

SB 1519-2
(LC 178)
2/3/26 (ASD/ps)

Requested by SENATE COMMITTEE ON LABOR AND BUSINESS

**PROPOSED AMENDMENTS TO
SENATE BILL 1519**

1 On page 1 of the printed bill, line 2, after “ORS” delete “656.210” and
2 insert “656.206, 656.210 and 656.211”.

3 In line 12, after “wage” insert “in effect on the date of injury” and delete
4 “wages” and insert “the worker’s wage”.

5 In line 15, after the second “wage” insert “, in effect on the date of
6 injury”.

7 On page 3, delete lines 15 through 17 and insert:

8 **“SECTION 2.** ORS 656.211 is amended to read:

9 “656.211. As used in ORS 656.210 (1)(b), ‘average weekly wage’ means the
10 average weekly wage of workers in covered employment in Oregon, as de-
11 termined by the Employment Department, for the last quarter of the calendar
12 year preceding the fiscal year in which compensation is paid and as com-
13 puted by the Employment Department as of May 15 of each year.

14 **“SECTION 3. The amendments to ORS 656.210 and 656.211 by
15 sections 1 and 2 of this 2026 Act apply to claims with a date of injury
16 on or after January 1, 2027.**

17 **“SECTION 4.** ORS 656.206 is amended to read:

18 “656.206. (1) As used in this section:

19 “(a) ‘Essential functions’ means the primary tasks associated with the job.

20 “(b) ‘Materially improved medically’ means an actual change for the bet-
21 ter in the worker’s medical condition that is supported by objective findings.

1 “(c) ‘Materially improved vocationally’ means an actual change for the
2 better in the:

3 “(A) Worker’s vocational capability; or

4 “(B) Likelihood that the worker can return to work in a gainful and
5 suitable occupation.

6 “(d) ‘Permanent total disability’ means, notwithstanding ORS 656.225, the
7 loss, including preexisting disability, of use or function of any portion of the
8 body which permanently incapacitates the worker from regularly performing
9 work at a gainful and suitable occupation.

10 “(e) ‘Regularly performing work’ means the ability of the worker to dis-
11 charge the essential functions of the job.

12 “(f) ‘Suitable occupation’ means one that the worker has the ability and
13 the training or experience to perform, or an occupation that the worker is
14 able to perform after rehabilitation.

15 “(g) ‘Wages’ means wages as determined under ORS 656.210.

16 “[(2) *If permanent total disability results from a worker’s injury, the worker*
17 *shall receive during the period of that disability compensation benefits equal*
18 *to 66-2/3 percent of wages, no more than 133 percent of the average weekly wage*
19 *or no less than 33 percent of the average weekly wage.*]

20 **“(2) During the period of permanent total disability that results**
21 **from a worker’s injury, the worker shall receive compensation equal**
22 **to:**

23 **“(a) Seventy-five percent of the worker’s wage that is equal to or**
24 **less than 75 percent of the average weekly wage, but not less than 33**
25 **percent of the average weekly wage, in effect on the date of injury;**
26 **and**

27 **“(b) Sixty-five percent of the worker’s wage that is greater than 75**
28 **percent of the average weekly wage, but not more than 133 percent of**
29 **the average weekly wage, in effect on the date of injury.**

30 “(3) A worker has the burden of proving permanent total disability status

1 and must establish that the worker is willing to seek regular gainful em-
2 ployment and that the worker has made reasonable efforts to obtain such
3 employment.

4 “(4) When requested by the Director of the Department of Consumer and
5 Business Services, a worker who receives permanent total disability benefits
6 shall file on a form provided by the director, a sworn statement of the
7 worker’s gross annual income for the preceding year along with such other
8 information as the director considers necessary to determine whether the
9 worker regularly performs work at a gainful and suitable occupation.

10 “(5) Each insurer shall reexamine periodically each permanent total dis-
11 ability claim for which the insurer has current payment responsibility to
12 determine whether the worker has materially improved, either medically or
13 vocationally, and is no longer permanently incapacitated from regularly
14 performing work at a gainful and suitable occupation. Reexamination must
15 be conducted every two years or at such other more frequent interval as the
16 director may prescribe. Reexamination must include such medical examina-
17 tions, vocational evaluations, reports and other records as the insurer con-
18 siders necessary or the director may require.

