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HOUSE BILL 2203

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State of Washington                      59th Legislature                      2005 Regular Session

By Representatives Conway and Wood

Read first time 02/23/2005. Referred to Committee on Commerce & Labor.

1            AN ACT Relating to industrial insurance, but only with respect to  
2 defining wages to include the cost of health insurance; and amending  
3 RCW 51.08.178.

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

5            **Sec. 1.** RCW 51.08.178 and 1988 c 161 s 12 are each amended to read  
6 as follows:

7            (1) "Wages" means the gross remuneration paid in cash by the  
8 employer to the worker for services performed with respect to a pay  
9 period, before any deductions. "Paid in cash" means payment in cash,  
10 by check, by electronic transfer, or by other means made directly to  
11 the worker.

12            (2) For purposes of determining a worker's wage under this section:

13            (a) Tips shall be considered wages only to the extent that the tips  
14 are reported to the employer for federal income tax purposes; and

15            (b) Wages include:

16            (i) The average monthly value of any bonus received from the  
17 employer in the twelve months immediately preceding the worker's injury  
18 or manifestation of occupational disease;

1        (ii) The actual cash value of board, housing, fuel, and other  
2 consideration of like nature received from the employer as part of the  
3 contract of hire. This subsection (2)(b)(ii) shall not apply during  
4 any period in which the employer continues to provide, through a past  
5 or current payment, board, housing, and/or fuel that were provided to  
6 the worker at the time of injury or manifestation of occupational  
7 disease; and

8        (iii) The cost to the employer as of the date of injury or  
9 manifestation of occupational disease for insurance for medical,  
10 vision, and dental treatment. This subsection (2)(b)(iii) shall not  
11 apply during any period in which the employer continues to make  
12 contributions towards the same level of insurance for medical, vision,  
13 and dental treatment as was provided at the time of injury or  
14 manifestation of occupational disease.

15        (c) Wages shall not include overtime pay, except in cases under  
16 subsection (4) of this section.

17        (3)(a) For the purposes of this title, the monthly wages the worker  
18 was receiving from all employment at the time of injury shall be the  
19 basis upon which compensation is computed unless otherwise provided  
20 specifically in the statute concerned. In cases where the worker's  
21 wages are not fixed by the month, they shall be determined by  
22 multiplying the daily wage the worker was receiving at the time of the  
23 injury:

24        ~~((a))~~ (i) By five, if the worker was normally employed one day a  
25 week;

26        ~~((b))~~ (ii) By nine, if the worker was normally employed two days  
27 a week;

28        ~~((c))~~ (iii) By thirteen, if the worker was normally employed  
29 three days a week;

30        ~~((d))~~ (iv) By eighteen, if the worker was normally employed four  
31 days a week;

32        ~~((e))~~ (v) By twenty-two, if the worker was normally employed five  
33 days a week;

34        ~~((f))~~ (vi) By twenty-six, if the worker was normally employed six  
35 days a week;

36        ~~((g))~~ (vii) By thirty, if the worker was normally employed seven  
37 days a week.

1       (~~The term "wages" shall include the reasonable value of board,~~  
2 ~~housing, fuel, or other consideration of like nature received from the~~  
3 ~~employer as part of the contract of hire, but shall not include~~  
4 ~~overtime pay except in cases under subsection (2) of this section.~~  
5 ~~However, tips shall also be considered wages only to the extent such~~  
6 ~~tips are reported to the employer for federal income tax purposes.))~~

7       **(b)** For the purposes of this subsection (3), the daily wage shall  
8 be the hourly wage multiplied by the number of hours the worker is  
9 normally employed. The number of hours the worker is normally employed  
10 shall be determined by the department in a fair and reasonable manner,  
11 which may include averaging the number of hours worked per day.

12       (~~(2)~~) **(4)** In cases where (a) the worker's employment is  
13 exclusively seasonal in nature or (b) the worker's current employment  
14 or his or her relation to his or her employment is essentially part-  
15 time or intermittent, the monthly wage shall be determined by dividing  
16 by twelve the total wages earned, including overtime, from all  
17 employment in any twelve successive calendar months preceding the  
18 injury which fairly represent the claimant's employment pattern.

19       (~~(3)~~) If, within the twelve months immediately preceding the  
20 injury, the worker has received from the employer at the time of injury  
21 a bonus as part of the contract of hire, the average monthly value of  
22 such bonus shall be included in determining the worker's monthly wages.

23       (~~(4)~~) **(5)** In cases where a worker's wage has not been fixed or  
24 cannot be reasonably and fairly determined, the monthly wage shall be  
25 computed on the basis of the usual wage paid other employees engaged in  
26 like or similar occupations where the wages are fixed.

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