

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5503

53rd Legislature
1993 Regular Session

Passed by the Senate April 20, 1993
YEAS 47 NAYS 0

President of the Senate

Passed by the House April 9, 1993
YEAS 98 NAYS 0

**Speaker of the
House of Representatives**

Approved

CERTIFICATE

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5503** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

Governor of the State of Washington

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5503

AS AMENDED BY THE HOUSE

Passed Legislature - 1993 Regular Session

State of Washington 53rd Legislature 1993 Regular Session

By Senate Committee on Labor & Commerce (originally sponsored by Senators Vognild, Newhouse, Sutherland, Moore, Amondson, McAuliffe, Fraser, Pelz, Cantu, Snyder, Deccio and Hochstatter)

Read first time 03/03/93.

1 AN ACT Relating to loss of earning power payments; amending RCW
2 51.32.090; and declaring an emergency.

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)(a) 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
16 at the time of the occurrence of the injury, the payments shall cease.
17 If and so long as the present earning power is only partially restored,
18 the payments shall:

1 (i) For claims for injuries that occurred before the effective date
2 of this act, continue in the proportion which the new earning power
3 shall bear to the old; or

4 (ii) For claims for injuries occurring on or after the effective
5 date of this act, equal eighty percent of the actual difference between
6 the worker's present wages and earning power at the time of injury,
7 but: (A) The total of these payments and the worker's present wages may
8 not exceed one hundred fifty percent of the average monthly wage in the
9 state as computed under RCW 51.08.018; (B) the payments may not exceed
10 one hundred percent of the entitlement as computed under subsection (1)
11 of this section; and (C) the payments may not be less than the worker
12 would have received if (a)(i) of this subsection had been applicable to
13 the worker's claim.

14 (b) No compensation shall be payable under this subsection (3)
15 unless the loss of earning power shall exceed five percent.

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

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

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

4 (5) No worker shall receive compensation for or during the day on
5 which injury was received or the three days following the same, unless
6 his or her disability shall continue for a period of fourteen
7 consecutive calendar days from date of injury: PROVIDED, That attempts
8 to return to work in the first fourteen days following the injury shall
9 not serve to break the continuity of the period of disability if the
10 disability continues fourteen days after the injury occurs.

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

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

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

23 NEW SECTION. **Sec. 2.** This act is necessary for the immediate
24 preservation of the public peace, health, or safety, or support of the
25 state government and its existing public institutions, and shall take
26 effect immediately.

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