19 “(6)(a) If a worker receiving permanent total disability benefits is found
20 to be materially improved and capable of regularly performing work at a
21 gainful and suitable occupation, the insurer or self-insured employer shall
22 issue a notice of closure pursuant to ORS 656.268. Permanent total disability
23 benefits shall be paid through the date of the notice of closure. Notwith-
24 standing ORS 656.268 (5), if a worker objects to a notice of closure issued
25 under this subsection, the worker shall request a hearing. If the worker re-
26 quests a hearing on the notice of closure before the Hearings Division of the
27 Workers’ Compensation Board within 30 days of the date of the notice of
28 closure, the insurer or self-insured employer shall continue payment of per-
29 manent total disability benefits until an order of the Hearings Division or
30 a subsequent order affirms the notice of closure or until another order that

1 terminates the worker's benefits becomes final. If the worker requests a
2 hearing on the notice of closure more than 30 days from the date of the no-
3 tice of closure but before the 60-day period for requesting a hearing expires,
4 the insurer or self-insured employer shall resume paying permanent total
5 disability benefits from the date the hearing is requested and shall continue
6 payment of benefits until an order of the Hearings Division or a subsequent
7 order affirms the notice of closure or until another order that terminates the
8 worker's benefits becomes final. If the notice of closure is upheld by the
9 Hearings Division, the insurer or self-insured employer must be reimbursed
10 from the Workers' Benefit Fund for the amount of permanent total disability
11 benefits paid after the date of the notice of closure issued under this sub-
12 section.

13 “(b) An insurer or self-insured employer must establish that the condition
14 of a worker who is receiving permanent total disability benefits has mate-
15 rially improved by a preponderance of the evidence presented at hearing.

16 “(c) Medical examinations or vocational evaluations used to support the
17 issuance of a notice of closure under this subsection must include at least
18 one report in which the author personally observed the worker.

19 “(d) Notwithstanding section 54 (3), chapter 2, Oregon Laws 1990, the
20 Hearings Division of the Workers' Compensation Board may request the di-
21 rector to order a medical arbiter examination of an injured worker who has
22 requested a hearing under this subsection.

23 “(7) A worker who has had permanent total disability benefits terminated
24 under this section by an order that has become final is eligible for vocational
25 assistance pursuant to ORS 656.340. Notwithstanding ORS 656.268 (10), if a
26 worker has enrolled in and is actively engaged in a training program, when
27 vocational assistance provided under this section ends or the worker ceases
28 to be enrolled and actively engaged in the training program, the insurer or
29 the self-insured employer shall determine the extent of disability pursuant
30 to ORS 656.214.

1 “(8) A worker receiving permanent total disability benefits is required, if
2 requested by the director, the insurer or the self-insured employer, to submit
3 to a vocational evaluation at a time reasonably convenient to the worker as
4 may be provided by the rules of the director. No more than three evaluations
5 may be requested except after notification to and authorization by the di-
6 rector. If the worker refuses to submit to or obstructs a vocational evalua-
7 tion, the rights of the worker to compensation must be suspended with the
8 consent of the director until the evaluation has taken place, and no com-
9 pensation is payable for the period during which the worker refused to sub-
10 mit to or obstructed the evaluation. The insurer or self-insured employer
11 shall pay the costs of the evaluation and related services that are reasonably
12 necessary to allow the worker to attend the evaluation requested under this
13 subsection. As used in this subsection, ‘related services’ includes, but is not
14 limited to, wages, child care, travel, meals and lodging.

15 “(9) Notwithstanding any other provisions of this chapter, if a worker
16 receiving permanent total disability incurs a new compensable injury, the
17 worker’s entitlement to compensation for the new injury shall be limited to
18 medical benefits pursuant to ORS 656.245 and permanent partial disability
19 benefits for impairment, as determined in the manner set forth in ORS
20 656.214 (2).

