
SENATE BILL 5932

State of Washington

68th Legislature

2024 Regular Session

By Senators Stanford, Hasegawa, Keiser, and Nobles

Prefiled 01/02/24. Read first time 01/08/24. Referred to Committee on Labor & Commerce.

1 AN ACT Relating to reducing the number of days that a worker's
2 temporary total disability must continue to receive industrial
3 insurance compensation for the day of an injury and the three-day
4 period following the injury; amending RCW 51.32.090 and 51.32.090;
5 providing an effective date; and providing an expiration date.

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

7 **Sec. 1.** RCW 51.32.090 and 2011 1st sp.s. c 37 s 101 are each
8 amended to read as follows:

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

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

17 (3)(a) As soon as recovery is so complete that the present
18 earning power of the worker, at any kind of work, is restored to that
19 existing at the time of the occurrence of the injury, the payments
20 shall cease. If and so long as the present earning power is only
21 partially restored, the payments shall:

1 (i) For claims for injuries that occurred before May 7, 1993,
2 continue in the proportion which the new earning power shall bear to
3 the old; or

4 (ii) For claims for injuries occurring on or after May 7, 1993,
5 equal (~~(eighty)~~) 80 percent of the actual difference between the
6 worker's present wages and earning power at the time of injury, but:

7 (A) The total of these payments and the worker's present wages may
8 not exceed (~~(one hundred fifty)~~) 150 percent of the average monthly
9 wage in the state as computed under RCW 51.08.018; (B) the payments
10 may not exceed (~~(one hundred)~~) 100 percent of the entitlement as
11 computed under subsection (1) of this section; and (C) the payments
12 may not be less than the worker would have received if (a)(i) of this
13 subsection had been applicable to the worker's claim.

14 (b) No compensation shall be payable under this subsection (3)
15 unless the loss of earning power shall exceed five percent.

16 (c) The prior closure of the claim or the receipt of permanent
17 partial disability benefits shall not affect the rate at which loss
18 of earning power benefits are calculated upon reopening the claim.

19 (4)(a) The legislature finds that long-term disability and the
20 cost of injuries is significantly reduced when injured workers remain
21 at work following their injury. To encourage employers at the time of
22 injury to provide light duty or transitional work for their workers,
23 wage subsidies and other incentives are made available to employers
24 insured with the department.

25 (b) Whenever the employer of injury requests that a worker who is
26 entitled to temporary total disability under this chapter be
27 certified by a physician or licensed advanced registered nurse
28 practitioner as able to perform available work other than his or her
29 usual work, the employer shall furnish to the physician or licensed
30 advanced registered nurse practitioner, with a copy to the worker, a
31 statement describing the work available with the employer of injury
32 in terms that will enable the physician or licensed advanced
33 registered nurse practitioner to relate the physical activities of
34 the job to the worker's disability. The physician or licensed
35 advanced registered nurse practitioner shall then determine whether
36 the worker is physically able to perform the work described. The
37 worker's temporary total disability payments shall continue until the
38 worker is released by his or her physician or licensed advanced
39 registered nurse practitioner for the work, and begins the work with
40 the employer of injury. If the work thereafter comes to an end before

1 the worker's recovery is sufficient in the judgment of his or her
2 physician or licensed advanced registered nurse practitioner to
3 permit him or her to return to his or her usual job, or to perform
4 other available work offered by the employer of injury, the worker's
5 temporary total disability payments shall be resumed. Should the
6 available work described, once undertaken by the worker, impede his
7 or her recovery to the extent that in the judgment of his or her
8 physician or licensed advanced registered nurse practitioner he or
9 she should not continue to work, the worker's temporary total
10 disability payments shall be resumed when the worker ceases such
11 work.

