

SENATE BILL REPORT

2SHB 1788

As Reported by Senate Committee On:
Labor & Commerce, March 21, 2025
Ways & Means, April 3, 2025

Title: An act relating to workers' compensation benefits.

Brief Description: Concerning workers' compensation benefits.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Richards, Bronoske, Berry, Wylie, Fosse, Taylor, Ormsby, Nance, Salahuddin, Pollet and Obras).

Brief History: Passed House: 3/5/25, 78-18.

Committee Activity: Labor & Commerce: 3/17/25, 3/21/25 [DP-WM, DNP].
Ways & Means: 4/03/25 [DP, DNP, w/oRec].

Brief Summary of Bill

- Modifies the percentages of wages an injured worker may receive for workers' compensation benefits.

SENATE COMMITTEE ON LABOR & COMMERCE

Majority Report: Do pass and be referred to Committee on Ways & Means.

Signed by Senators Saldaña, Chair; Conway, Vice Chair; King, Ranking Member; Alvarado, Ramos and Stanford.

Minority Report: Do not pass.

Signed by Senators Braun, MacEwen and Schoesler.

Staff: Susan Jones (786-7404)

SENATE COMMITTEE ON WAYS & MEANS

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: Do pass.

Signed by Senators Robinson, Chair; Stanford, Vice Chair, Operating; Trudeau, Vice Chair, Capital; Frame, Vice Chair, Finance; Cleveland, Conway, Dhingra, Hansen, Hasegawa, Kauffman, Pedersen, Riccelli, Saldaña, Warnick, Wellman and Wilson, C..

Minority Report: Do not pass.

Signed by Senators Schoesler, Ranking Member, Capital; Dozier, Assistant Ranking Member, Capital; Boehnke and Wagoner.

Minority Report: That it be referred without recommendation.

Signed by Senators Gildon, Ranking Member, Operating; Torres, Assistant Ranking Member, Operating; Braun and Muzzall.

Staff: Kimmy Eide (786-7471)

Background: When the Department of Labor and Industries (L&I) determines there is a permanent or temporary total disability from a workers' compensation injury, a worker receives monthly payments during the period of the disability, as follows:

| <u>Unmarried Workers</u> | <u>Percentage of the worker's wages</u> | <u>Married Workers</u> | <u>Percentage of the worker's wages</u> |
|-----------------------------------|---|---------------------------------|---|
| Unmarried with no children | 60% | | |
| Unmarried with 1 child | 62% | Married no children | 65% |
| Unmarried with 2 children | 64% | Married with 1 child | 67% |
| Unmarried with 3 children | 66% | Married with 2 children | 69% |
| Unmarried with 4 children | 68% | Married with 3 children | 71% |
| Unmarried with 5 or more children | 70% | Married with 4 children | 73% |
| | | Married with 5 or more children | 75% |

A married worker receives an additional \$10 per month when the worker is receiving the minimum monthly payments for a permanent or temporary total disability.

The term wages is defined in statute and includes the employer's payment or contributions, or appropriate portions thereof, for health care benefits unless the employer continues ongoing and current payment or contributions for these benefits at the same level as provided at the time of injury.

The term "child" means every natural born child, posthumous child, stepchild, child legally adopted prior to the injury, child born after the injury where conception occurred prior to the injury, and dependent child in the legal custody and control of the worker, all while

under the age of 18 years, or under the age of 23 years while permanently enrolled at a full time course in an accredited school, and over the age of 18 years if the child is a dependent as a result of a disability.

If an injured worker or the injured worker’s surviving spouse does not have legal custody of a child for whom payments are required to be made, the payments must be made to the legal custodian, or custodians, of the child for the periods of time after L&I has been notified of the fact of the legal custody.

