

House Bill 2707

Sponsored by COMMITTEE ON BUSINESS AND LABOR

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires receipt of verifiable documentation of wages received from all subject employers of injured worker to establish eligibility for supplemental temporary disability benefits. Instructs Director of Department of Consumer and Business Services to adopt rules for payment and reimbursement of supplemental temporary disability benefits.

A BILL FOR AN ACT

1
2 Relating to supplemental temporary disability benefits in workers' compensation claims; amending
3 ORS 656.210.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 656.210, as amended by section 10, chapter 241, Oregon Laws 2007, is
6 amended to read:

7 656.210. (1) When the total disability is only temporary, the worker shall receive during the pe-
8 riod of that total disability compensation equal to 66-2/3 percent of wages, but not more than 133
9 percent of the average weekly wage nor less than the amount of 90 percent of wages a week or the
10 amount of \$50 a week, whichever amount is less. Notwithstanding the limitation imposed by this
11 subsection, an injured worker who is not otherwise eligible to receive an increase in benefits for the
12 fiscal year in which compensation is paid shall have the benefits increased each fiscal year by the
13 percentage which the applicable average weekly wage has increased since the previous fiscal year.

14 (2)(a) For the purpose of this section, the weekly wage of workers shall be ascertained:

15 (A) For workers employed in one job at the time of injury, by multiplying the daily wage the
16 worker was receiving by the number of days per week that the worker was regularly employed; or

17 (B) For workers employed in more than one job at the time of injury, by adding all earnings the
18 worker was receiving from all subject employment.

19 (b) Notwithstanding paragraph (a)(B) of this subsection, the weekly wage calculated under par-
20 agraph (a)(A) of this subsection shall be used for workers employed in more than one job at the time
21 of injury unless[,] **the insurer, self-insured employer or assigned claims agent for a noncom-**
22 **plying employer receives:**

23 (A) Within 30 days of receipt of the initial claim, [*the insurer, self-insured employer or assigned*
24 *claims agent for a noncomplying employer receives*] notice that the worker was employed in more
25 than one job with a subject employer at the time of injury; and

26 (B) **Within 60 days of receipt of the initial claim,** receives verifiable documentation of wages
27 from such additional employment.

28 (c) Notwithstanding ORS 656.005 (7)(c), an injury to a worker employed in more than one job
29 at the time of injury is not disabling if no temporary disability benefits are payable for time lost
30 from the job at injury. Claim costs incurred as a result of supplemental temporary disability benefits

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 paid as provided in subsection (5) of this section may not be included in any data used for
2 ratemaking or individual employer rating or dividend calculations by an insurer, a rating organiza-
3 tion licensed pursuant to ORS chapter 737, the State Accident Insurance Fund Corporation or the
4 Department of Consumer and Business Services if the injured worker is not eligible for permanent
5 disability benefits or temporary disability benefits for time lost from the job at injury.

6 (d) For the purpose of this section:

7 (A) The benefits of a worker who incurs an injury shall be based on the wage of the worker at
8 the time of injury.

9 (B) The benefits of a worker who incurs an occupational disease shall be based on the wage of
10 the worker at the time there is medical verification that the worker is unable to work because of
11 the disability caused by the occupational disease. If the worker is not working at the time that there
12 is medical verification that the worker is unable to work because of the disability caused by the
13 occupational disease, the benefits shall be based on the wage of the worker at the worker's last
14 regular employment.

15 (e) As used in this subsection, "regularly employed" means actual employment or availability for
16 such employment. For workers not regularly employed and for workers with no remuneration or
17 whose remuneration is not based solely upon daily or weekly wages, the Director of the Department
18 of Consumer and Business Services, by rule, may prescribe methods for establishing the worker's
19 weekly wage.

20 (3) No disability payment is recoverable for temporary total or partial disability suffered during
21 the first three calendar days after the worker leaves work or loses wages as a result of the
22 compensable injury unless the worker is totally disabled after the injury and the total disability
23 continues for a period of 14 consecutive days or unless the worker is admitted as an inpatient to a
24 hospital within 14 days of the first onset of total disability. If the worker leaves work or loses wages
25 on the day of the injury due to the injury, that day shall be considered the first day of the three-day
26 period.

27 (4) When an injured worker with an accepted disabling compensable injury is required to leave
28 work for a period of four hours or more to receive medical consultation, examination or treatment
29 with regard to the compensable injury, the worker shall receive temporary disability benefits cal-
30 culated pursuant to ORS 656.212 for the period during which the worker is absent, until such time
31 as the worker is determined to be medically stationary. However, benefits under this subsection are
32 not payable if wages are paid for the period of absence by the employer.

33 (5)(a) The insurer of the employer at injury or the self-insured employer at injury, may elect to
34 be responsible for payment of supplemental temporary disability benefits to a worker employed in
35 more than one job at the time of injury. In accordance with rules adopted by the director, if the
36 worker's weekly wage is determined under subsection (2)(a)(B) of this section, the insurer or self-
37 insured employer shall be reimbursed from the Workers' Benefit Fund for the amount of temporary
38 disability benefits paid that exceeds the amount payable pursuant to subsection (2)(a)(A) of this
39 section had the worker been employed in only one job at the time of injury. Such reimbursement
40 shall include an administrative fee payable to the insurer or self-insured employer pursuant to rules
41 adopted by the director.

42 (b) If the insurer or self-insured employer elects not to pay the supplemental temporary disabil-
43 ity benefits for a worker employed in more than one job at the time of injury, the director shall ei-
44 ther administer and pay the supplemental benefits directly or shall assign responsibility to
45 administer and process the payment to a paying agent selected by the director.

1 **(6) The director shall adopt rules for the payment and reimbursement of supplemental**
2 **temporary disability benefits under this section.**

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