

Senate Bill 705

Sponsored by Senators TAYLOR, MANNING JR; Senator GORSEK, Representatives HUDSON, MUNOZ, NOSSE, RUIZ (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 **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act would add to workers' comp law a floor of pay per week for temporary total disability that the worker must get. (Flesch Readability Score: 62.1).

Provides an alternative weekly minimum amount of workers' compensation benefits for temporary total disability.

A BILL FOR AN ACT

1
2 Relating to temporary total disability; creating new provisions; and amending ORS 656.210.

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

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

5 656.210. (1)(a) [*When the*] **If** total disability is [*only*] temporary, the worker shall receive during
6 the period of that total disability compensation equal to 66-2/3 percent of wages, but not more than
7 133 percent of the average weekly wage [*nor*] **or** less than the amount of 90 percent of wages a week
8 or the amount of \$50 a week, whichever amount is less.

9 **(b) Notwithstanding paragraph (a) of this subsection, if the worker's average weekly wage**
10 **from the prior 52 weeks is less than or equal to the average weekly wage, the worker shall**
11 **receive 100 percent of the worker's average weekly wage from the prior 52 weeks.**

12 (c) Notwithstanding the limitation imposed by this subsection, an injured worker who is not
13 otherwise eligible to receive an increase in benefits for the fiscal year in which compensation is paid
14 shall have the benefits increased each fiscal year by the percentage which the applicable average
15 weekly wage has increased since the previous fiscal year.

16 (2)(a) For the purpose of this section, the weekly wage of workers shall be [*ascertained*] **calcu-**
17 **lated:**

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

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

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

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

28 (B) Within 60 days of the date of mailing a request for verification, verifiable documentation of
29 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 to receive compensable medical services for the compensable injury, the worker shall receive
32 temporary disability benefits calculated pursuant to ORS 656.212 for the period during which the
33 worker is absent, until such time as the worker is determined to be medically stationary. However,
34 benefits under this subsection are not payable if wages are paid for the period of absence by the
35 employer. An insurer may require a worker to confirm the period during which the worker is absent
36 from work to receive compensable medical services under this subsection. The notice requirement
37 under ORS 656.262 (4)(j) does not apply to temporary disability benefits paid pursuant to this sub-
38 section.

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

1 shall include an administrative fee payable to the insurer or self-insured employer pursuant to rules
2 adopted by the director.

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

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

9 **SECTION 2. The amendments to ORS 656.210 by section 1 of this 2025 Act apply to tem-**
10 **porary total disability compensation that becomes payable for periods that begin on or after**
11 **January 1, 2026.**

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