12 (c) To further encourage employers to maintain the employment of
13 their injured workers, an employer insured with the department and
14 that offers work to a worker pursuant to this subsection (4) shall be
15 eligible for reimbursement of the injured worker's wages for light
16 duty or transitional work equal to (~~(fifty)~~) 50 percent of the basic,
17 gross wages paid for that work, for a maximum of (~~(sixty-six)~~) 66
18 workdays within a consecutive (~~(twenty-four)~~) 24-month period. In no
19 event may the wage subsidies paid to an employer on a claim exceed
20 (~~(ten thousand dollars)~~) \$10,000. Wage subsidies shall be calculated
21 using the worker's basic hourly wages or basic salary, and no subsidy
22 shall be paid for any other form of compensation or payment to the
23 worker such as tips, commissions, bonuses, board, housing, fuel,
24 health care, dental care, vision care, per diem, reimbursements for
25 work-related expenses, or any other payments. An employer may not,
26 under any circumstances, receive a wage subsidy for a day in which
27 the worker did not actually perform any work, regardless of whether
28 or not the employer paid the worker wages for that day.

29 (d) If an employer insured with the department offers a worker
30 work pursuant to this subsection (4) and the worker must be provided
31 with training or instruction to be qualified to perform the offered
32 work, the employer shall be eligible for a reimbursement from the
33 department for any tuition, books, fees, and materials required for
34 that training or instruction, up to a maximum of (~~(one thousand~~
35 ~~dollars)~~) \$1,000. Reimbursing an employer for the costs of such
36 training or instruction does not constitute a determination by the
37 department that the worker is eligible for vocational services
38 authorized by RCW 51.32.095 (~~(and 51.32.099)~~).

39 (e) If an employer insured with the department offers a worker
40 work pursuant to this subsection (4), and the employer provides the

1 worker with clothing that is necessary to allow the worker to perform
2 the offered work, the employer shall be eligible for reimbursement
3 for such clothing from the department, up to a maximum of (~~four~~
4 ~~hundred dollars~~) \$400. However, an employer shall not receive
5 reimbursement for any clothing it provided to the worker that it
6 normally provides to its workers. The clothing purchased for the
7 worker shall become the worker's property once the work comes to an
8 end.

9 (f) If an employer insured with the department offers a worker
10 work pursuant to this subsection (4) and the worker must be provided
11 with tools or equipment to perform the offered work, the employer
12 shall be eligible for a reimbursement from the department for such
13 tools and equipment and related costs as determined by department
14 rule, up to a maximum of (~~two thousand five hundred dollars~~)
15 \$2,500. An employer shall not be reimbursed for any tools or
16 equipment purchased prior to offering the work to the worker pursuant
17 to this subsection (4). An employer shall not be reimbursed for any
18 tools or equipment that it normally provides to its workers. The
19 tools and equipment shall be the property of the employer.

20 (g) An employer may offer work to a worker pursuant to this
21 subsection (4) more than once, but in no event may the employer
22 receive wage subsidies for more than (~~sixty-six~~) 66 days of work in
23 a consecutive (~~twenty-four~~) 24-month period under one claim. An
24 employer may continue to offer work pursuant to this subsection (4)
25 after the worker has performed (~~sixty-six~~) 66 days of work, but the
26 employer shall not be eligible to receive wage subsidies for such
27 work.

28 (h) An employer shall not receive any wage subsidies or
29 reimbursement of any expenses pursuant to this subsection (4) unless
30 the employer has completed and submitted the reimbursement request on
31 forms developed by the department, along with all related information
32 required by department rules. No wage subsidy or reimbursement shall
33 be paid to an employer who fails to submit a form for such payment
34 within one year of the date the work was performed. In no event shall
35 an employer receive wage subsidy payments or reimbursements of any
36 expenses pursuant to this subsection (4) unless the worker's
37 physician or licensed advanced registered nurse practitioner has
38 restricted him or her from performing his or her usual work and the
39 worker's physician or licensed advanced registered nurse practitioner
40 has released him or her to perform the work offered.

1 (i) Payments made under (b) through (g) of this subsection are
2 subject to penalties under RCW 51.32.240(5) in cases where the funds
3 were obtained through willful misrepresentation.

4 (j) Once the worker returns to work under the terms of this
5 subsection (4), he or she shall not be assigned by the employer to
6 work other than the available work described without the worker's
7 written consent, or without prior review and approval by the worker's
8 physician or licensed advanced registered nurse practitioner. An
9 employer who directs a claimant to perform work other than that
10 approved by the attending physician and without the approval of the
11 worker's physician or licensed advanced registered nurse practitioner
12 shall not receive any wage subsidy or other reimbursements for such
13 work.

