

**A-Engrossed**  
**Senate Bill 418**

Ordered by the Senate March 31  
Including Senate Amendments dated March 31

Sponsored by Senator GORSEK (at the request of Oregon AFSCME) (Presession filed.)

**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.

*[Requires subject employers to adopt policy allowing subject workers paid time off during shift to receive medical services related to worker's compensable injury or occupational disease.]*

**Removes minimum time period that injured worker must be absent from work for compensable medical services before injured worker may receive temporary disability benefits for such absence. Provides that notice required before insurer or self-insured employer may end temporary disability benefits does not apply to benefits paid for such absence.**

Declares emergency, effective on passage.

**A BILL FOR AN ACT**

1  
2 Relating to workers' compensation claims; creating new provisions; amending ORS 656.210; and de-  
3 claring an emergency.

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

5 **SECTION 1.** ORS 656.210 is amended to read:

6 656.210. (1) When the total disability is only temporary, the worker shall receive during the pe-  
7 riod of that total disability compensation equal to 66-2/3 percent of wages, but not more than 133  
8 percent of the average weekly wage nor less than the amount of 90 percent of wages a week or the  
9 amount of \$50 a week, whichever amount is less. Notwithstanding the limitation imposed by this  
10 subsection, an injured worker who is not otherwise eligible to receive an increase in benefits for the  
11 fiscal year in which compensation is paid shall have the benefits increased each fiscal year by the  
12 percentage which the applicable average weekly wage has increased since the previous fiscal year.

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

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

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

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

22 (A) Within 30 days of receipt of the initial claim, notice that the worker was employed in more  
23 than one job with a subject employer at the time of injury; and

24 (B) Within 60 days of the date of mailing a request for verification, verifiable documentation of  
25 wages from such additional employment.

**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 (c) Notwithstanding ORS 656.005 (7)(c), an injury to a worker employed in more than one job  
 2 at the time of injury is not disabling if no temporary disability benefits are payable for time lost  
 3 from the job at injury. Claim costs incurred as a result of supplemental temporary disability benefits  
 4 paid as provided in subsection (5) of this section may not be included in any data used for  
 5 ratemaking or individual employer rating or dividend calculations by an insurer, a rating organiza-  
 6 tion licensed pursuant to ORS chapter 737, the State Accident Insurance Fund Corporation or the  
 7 Department of Consumer and Business Services if the injured worker is not eligible for permanent  
 8 disability benefits or temporary disability benefits for time lost from the job at injury.

9 (d) For the purpose of this section:

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

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

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

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

30 (4) When an injured worker with an accepted disabling compensable injury is required to leave  
 31 work [*for a period of four hours or more*] to receive [*medical consultation, examination or treatment*  
 32 *with regard to*] **compensable medical services** for the compensable injury, the worker shall receive  
 33 temporary disability benefits calculated pursuant to ORS 656.212 for the period during which the  
 34 worker is absent, until such time as the worker is determined to be medically stationary. However,  
 35 benefits under this subsection are not payable if wages are paid for the period of absence by the  
 36 employer. **An insurer may require a worker to confirm the period during which the worker**  
 37 **is absent from work to receive compensable medical services under this subsection. The no-**  
 38 **tice requirement under ORS 656.262 (4)(j) does not apply to temporary disability benefits paid**  
 39 **pursuant to this subsection.**

40 (5)(a) The insurer of the employer at injury or the self-insured employer at injury, may elect to  
 41 be responsible for payment of supplemental temporary disability benefits to a worker employed in  
 42 more than one job at the time of injury. In accordance with rules adopted by the director, if the  
 43 worker's weekly wage is determined under subsection (2)(a)(B) of this section, the insurer or self-  
 44 insured employer shall be reimbursed from the Workers' Benefit Fund for the amount of temporary  
 45 disability benefits paid that exceeds the amount payable pursuant to subsection (2)(a)(A) of this

1 section had the worker been employed in only one job at the time of injury. Such reimbursement  
2 shall include an administrative fee payable to the insurer or self-insured employer pursuant to rules  
3 adopted by the director.

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

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

10 **SECTION 2. The amendments to ORS 656.210 by section 1 of this 2023 Act become oper-**  
11 **ative on January 1, 2024.**

12 **SECTION 3. This 2023 Act being necessary for the immediate preservation of the public**  
13 **peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect**  
14 **on its passage.**

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