

**SENATE BILL 5200**

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**State of Washington**

**52nd Legislature**

**1991 Regular Session**

**By** Senator L. Kreidler.

Read first time January 23, 1991. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to industrial insurance compensation for temporary  
2 total disability of state employees; and amending RCW 51.32.090.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 51.32.090 and 1988 c 161 s 4 are each amended to read  
5 as follows:

6 (1) When the total disability is only temporary, the schedule of  
7 payments contained in RCW 51.32.060 (1) and (2) shall apply, so long as  
8 the total disability continues.

9 (2) Any compensation payable under this section for children not in  
10 the custody of the injured worker as of the date of injury shall be  
11 payable only to such person as actually is providing the support for  
12 such child or children pursuant to the order of a court of record  
13 providing for support of such child or children.

14 (3) As soon as recovery is so complete that the present earning  
15 power of the worker, at any kind of work, is restored to that existing

1 at the time of the occurrence of the injury, the payments shall cease.  
2 If and so long as the present earning power is only partially restored,  
3 the payments shall continue in the proportion which the new earning  
4 power shall bear to the old. No compensation shall be payable unless  
5 the loss of earning power shall exceed five percent.

6 (4) Whenever an employer requests that a worker who is entitled to  
7 temporary total disability under this chapter be certified by a  
8 physician as able to perform available work other than his or her usual  
9 work, the employer shall furnish to the physician, with a copy to the  
10 worker, a statement describing the available work in terms that will  
11 enable the physician to relate the physical activities of the job to  
12 the worker's disability. The physician shall then determine whether  
13 the worker is physically able to perform the work described. If the  
14 worker is released by his or her physician for said work, and the work  
15 thereafter comes to an end before the worker's recovery is sufficient  
16 in the judgment of his or her physician to permit him or her to return  
17 to his or her usual job, or to perform other available work, the  
18 worker's temporary total disability payments shall be resumed. Should  
19 the available work described, once undertaken by the worker, impede his  
20 or her recovery to the extent that in the judgment of his or her  
21 physician he or she should not continue to work, the worker's temporary  
22 total disability payments shall be resumed when the worker ceases such  
23 work.

24 Once the worker returns to work under the terms of this subsection,  
25 he or she shall not be assigned by the employer to work other than the  
26 available work described without the worker's written consent, or  
27 without prior review and approval by the worker's physician.

28 In the event of any dispute as to the worker's ability to perform  
29 the available work offered by the employer, the department shall make  
30 the final determination.

1       (5) No worker, except state employees covered by chapter 41.06 RCW  
2 or higher education personnel covered by chapter 28B.16 RCW, shall  
3 receive compensation for or during the day on which injury was received  
4 or the three days following the same, unless his or her disability  
5 shall continue for a period of fourteen consecutive calendar days from  
6 date of injury: PROVIDED, That attempts to return to work in the first  
7 fourteen days following the injury shall not serve to break the  
8 continuity of the period of disability if the disability continues  
9 fourteen days after the injury occurs.

10       (6) Should a worker suffer a temporary total disability and should  
11 his or her employer at the time of the injury continue to pay him or  
12 her the wages which he or she was earning at the time of such injury,  
13 such injured worker shall not receive any payment provided in  
14 subsection (1) of this section during the period his or her employer  
15 shall so pay such wages.

16       (7) In no event shall the monthly payments provided in this section  
17 exceed one hundred percent of the average monthly wage in the state as  
18 computed under the provisions of RCW 51.08.018.

19       (8) If the supervisor of industrial insurance determines that the  
20 worker is voluntarily retired and is no longer attached to the work  
21 force, benefits shall not be paid under this section.