14 (k) If the worker returns to work under this subsection (4), any
15 employee health and welfare benefits that the worker was receiving at
16 the time of injury shall continue or be resumed at the level provided
17 at the time of injury. Such benefits shall not be continued or
18 resumed if to do so is inconsistent with the terms of the benefit
19 program, or with the terms of the collective bargaining agreement
20 currently in force.

21 (l) In the event of any dispute as to the validity of the work
22 offered or as to the worker's ability to perform the available work
23 offered by the employer, the department shall make the final
24 determination pursuant to an order that contains the notice required
25 by RCW 51.52.060 and that is subject to appeal subject to RCW
26 51.52.050.

27 (5) An employer's experience rating shall not be affected by the
28 employer's request for or receipt of wage subsidies.

29 (6) The department shall create a Washington stay-at-work account
30 which shall be funded by assessments of employers insured through the
31 state fund for the costs of the payments authorized by subsection (4)
32 of this section and for the cost of creating a reserve for
33 anticipated liabilities. Employers may collect up to one-half the
34 fund assessment from workers.

35 (7) No worker shall receive compensation for or during the day on
36 which injury was received or the three days following the same,
37 unless his or her disability shall continue for a period of
38 (~~fourteen~~) seven consecutive calendar days from date of injury:
39 PROVIDED, That attempts to return to work in the first (~~fourteen~~)
40 seven days following the injury shall not serve to break the

1 continuity of the period of disability if the disability continues
2 (~~fourteen~~) seven days after the injury occurs.

3 (8) Should a worker suffer a temporary total disability and
4 should his or her employer at the time of the injury continue to pay
5 him or her the wages which he or she was earning at the time of such
6 injury, such injured worker shall not receive any payment provided in
7 subsection (1) of this section during the period his or her employer
8 shall so pay such wages: PROVIDED, That holiday pay, vacation pay,
9 sick leave, or other similar benefits shall not be deemed to be
10 payments by the employer for the purposes of this subsection.

11 (9) In no event shall the monthly payments provided in this
12 section:

13 (a) Exceed the applicable percentage of the average monthly wage
14 in the state as computed under the provisions of RCW 51.08.018 as
15 follows:

AFTER	PERCENTAGE
June 30, 1993	105%
June 30, 1994	110%
June 30, 1995	115%
June 30, 1996	120%

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21 (b) For dates of injury or disease manifestation after July 1,
22 2008, be less than (~~fifteen~~) 15 percent of the average monthly wage
23 in the state as computed under RCW 51.08.018 plus an additional (~~ten~~
24 ~~dollars~~) \$10 per month if the worker is married and an additional
25 (~~ten-dollars~~) \$10 per month for each child of the worker up to a
26 maximum of five children. However, if the monthly payment computed
27 under this subsection (9)(b) is greater than (~~one-hundred~~) 100
28 percent of the wages of the worker as determined under RCW 51.08.178,
29 the monthly payment due to the worker shall be equal to the greater
30 of the monthly wages of the worker or the minimum benefit set forth
31 in this section on June 30, 2008.

32 (10) If the supervisor of industrial insurance determines that
33 the worker is voluntarily retired and is no longer attached to the
34 workforce, benefits shall not be paid under this section.

35 (11) The department shall adopt rules as necessary to implement
36 this section.

1 **Sec. 2.** RCW 51.32.090 and 2023 c 171 s 7 are each amended to
2 read as follows:

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

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

11 (3)(a) As soon as recovery is so complete that the present
12 earning power of the worker, at any kind of work, is restored to that
13 existing at the time of the occurrence of the injury, the payments
14 shall cease. If and so long as the present earning power is only
15 partially restored, the payments shall:

16 (i) For claims for injuries that occurred before May 7, 1993,
17 continue in the proportion which the new earning power shall bear to
18 the old; or

19 (ii) For claims for injuries occurring on or after May 7, 1993,
20 equal (~~eighty~~) 80 percent of the actual difference between the
21 worker's present wages and earning power at the time of injury, but:
22 (A) The total of these payments and the worker's present wages may
23 not exceed (~~one hundred fifty~~) 150 percent of the average monthly
24 wage in the state as computed under RCW 51.08.018; (B) the payments
25 may not exceed (~~one hundred~~) 100 percent of the entitlement as
26 computed under subsection (1) of this section; and (C) the payments
27 may not be less than the worker would have received if (a)(i) of this
28 subsection had been applicable to the worker's claim.