Summary of Bill: For claims with a date of injury or disease manifestation on or after July, 1, 2026, if there is a permanent or temporary total disability from a workers' compensation injury, a worker will receive the following percentages of the worker's wages:

| <u>Worker's status</u> | <u>Percentage of the worker's wages</u> |
|--|---|
| Unmarried with no children | 60% |
| Unmarried with 1 child or married with no children | 65% |
| Unmarried with 2 children or married with 1 child | 67% |
| Unmarried with 3 children or married with 2 children | 69% |
| Unmarried with 4 children or married with 3 children | 71% |
| Unmarried with 5 children or married with 4 children | 73% |
| Unmarried with 6 or more children or married with 5 or more children | 75% |

The payments to be made to the legal custodian, or custodians, of a worker's child will be 2 percent of the worker's wages. The payment to the worker or the worker’s surviving spouse will be reduced by the amount of the payments to be made to the legal custodian, or custodians, of a worker's children.

Appropriation: The bill contains a null and void clause requiring specific funding be provided in an omnibus appropriation act.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill takes effect on July 1, 2026.

Staff Summary of Public Testimony (Labor & Commerce): PRO: This is a bipartisan bill about fairness and parity. Single parents are compensated differently than two-parent households. This bill simply fixes an inequity in the time loss formula for different family compositions, which will go a long way for single parents who are trying to keep food on

the table while they're recovering from a workplace injury. The current statute that directs percentages of partial wage replacement for injured workers has been in place for over 50 years. It is not fair to single parents. The bill just gets rid of the penalty for single parents.

Workers asked for this bill to help them better care for themselves and their families when they are on workers' compensation. This bill retains a very small aspect of the original intent and we agreed to that the concession to reduce fiscal concerns and ensure the equity piece remains intact.

With respect to the broader concerns around the time loss calculation, in 2016, the Legislature passed legislation creating a wage replacement accuracy work group. We spent two years developing a piece of legislation that would streamline the way time loss was calculated and addressed the definition of wages. The legislature chose not to pursue that policy. The concerns were not from the labor community. We are hesitant to create another work group if the opposition has not changed.

CON: Basically, this bill has become little more than a benefit increase. The current system has an antiquated and unfair method of calculating wage replacement but the bill does nothing to change the underlying flaws in the system. Instead, it tries to throw more money at a problem without a solution.

If the bill moves forward, it should include some language directing L&I to convene stakeholders to address the underlying flaws in the system and bring more fairness, more equity, and greater simplicity to the process of determining wage replacement calculations. The current process is cumbersome, costly, often requires workers to retain legal counsel, and results in too many delays and appeals in the system. Bringing stakeholders together over the interim to develop a lasting solution makes sense. The Workers' Comp Advisory Committee could be the stakeholder group with input from others.

We recognize that the bill was stripped down significantly but the fiscal note adds \$36 million in time loss costs over five years. This is a concern, especially if we start to enter a recession. Time loss duration tends to go up and those costs will go up during a recession.

We need to make sure that someone is watching what happens to this system overall, particularly in terms of the long term, ongoing costs for time loss, so that we don't end up in a situation where the system becomes more expensive and starts driving up employer costs even more.

We are concerned about the systemic problems within the workers' comp system. Too many workers are entering long-term and permanent disability. The bill is not addressing the root causes. 73 percent of workers' comp expenses are spent on disability, when the national median is only 47 percent, and California and Oregon are 49 percent and 50 percent. The state is putting too many workers on disability. In 2011, according to L&I, the disability rate was 16.1 percent. It dropped to 13 percent in 2019. As of December 2024,

it went back up to 16 percent. All the progress has been reversed.

Persons Testifying (Labor & Commerce): PRO: Representative Adison Richards, Prime Sponsor; Minna Long, Washington State Building & Construction Trades Council; Ray Dumas, OPCMIA Local 528; Joe Kendo, Washington State Labor Council, AFL-CIO.

CON: Patrick Connor, NFIB; Rose Gundersen, WA Retail Assn; Carolyn Logue, ABC Inland Pacific.

Persons Signed In To Testify But Not Testifying (Labor & Commerce): No one.

Staff Summary of Public Testimony (Ways & Means): No public hearing was held.

Persons Testifying (Ways & Means): N/A

Persons Signed In To Testify But Not Testifying (Ways & Means): N/A