

SENATE AMENDMENTS TO SENATE BILL 418

By COMMITTEE ON LABOR AND BUSINESS

March 31

1 In line 2 of the printed bill, after the semicolon insert “creating new provisions; amending ORS
2 656.210;”.

3 Delete lines 4 through 19 and insert:

4 “**SECTION 1.** ORS 656.210 is amended to read:

5 “656.210. (1) When the total disability is only temporary, the worker shall receive during the
6 period of that total disability compensation equal to 66-2/3 percent of wages, but not more than 133
7 percent of the average weekly wage nor less than the amount of 90 percent of wages a week or the
8 amount of \$50 a week, whichever amount is less. Notwithstanding the limitation imposed by this
9 subsection, an injured worker who is not otherwise eligible to receive an increase in benefits for the
10 fiscal year in which compensation is paid shall have the benefits increased each fiscal year by the
11 percentage which the applicable average weekly wage has increased since the previous fiscal year.

12 “(2)(a) For the purpose of this section, the weekly wage of workers shall be ascertained:

13 “(A) For workers employed in one job at the time of injury, by multiplying the daily wage the
14 worker was receiving by the number of days per week that the worker was regularly employed; or

15 “(B) For workers employed in more than one job at the time of injury, by adding all earnings
16 the worker was receiving from all subject employment.

17 “(b) Notwithstanding paragraph (a)(B) of this subsection, the weekly wage calculated under
18 paragraph (a)(A) of this subsection shall be used for workers employed in more than one job at the
19 time of injury unless the insurer, self-insured employer or assigned claims agent for a noncomplying
20 employer receives:

21 “(A) Within 30 days of receipt of the initial claim, notice that the worker was employed in more
22 than one job with a subject employer at the time of injury; and

23 “(B) Within 60 days of the date of mailing a request for verification, verifiable documentation
24 of wages from such additional employment.

25 “(c) Notwithstanding ORS 656.005 (7)(c), an injury to a worker employed in more than one job
26 at the time of injury is not disabling if no temporary disability benefits are payable for time lost
27 from the job at injury. Claim costs incurred as a result of supplemental temporary disability benefits
28 paid as provided in subsection (5) of this section may not be included in any data used for
29 ratemaking or individual employer rating or dividend calculations by an insurer, a rating organiza-
30 tion licensed pursuant to ORS chapter 737, the State Accident Insurance Fund Corporation or the
31 Department of Consumer and Business Services if the injured worker is not eligible for permanent
32 disability benefits or temporary disability benefits for time lost from the job at injury.

33 “(d) For the purpose of this section:

34 “(A) The benefits of a worker who incurs an injury shall be based on the wage of the worker
35 at the time of injury.

1 “(B) The benefits of a worker who incurs an occupational disease shall be based on the wage
2 of the worker at the time there is medical verification that the worker is unable to work because
3 of the disability caused by the occupational disease. If the worker is not working at the time that
4 there is medical verification that the worker is unable to work because of the disability caused by
5 the occupational disease, the benefits shall be based on the wage of the worker at the worker’s last
6 regular employment.

7 “(e) As used in this subsection, ‘regularly employed’ means actual employment or availability for
8 such employment. For workers not regularly employed and for workers with no remuneration or
9 whose remuneration is not based solely upon daily or weekly wages, the Director of the Department
10 of Consumer and Business Services, by rule, may prescribe methods for establishing the worker’s
11 weekly wage.

12 “(3) No disability payment is recoverable for temporary total or partial disability suffered during
13 the first three calendar days after the worker leaves work or loses wages as a result of the
14 compensable injury unless the worker is totally disabled after the injury and the total disability
15 continues for a period of 14 consecutive days or unless the worker is admitted as an inpatient to a
16 hospital within 14 days of the first onset of total disability. If the worker leaves work or loses wages
17 on the day of the injury due to the injury, that day shall be considered the first day of the three-day
18 period.

19 “(4) When an injured worker with an accepted disabling compensable injury is required to leave
20 work [*for a period of four hours or more*] to receive [*medical consultation, examination or treatment*
21 *with regard to*] **compensable medical services** for the compensable injury, the worker shall receive
22 temporary disability benefits calculated pursuant to ORS 656.212 for the period during which the
23 worker is absent, until such time as the worker is determined to be medically stationary. However,
24 benefits under this subsection are not payable if wages are paid for the period of absence by the
25 employer. **An insurer may require a worker to confirm the period during which the worker**
26 **is absent from work to receive compensable medical services under this subsection. The no-**
27 **notice requirement under ORS 656.262 (4)(j) does not apply to temporary disability benefits paid**
28 **pursuant to this subsection.**

29 “(5)(a) The insurer of the employer at injury or the self-insured employer at injury, may elect
30 to be responsible for payment of supplemental temporary disability benefits to a worker employed
31 in more than one job at the time of injury. In accordance with rules adopted by the director, if the
32 worker’s weekly wage is determined under subsection (2)(a)(B) of this section, the insurer or self-
33 insured employer shall be reimbursed from the Workers’ Benefit Fund for the amount of temporary
34 disability benefits paid that exceeds the amount payable pursuant to subsection (2)(a)(A) of this
35 section had the worker been employed in only one job at the time of injury. Such reimbursement
36 shall include an administrative fee payable to the insurer or self-insured employer pursuant to rules
37 adopted by the director.

38 “(b) If the insurer or self-insured employer elects not to pay the supplemental temporary disa-
39 bility benefits for a worker employed in more than one job at the time of injury, the director shall
40 either administer and pay the supplemental benefits directly or shall assign responsibility to ad-
41 minister and process the payment to a paying agent selected by the director.

42 “(6) The director shall adopt rules for the payment and reimbursement of supplemental tempo-
43 rary disability benefits under this section.

44 “**SECTION 2. The amendments to ORS 656.210 by section 1 of this 2023 Act become op-**
45 **erative on January 1, 2024.**

1 “**SECTION 3.** This 2023 Act being necessary for the immediate preservation of the public
2 peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect
3 on its passage.”

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