29 (b) No compensation shall be payable under this subsection (3)
30 unless the loss of earning power shall exceed five percent.

31 (c) The prior closure of the claim or the receipt of permanent
32 partial disability benefits shall not affect the rate at which loss
33 of earning power benefits are calculated upon reopening the claim.

34 (4)(a) The legislature finds that long-term disability and the
35 cost of injuries is significantly reduced when injured workers remain
36 at work following their injury. To encourage employers at the time of
37 injury to provide light duty or transitional work for their workers,
38 wage subsidies and other incentives are made available to employers
39 insured with the department.

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

23 (c) To further encourage employers to maintain the employment of
24 their injured workers, an employer insured with the department and
25 that offers work to a worker pursuant to this subsection (4) shall be
26 eligible for reimbursement of the injured worker's wages for light
27 duty or transitional work equal to (~~(fifty)~~) 50 percent of the basic,
28 gross wages paid for that work, for a maximum of (~~(sixty-six)~~) 66
29 workdays within a consecutive (~~(twenty-four)~~) 24-month period. In no
30 event may the wage subsidies paid to an employer on a claim exceed
31 (~~(ten thousand dollars)~~) \$10,000. Wage subsidies shall be calculated
32 using the worker's basic hourly wages or basic salary, and no subsidy
33 shall be paid for any other form of compensation or payment to the
34 worker such as tips, commissions, bonuses, board, housing, fuel,
35 health care, dental care, vision care, per diem, reimbursements for
36 work-related expenses, or any other payments. An employer may not,
37 under any circumstances, receive a wage subsidy for a day in which
38 the worker did not actually perform any work, regardless of whether
39 or not the employer paid the worker wages for that day.

1 (d) If an employer insured with the department offers a worker
2 work pursuant to this subsection (4) and the worker must be provided
3 with training or instruction to be qualified to perform the offered
4 work, the employer shall be eligible for a reimbursement from the
5 department for any tuition, books, fees, and materials required for
6 that training or instruction, up to a maximum of (~~one thousand~~
7 ~~dollars~~) \$1,000. Reimbursing an employer for the costs of such
8 training or instruction does not constitute a determination by the
9 department that the worker is eligible for vocational services
10 authorized by RCW 51.32.095 (~~and 51.32.099~~).

11 (e) If an employer insured with the department offers a worker
12 work pursuant to this subsection (4), and the employer provides the
13 worker with clothing that is necessary to allow the worker to perform
14 the offered work, the employer shall be eligible for reimbursement
15 for such clothing from the department, up to a maximum of (~~four~~
16 ~~hundred dollars~~) \$400. However, an employer shall not receive
17 reimbursement for any clothing it provided to the worker that it
18 normally provides to its workers. The clothing purchased for the
19 worker shall become the worker's property once the work comes to an
20 end.

21 (f) If an employer insured with the department offers a worker
22 work pursuant to this subsection (4) and the worker must be provided
23 with tools or equipment to perform the offered work, the employer
24 shall be eligible for a reimbursement from the department for such
25 tools and equipment and related costs as determined by department
26 rule, up to a maximum of (~~two thousand five hundred dollars~~)
27 \$2,500. An employer shall not be reimbursed for any tools or
28 equipment purchased prior to offering the work to the worker pursuant
29 to this subsection (4). An employer shall not be reimbursed for any
30 tools or equipment that it normally provides to its workers. The
31 tools and equipment shall be the property of the employer.

32 (g) An employer may offer work to a worker pursuant to this
33 subsection (4) more than once, but in no event may the employer
34 receive wage subsidies for more than (~~sixty-six~~) 66 days of work in
35 a consecutive (~~twenty-four~~) 24-month period under one claim. An
36 employer may continue to offer work pursuant to this subsection (4)
37 after the worker has performed (~~sixty-six~~) 66 days of work, but the
38 employer shall not be eligible to receive wage subsidies for such
39 work.

