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SENATE BILL 6677

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State of Washington

58th Legislature

2004 Regular Session

By Senators Hewitt, Keiser and Rasmussen; by request of Department of Labor & Industries

Read first time 01/29/2004. Referred to Committee on Commerce & Trade.

1 AN ACT Relating to conforming the social security offset provisions  
2 of Title 51 RCW to the modified federal social security retirement age;  
3 and amending RCW 51.32.220.

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

5 **Sec. 1.** RCW 51.32.220 and 1982 c 63 s 19 are each amended to read  
6 as follows:

7 (1) For persons (~~under the age of sixty five~~) receiving  
8 compensation for temporary or permanent total disability pursuant to  
9 the provisions of this chapter (~~(51.32 RCW)~~), such compensation shall  
10 be reduced by an amount equal to the benefits payable under the federal  
11 old-age, survivors, and disability insurance act as now or hereafter  
12 amended not to exceed the amount of the reduction established pursuant  
13 to 42 U.S.C. Sec. 424a. However, such reduction shall not apply when  
14 the combined compensation provided pursuant to this chapter (~~(51.32~~  
15 ~~RCW)~~) and the federal old-age, survivors, and disability insurance act  
16 is less than the total benefits to which the federal reduction would  
17 apply, pursuant to 42 USC 424a. Where any person described in this  
18 section refuses to authorize the release of information concerning the  
19 amount of benefits payable under said federal act the department's

1 estimate of said amount shall be deemed to be correct unless and until  
2 the actual amount is established and no adjustment shall be made for  
3 any period of time covered by any such refusal.

4 (2) Any reduction under subsection (1) of this section shall be  
5 effective the month following the month in which the department or  
6 self-insurer is notified by the federal social security administration  
7 that the person is receiving disability benefits under the federal old-  
8 age, survivors, and disability insurance act: PROVIDED, That in the  
9 event of an overpayment of benefits the department or self-insurer may  
10 not recover more than the overpayments for the six months immediately  
11 preceding the date the department or self-insurer notifies the worker  
12 that an overpayment has occurred: PROVIDED FURTHER, That upon  
13 determining that there has been an overpayment, the department or self-  
14 insurer shall immediately notify the person who received the  
15 overpayment that he or she shall be required to make repayment pursuant  
16 to this section and RCW 51.32.230.

17 (3) Recovery of any overpayment must be taken from future temporary  
18 or permanent total disability benefits or permanent partial disability  
19 benefits provided by this title. In the case of temporary or permanent  
20 total disability benefits, the recovery shall not exceed twenty-five  
21 percent of the monthly amount due from the department or self-insurer  
22 or one-sixth of the total overpayment, whichever is the lesser.

23 (4) No reduction may be made unless the worker receives notice of  
24 the reduction prior to the month in which the reduction is made.

25 (5) In no event shall the reduction reduce total benefits to less  
26 than the greater amount the worker may be entitled to under this title  
27 or the federal old-age, survivors, and disability insurance act.

28 (6) The director, pursuant to rules adopted in accordance with the  
29 procedures provided in the administrative procedure act, chapter 34.05  
30 RCW, may exercise his or her discretion to waive, in whole or in part,  
31 the amount of any overpayment where the recovery would be against  
32 equity and good conscience.

33 (7) (~~The amendment in~~) Subsection (1) of this section (~~by~~  
34 ~~chapter 63, Laws of 1982 raising the age limit during which the~~  
35 ~~reduction shall be made from age sixty two to age sixty five shall~~  
36 ~~apply with respect~~) applies to:

37 (a) Workers under the age of sixty-two whose effective entitlement  
38 to total disability compensation begins before January 2, 1983;

1       (b) Workers under the age of sixty-five whose effective entitlement  
2 to total disability compensation begins after January 1, 1983, and  
3 before the effective date of this section; and  
4       (c) Workers who will become sixty-five years of age on or after the  
5 effective date of this section.

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