leg at or above knee joint with	
6	functional stump	48,600.00
7	Of leg below knee joint	43,200.00
8	Of leg at ankle (Syme)	37,800.00
9	Of foot at mid-metatarsals	18,900.00
10	Of great toe with resection of metatarsal	
11	bone	11,340.00
12	Of great toe at metatarsophalangeal	
13	joint	6,804.00
14	Of great toe at interphalangeal joint	3,600.00
15	Of lesser toe (2nd to 5th) with resection of	
16	metatarsal bone	4,140.00
17	Of lesser toe at metatarsophalangeal	
18	joint	2,016.00
19	Of lesser toe at proximal interphalangeal	
20	joint	1,494.00
21	Of lesser toe at distal interphalangeal	
22	joint	378.00
23	Of arm at or above the deltoid insertion or	
24	by disarticulation at the shoulder	54,000.00
25	Of arm at any point from below the deltoid	
26	insertion to below the elbow joint at	
27	the insertion of the biceps tendon	51,300.00
28	Of arm at any point from below the elbow	
29	joint distal to the insertion of the	
30	biceps tendon to and including	
31	mid-metacarpal amputation of the	
32	hand	48,600.00
33	Of all fingers except the thumb at	
34	metacarpophalangeal joints	29,160.00

1	Of thumb at metacarpophalangeal joint or	
2	with resection of carpometacarpal	
3	bone	19,440.00
4	Of thumb at interphalangeal joint	9,720.00
5	Of index finger at metacarpophalangeal	
6	joint or with resection of metacarpal	
7	bone	12,150.00
8	Of index finger at proximal	
9	interphalangeal joint	9,720.00
10	Of index finger at distal interphalangeal	
11	joint	5,346.00
12	Of middle finger at metacarpophalangeal	
13	joint or with resection of metacarpal	
14	bone	9,720.00
15	Of middle finger at proximal	
16	interphalangeal joint	7,776.00
17	Of middle finger at distal interphalangeal	
18	joint	4,374.00
19	Of ring finger at metacarpophalangeal	
20	joint or with resection of metacarpal	
21	bone	4,860.00
22	Of ring finger at proximal interphalangeal	
23	joint	3,888.00
24	Of ring finger at distal interphalangeal	
25	joint	2,430.00
26	Of little finger at metacarpophalangeal	
27	joint or with resection of metacarpal	
28	bone	2,430.00
29	Of little finger at proximal interphalangeal	
30	joint	1,944.00
31	Of little finger at distal interphalangeal	
32	joint	972.00
33	MISCELLANEOUS	
34	Loss of one eye by enucleation	21,600.00
35	Loss of central visual acuity in one eye . . .	18,000.00
36	Complete loss of hearing in both ears	43,200.00
37	Complete loss of hearing in one ear	7,200.00

1 (b) Beginning on July 1, 1993, compensation under this subsection
2 shall be computed as follows:

3 (i) Beginning on July 1, 1993, the compensation amounts for the
4 specified disabilities listed in (a) of this subsection shall be
5 increased by thirty-two percent; and

6 (ii) Beginning on July 1, 1994, and each July 1 thereafter, the
7 compensation amounts for the specified disabilities listed in (a) of
8 this subsection, as adjusted under (b)(i) of this subsection, shall be
9 readjusted to reflect the percentage change in the consumer price
10 index, calculated as follows: The index for the calendar year
11 preceding the year in which the July calculation is made, to be known
12 as "calendar year A," is divided by the index for the calendar year
13 preceding calendar year A, and the resulting ratio is multiplied by the
14 compensation amount in effect on June 30 immediately preceding the July
15 1st on which the respective calculation is made. For the purposes of
16 this subsection, "index" means the same as the definition in RCW
17 2.12.037(1).

18 (2) Compensation for amputation of a member or part thereof at a
19 site other than those specified in subsection (1) of this section, and
20 for loss of central visual acuity and loss of hearing other than
21 complete, shall be in proportion to that which such other amputation or
22 partial loss of visual acuity or hearing most closely resembles and
23 approximates. Compensation shall be calculated based on the adjusted
24 schedule of compensation in effect for the respective time period as
25 prescribed in subsection (1) of this section. However, beginning with
26 claims filed on or after the effective date of this section,
27 compensation for permanent partial disabilities for hearing loss due to
28 occupational noise exposure shall be paid at an amount equal to
29 seventy-five percent of the monetary value of such disability under
30 this section.

