

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5701

67th Legislature
2022 Regular Session

Passed by the Senate February 12,
2022

Yeas 37 Nays 12

President of the Senate

Passed by the House March 1, 2022

Yeas 61 Nays 34

**Speaker of the House of
Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5701** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5701

Passed Legislature - 2022 Regular Session

State of Washington

67th Legislature

2022 Regular Session

By Senate Ways & Means (originally sponsored by Senators Nguyen, Frockt, Hasegawa, Nobles, and C. Wilson)

READ FIRST TIME 02/07/22.

1 AN ACT Relating to determining monthly wages for workers'
2 compensation; amending RCW 51.08.178; and creating a new section.

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

4 **Sec. 1.** RCW 51.08.178 and 2007 c 297 s 1 are each amended to
5 read as follows:

6 (1) For the purposes of this title, the monthly wages the worker
7 was receiving from all employment at the time of injury shall be the
8 basis upon which compensation is computed unless otherwise provided
9 specifically in the statute concerned. In cases where the worker's
10 wages are not fixed by the month, they shall be determined by
11 multiplying the daily wage the worker was receiving at the time of
12 the injury:

13 (a) By five, if the worker was normally employed one day a week;

14 (b) By nine, if the worker was normally employed two days a week;

15 (c) By thirteen, if the worker was normally employed three days a
16 week;

17 (d) By eighteen, if the worker was normally employed four days a
18 week;

19 (e) By twenty-two, if the worker was normally employed five days
20 a week;

1 (f) By twenty-six, if the worker was normally employed six days a
2 week;

3 (g) By thirty, if the worker was normally employed seven days a
4 week.

5 The term "wages" shall include the reasonable value of board,
6 housing, fuel, or other consideration of like nature received from
7 the employer as part of the contract of hire, but shall not include
8 overtime pay except in cases under subsection (2) of this section. As
9 consideration of like nature to board, housing, and fuel, wages shall
10 also include the employer's payment or contributions, or appropriate
11 portions thereof, for health care benefits unless the employer
12 continues ongoing and current payment or contributions for these
13 benefits at the same level as provided at the time of injury.
14 However, tips shall also be considered wages only to the extent such
15 tips are reported to the employer for federal income tax purposes.
16 The daily wage shall be the hourly wage multiplied by the number of
17 hours the worker is normally employed. The number of hours the worker
18 is normally employed shall be determined by the department in a fair
19 and reasonable manner, which may include averaging the number of
20 hours worked per day.

21 (2) In cases where (a) the worker's employment is exclusively
22 seasonal in nature or (b) the worker's current employment or his or
23 her relation to his or her employment is essentially part-time or
24 intermittent, the monthly wage shall be determined by dividing by
25 twelve the total wages earned, including overtime, from all
26 employment in any twelve successive calendar months preceding the
27 injury which fairly represent the claimant's employment pattern.

28 (3) If, within the twelve months immediately preceding the
29 injury, the worker has received from the employer at the time of
30 injury a bonus as part of the contract of hire, the average monthly
31 value of such bonus shall be included in determining the worker's
32 monthly wages.

33 (4) In cases where a wage has not been fixed or cannot be
34 reasonably and fairly determined, the monthly wage shall be computed
35 on the basis of the usual wage paid other employees engaged in like
36 or similar occupations where the wages are fixed.

37 (5) (a) In the case of any person described in RCW
38 49.46.010(3)(k), the monthly wage shall be computed on the basis of
39 the usual wage paid other employees engaged in like or similar
40 occupations where the wages are fixed.

1 (b) For purposes of this subsection (5), "other employees" does
2 not include any person described in RCW 49.46.010(3)(k).

3 NEW SECTION. **Sec. 2.** By December 1, 2024, and in compliance
4 with RCW 43.01.036, the department of labor and industries must
5 submit a report to the legislature that details the number of claims
6 which were impacted by this act from July 1, 2022, to June 30, 2024.

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