

# HOUSE BILL REPORT

## HB 3044

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**As Passed House:**  
February 16, 1998

**Title:** An act relating to determining an injured worker's wages for purposes of eligibility for temporary total disability compensation.

**Brief Description:** Determining an injured worker's wages for temporary total disability compensation eligibility.

**Sponsors:** Representative McMorris.

**Brief History:**

**Committee Activity:**

Commerce & Labor: 2/2/98, 2/5/98 [DP].

**Floor Activity:**

Passed House: 2/16/98, 57-41.

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### HOUSE COMMITTEE ON COMMERCE & LABOR

**Majority Report:** Do pass. Signed by 5 members: Representatives McMorris, Chairman; Honeyford, Vice Chairman; Boldt; Clements and Lisk.

**Minority Report:** Do not pass. Signed by 4 members: Representatives Conway, Ranking Minority Member; Wood, Assistant Ranking Minority Member; Cole and Hatfield.

**Staff:** Chris Cordes (786-7103).

**Background:** The industrial insurance law authorizes compensation for injured workers for the time lost from work because of an on-the-job injury or an occupational illness. With specified exceptions, the amount of compensation is based on the worker's monthly wages from all employment at the time of injury.

An exception to this calculation applies to seasonal workers and workers whose current employment is intermittent or part-time. For these workers, the worker's monthly wage is determined by dividing by 12 the worker's total wages, including overtime, earned in all employment in any 12 consecutive months preceding the injury that fairly represents the worker's employment pattern.

If an employer continues paying wages to an injured worker during a period of temporary total disability, the worker is not entitled to time-loss compensation for that period. This statute applies if the employer pays the wages that the worker was earning at the time of injury.

**Summary of Bill:** Seasonal, intermittent, or part-time workers whose employers continue to pay wages based on 12 month wage averaging are not eligible for time-loss compensation during the period that wages are paid.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** Some agricultural employers would like to keep their injured workers on salary for up to 30 days during the worker's period of disability. But there is no incentive to implement a "kept on salary" policy if the employer must pay the worker the wages at the time of injury even though benefits that the worker will receive from the Department of Labor and Industries are based on wages averaged over 12 months. Employers need to use the same method for calculating wages for the "kept on salary" policy as the department uses for calculating benefits. This is fair to the worker because the employer will have to pay 100 percent of that wage, while benefits represent only a portion of the wages. This policy would also benefit the construction industry, but that industry is prevented from using wage averaging under department policy. The department policy reduces the incentive for injured workers in the construction industry to return to work.

**Testimony Against:** The "kept on salary" policy is an enormous boon to employers because it reduces the costs charged against their industrial insurance experience rating accounts. The tradeoff for that large savings is that injured workers get paid the wages they were earning at the time of injury, not average wages. There is a concern about the appropriate wage for a worker who has two jobs. With regard to the construction industry, there is no reason to change the policy.

**Testified:** (In support) Chris Cheney, Hop Growers of Washington and Washington Growers League; and Rick Slunaker, Lauren Gubbe, and Lori Wehmhoefer, Associated General Contractors. (Opposed) Jeff Johnson, Washington State Labor Council. (Concerns) Michael Temple, Washington State Trial Lawyers Association. (Neutral) Kathy Willis, Department of Labor and Industries.