31 (3)(a) Compensation for any other permanent partial disability not
32 involving amputation shall be in the proportion which the extent of
33 such other disability, called unspecified disability, shall bear to the
34 disabilities specified in subsection (1) of this section, which most
35 closely resembles and approximates in degree of disability such other
36 disability, and compensation for any other unspecified permanent

1 partial disability shall be in an amount as measured and compared to
2 total bodily impairment. To reduce litigation and establish more
3 certainty and uniformity in the rating of unspecified permanent partial
4 disabilities, the department shall enact rules having the force of law
5 classifying such disabilities in the proportion which the department
6 shall determine such disabilities reasonably bear to total bodily
7 impairment. In enacting such rules, the department shall give
8 consideration to, but need not necessarily adopt, any nationally
9 recognized medical standards or guides for determining various bodily
10 impairments.

11 (b) Until July 1, 1993, for purposes of calculating monetary
12 benefits under (a) of this subsection, the amount payable for total
13 bodily impairment shall be deemed to be ninety thousand dollars.
14 Beginning on July 1, 1993, for purposes of calculating monetary
15 benefits under (a) of this subsection, the amount payable for total
16 bodily impairment shall be adjusted as follows:

17 (i) Beginning on July 1, 1993, the amount payable for total bodily
18 impairment under this section shall be increased to one hundred
19 eighteen thousand eight hundred dollars; and

20 (ii) Beginning on July 1, 1994, and each July 1 thereafter, the
21 amount payable for total bodily impairment prescribed in (b)(i) of this
22 subsection shall be adjusted as provided in subsection (1)(b)(ii) of
23 this section.

24 (c) Until July 1, 1993, the total compensation for all unspecified
25 permanent partial disabilities resulting from the same injury shall not
26 exceed the sum of ninety thousand dollars. Beginning on July 1, 1993,
27 total compensation for all unspecified permanent partial disabilities
28 resulting from the same injury shall not exceed a sum calculated as
29 follows:

30 (i) Beginning on July 1, 1993, the sum shall be increased to one
31 hundred eighteen thousand eight hundred dollars; and

32 (ii) Beginning on July 1, 1994, and each July 1 thereafter, the sum
33 prescribed in (b)(i) of this subsection shall be adjusted as provided
34 in subsection (1)(b)(ii) of this section.

35 (4) If permanent partial disability compensation is followed by
36 permanent total disability compensation, any portion of the permanent
37 partial disability compensation which exceeds the amount that would

1 have been paid the injured worker if permanent total disability
2 compensation had been paid in the first instance, shall be deducted
3 from the pension reserve of such injured worker and his or her monthly
4 compensation payments shall be reduced accordingly.

5 (5) Should a worker receive an injury to a member or part of his or
6 her body already, from whatever cause, permanently partially disabled,
7 resulting in the amputation thereof or in an aggravation or increase in
8 such permanent partial disability but not resulting in the permanent
9 total disability of such worker, his or her compensation for such
10 partial disability shall be adjudged with regard to the previous
11 disability of the injured member or part and the degree or extent of
12 the aggravation or increase of disability thereof.

13 (6) When the compensation provided for in subsections (1) through
14 (3) of this section exceeds three times the average monthly wage in the
15 state as computed under the provisions of RCW 51.08.018, payment shall
16 be made in monthly payments in accordance with the schedule of
17 temporary total disability payments set forth in RCW 51.32.090 until
18 such compensation is paid to the injured worker in full, except that
19 the first monthly payment shall be in an amount equal to three times
20 the average monthly wage in the state as computed under the provisions
21 of RCW 51.08.018, and interest shall be paid at the rate of eight
22 percent on the unpaid balance of such compensation commencing with the
23 second monthly payment. However, upon application of the injured
24 worker or survivor the monthly payment may be converted, in whole or in
25 part, into a lump sum payment, in which event the monthly payment shall
26 cease in whole or in part. Such conversion may be made only upon
27 written application of the injured worker or survivor to the department
28 and shall rest in the discretion of the department depending upon the
29 merits of each individual application. Upon the death of a worker all
30 unpaid installments accrued shall be paid according to the payment
31 schedule established prior to the death of the worker to the widow or
32 widower, or if there is no widow or widower surviving, to the dependent
33 children of such claimant, and if there are no such dependent children,
34 then to such other dependents as defined by this title.

35 (7) Except as otherwise provided in this section, awards payable
36 under this section are governed by the schedule in effect on the date
37 of injury.

1 NEW SECTION. **Sec. 4.** Section 1 of this act applies to all claims
2 filed on or after the effective date of this section for hearing loss
3 due to occupational noise exposure regardless of the date of injurious
4 exposure."

SB 5271 - S AMD **472**
By Senator Keiser

5 On page 1, line 2 of the title, after "exposure;" strike the
6 remainder of the title and insert "amending RCW 51.28.055, 51.36.020,
7 and 51.32.080; and creating a new section."

--- END ---