1 (h) An employer shall not receive any wage subsidies or
2 reimbursement of any expenses pursuant to this subsection (4) unless
3 the employer has completed and submitted the reimbursement request on
4 forms developed by the department, along with all related information
5 required by department rules. No wage subsidy or reimbursement shall
6 be paid to an employer who fails to submit a form for such payment
7 within one year of the date the work was performed. In no event shall
8 an employer receive wage subsidy payments or reimbursements of any
9 expenses pursuant to this subsection (4) unless the worker's
10 attending provider has restricted him or her from performing his or
11 her usual work and the worker's attending provider has released him
12 or her to perform the work offered.

13 (i) Payments made under (b) through (g) of this subsection are
14 subject to penalties under RCW 51.32.240(5) in cases where the funds
15 were obtained through willful misrepresentation.

16 (j) Once the worker returns to work under the terms of this
17 subsection (4), he or she shall not be assigned by the employer to
18 work other than the available work described without the worker's
19 written consent, or without prior review and approval by the worker's
20 attending provider. An employer who directs a claimant to perform
21 work other than that approved by the attending provider and without
22 the approval of the worker's attending provider shall not receive any
23 wage subsidy or other reimbursements for such work.

24 (k) If the worker returns to work under this subsection (4), any
25 employee health and welfare benefits that the worker was receiving at
26 the time of injury shall continue or be resumed at the level provided
27 at the time of injury. Such benefits shall not be continued or
28 resumed if to do so is inconsistent with the terms of the benefit
29 program, or with the terms of the collective bargaining agreement
30 currently in force.

31 (l) In the event of any dispute as to the validity of the work
32 offered or as to the worker's ability to perform the available work
33 offered by the employer, the department shall make the final
34 determination pursuant to an order that contains the notice required
35 by RCW 51.52.060 and that is subject to appeal subject to RCW
36 51.52.050.

37 (5) An employer's experience rating shall not be affected by the
38 employer's request for or receipt of wage subsidies.

39 (6) The department shall create a Washington stay-at-work account
40 which shall be funded by assessments of employers insured through the

1 state fund for the costs of the payments authorized by subsection (4)
2 of this section and for the cost of creating a reserve for
3 anticipated liabilities. Employers may collect up to one-half the
4 fund assessment from workers.

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

13 (8) Should a worker suffer a temporary total disability and
14 should his or her employer at the time of the injury continue to pay
15 him or her the wages which he or she was earning at the time of such
16 injury, such injured worker shall not receive any payment provided in
17 subsection (1) of this section during the period his or her employer
18 shall so pay such wages: PROVIDED, That holiday pay, vacation pay,
19 sick leave, or other similar benefits shall not be deemed to be
20 payments by the employer for the purposes of this subsection.

21 (9) In no event shall the monthly payments provided in this
22 section:

23 (a) Exceed the applicable percentage of the average monthly wage
24 in the state as computed under the provisions of RCW 51.08.018 as
25 follows:

AFTER	PERCENTAGE
June 30, 1993	105%
June 30, 1994	110%
June 30, 1995	115%
June 30, 1996	120%

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31 (b) For dates of injury or disease manifestation after July 1,
32 2008, be less than (~~fifteen~~) 15 percent of the average monthly wage
33 in the state as computed under RCW 51.08.018 plus an additional (~~ten~~
34 ~~dollars~~) \$10 per month if the worker is married and an additional
35 (~~ten-dollars~~) \$10 per month for each child of the worker up to a
36 maximum of five children. However, if the monthly payment computed
37 under this subsection (9)(b) is greater than (~~one-hundred~~) 100
38 percent of the wages of the worker as determined under RCW 51.08.178,

1 the monthly payment due to the worker shall be equal to the greater
2 of the monthly wages of the worker or the minimum benefit set forth
3 in this section on June 30, 2008.

4 (10) If the supervisor of industrial insurance determines that
5 the worker is voluntarily retired and is no longer attached to the
6 workforce, benefits shall not be paid under this section.

7 (11) The department shall adopt rules as necessary to implement
8 this section.

9 NEW SECTION. **Sec. 3.** Section 2 of this act takes effect July 1,
10 2025.

11 NEW SECTION. **Sec. 4.** Section 1 of this act expires July 1,
12 2025.

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