

SB 418-2
(LC 1077)
3/6/23 (ASD/ps)

Requested by Senator GORSEK

**PROPOSED AMENDMENTS TO
SENATE BILL 418**

1 In line 2 of the printed bill, after the semicolon insert “creating new
2 provisions; amending ORS 656.210;”.

3 Delete lines 4 through 19 and insert:

4 **“SECTION 1. ORS 656.210 is amended to read:**

5 “656.210. (1) When the total disability is only temporary, the worker shall
6 receive during the period of that total disability compensation equal to 66-2/3
7 percent of wages, but not more than 133 percent of the average weekly wage
8 nor less than the amount of 90 percent of wages a week or the amount of
9 \$50 a week, whichever amount is less. Notwithstanding the limitation im-
10 posed by this subsection, an injured worker who is not otherwise eligible to
11 receive an increase in benefits for the fiscal year in which compensation is
12 paid shall have the benefits increased each fiscal year by the percentage
13 which the applicable average weekly wage has increased since the previous
14 fiscal year.

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

17 “(A) For workers employed in one job at the time of injury, by multiply-
18 ing the daily wage the worker was receiving by the number of days per week
19 that the worker was regularly employed; or

20 “(B) For workers employed in more than one job at the time of injury,
21 by adding all earnings the worker was receiving from all subject employ-

1 ment.

2 “(b) Notwithstanding paragraph (a)(B) of this subsection, the weekly wage
3 calculated under paragraph (a)(A) of this subsection shall be used for work-
4 ers employed in more than one job at the time of injury unless the insurer,
5 self-insured employer or assigned claims agent for a noncomplying employer
6 receives:

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

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

12 “(c) Notwithstanding ORS 656.005 (7)(c), an injury to a worker employed
13 in more than one job at the time of injury is not disabling if no temporary
14 disability benefits are payable for time lost from the job at injury. Claim
15 costs incurred as a result of supplemental temporary disability benefits paid
16 as provided in subsection (5) of this section may not be included in any data
17 used for ratemaking or individual employer rating or dividend calculations
18 by an insurer, a rating organization licensed pursuant to ORS chapter 737,
19 the State Accident Insurance Fund Corporation or the Department of Con-
20 sumer and Business Services if the injured worker is not eligible for perma-
21 nent disability benefits or temporary disability benefits for time lost from the
22 job at injury.

23 “(d) For the purpose of this section:

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

26 “(B) The benefits of a worker who incurs an occupational disease shall
27 be based on the wage of the worker at the time there is medical verification
28 that the worker is unable to work because of the disability caused by the
29 occupational disease. If the worker is not working at the time that there is
30 medical verification that the worker is unable to work because of the disa-

1 bility caused by the occupational disease, the benefits shall be based on the
2 wage of the worker at the worker's last regular employment.

3 “(e) As used in this subsection, ‘regularly employed’ means actual em-
4 ployment or availability for such employment. For workers not regularly
5 employed and for workers with no remuneration or whose remuneration is
6 not based solely upon daily or weekly wages, the Director of the Department
7 of Consumer and Business Services, by rule, may prescribe methods for es-
8 tablishing the worker's weekly wage.

9 “(3) No disability payment is recoverable for temporary total or partial
10 disability suffered during the first three calendar days after the worker
11 leaves work or loses wages as a result of the compensable injury unless the
12 worker is totally disabled after the injury and the total disability continues
13 for a period of 14 consecutive days or unless the worker is admitted as an
14 inpatient to a hospital within 14 days of the first onset of total disability.
15 If the worker leaves work or loses wages on the day of the injury due to the
16 injury, that day shall be considered the first day of the three-day period.

17 “(4) When an injured worker with an accepted disabling compensable in-
18 jury is required to leave work [*for a period of four hours or more*] to receive
19 medical consultation, examination or treatment with regard to the
20 compensable injury, the worker shall receive temporary disability benefits
21 calculated pursuant to ORS 656.212 for the period during which the worker
22 is absent, until such time as the worker is determined to be medically sta-
23 tionary. However, benefits under this subsection are not payable if wages
24 are paid for the period of absence by the employer. **The notice requirement**
25 **under ORS 656.262 (4)(j) does not apply to temporary disability benefits**
26 **paid pursuant to this subsection.**

27 “(5)(a) The insurer of the employer at injury or the self-insured employer
28 at injury, may elect to be responsible for payment of supplemental temporary
29 disability benefits to a worker employed in more than one job at the time
30 of injury. In accordance with rules adopted by the director, if the worker's

1 weekly wage is determined under subsection (2)(a)(B) of this section, the
2 insurer or self-insured employer shall be reimbursed from the Workers' Ben-
3 efit Fund for the amount of temporary disability benefits paid that exceeds
4 the amount payable pursuant to subsection (2)(a)(A) of this section had the
5 worker been employed in only one job at the time of injury. Such re-
6 imbursement shall include an administrative fee payable to the insurer or
7 self-insured employer pursuant to rules adopted by the director.

8 “(b) If the insurer or self-insured employer elects not to pay the supple-
9 mental temporary disability benefits for a worker employed in more than one
10 job at the time of injury, the director shall either administer and pay the
11 supplemental benefits directly or shall assign responsibility to administer
12 and process the payment to a paying agent selected by the director.

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

15 **“SECTION 2. The amendments to ORS 656.210 by section 1 of this**
16 **2023 Act become operative on January 1, 2024.**

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

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