21 “(10) When a worker eligible for benefits under this section returns to
22 work, if the combined total of the worker’s post-injury wages plus permanent
23 total disability benefit exceeds the worker’s wage at the time of injury, the
24 worker’s permanent total disability benefit must be reduced by the amount
25 the worker’s wages plus statutory permanent total disability benefit exceeds
26 the worker’s wage at injury.

27 “(11) For purposes of this section:

28 “(a) A gainful occupation for workers with a date of injury prior to Jan-
29 uary 1, 2006, who were:

30 “(A) Employed continuously for 52 weeks prior to the injury, is an occu-

1 pation that provides weekly wages that are the lesser of the most recent
2 federal poverty guidelines for a family of three that are applicable to Oregon
3 residents and that are published annually in the Federal Register by the
4 United States Department of Health and Human Services or 66-2/3 percent
5 of the worker's average weekly wages from all employment for the 52 weeks
6 prior to the date of injury.

7 “(B) Not employed continuously for the 52 weeks prior to the date of in-
8 jury, but who were employed for at least four weeks prior to the date of in-
9 jury, is an occupation that provides weekly wages that are the lesser of the
10 most recent federal poverty guidelines for a family of three that are appli-
11 cable to Oregon residents and that are published annually in the Federal
12 Register by the United States Department of Health and Human Services or
13 66-2/3 percent of the worker's average weekly wage from all employment for
14 the 52 weeks prior to the date of injury based on weeks of actual employ-
15 ment, excluding any extended periods of unemployment.

16 “(C) Employed for less than four weeks prior to the date of injury with
17 no other employment during the 52 weeks prior to the date of injury, is an
18 occupation that provides weekly wages that are the lesser of the most recent
19 federal poverty guidelines for a family of three that are applicable to Oregon
20 residents and that are published annually in the Federal Register by the
21 United States Department of Health and Human Services or 66-2/3 percent
22 of the average weekly wages intended by the parties at the time of initial
23 hire.

24 “(b) A gainful occupation for workers with a date of injury on or after
25 January 1, 2006, who were:

26 “(A) Employed continuously for 52 weeks prior to the injury, is an occu-
27 pation that provides weekly wages that are the lesser of the most recent
28 federal poverty guidelines for a family of three that are applicable to Oregon
29 residents and that are published annually in the Federal Register by the
30 United States Department of Health and Human Services or 66-2/3 percent

1 of the worker's average weekly wages from all employment for the 52 weeks
2 prior to the date of injury adjusted by the percentage of change in the ap-
3 plicable federal poverty guidelines for a family of three from the date of in-
4 jury to the date of evaluation of the extent of the worker's disability.

5 “(B) Not employed continuously for the 52 weeks prior to the date of in-
6 jury, but who were employed for at least four weeks prior to the date of in-
7 jury, is an occupation that provides weekly wages that are the lesser of the
8 most recent federal poverty guidelines for a family of three that are appli-
9 cable to Oregon residents and that are published annually in the Federal
10 Register by the United States Department of Health and Human Services or
11 66-2/3 percent of the worker's average weekly wage from all employment for
12 the 52 weeks prior to the date of injury based on weeks of actual employ-
13 ment, excluding any extended periods of unemployment and as adjusted by
14 the percentage of change in the applicable federal poverty guidelines for a
15 family of three from the date of injury to the date of evaluation of the extent
16 of the worker's disability.

17 “(C) Employed for less than four weeks prior to the date of injury with
18 no other employment during the 52 weeks prior to the date of injury, is an
19 occupation that provides weekly wages that are the lesser of the most recent
20 federal poverty guidelines for a family of three that are applicable to Oregon
21 residents and that are published annually in the Federal Register by the
22 United States Department of Health and Human Services or 66-2/3 percent
23 of the average weekly wages intended by the parties at the time of initial
24 hire adjusted by the percentage of change in the applicable federal poverty
25 guidelines for a family of three from the date of injury to the date of eval-
26 uation of the extent of the worker's disability.

27 **“SECTION 5. The amendments to ORS 656.206 by section 4 of this**
28 **2026 Act apply to claims with a date of injury on or after January 1,**
29 **2027.”.**

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