

Enrolled
Senate Bill 1519

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CHAPTER

AN ACT

Relating to total disability; creating new provisions; and amending ORS 656.206, 656.210 and 656.211.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 656.210 is amended to read:

656.210. *[(1) When the total disability is only temporary, the worker shall receive during the period of that total disability compensation equal to 66-2/3 percent of wages, but not more than 133 percent of the average weekly wage nor less than the amount of 90 percent of wages a week or the amount of \$50 a week, whichever amount is less.]*

(1)(a) During a period of total disability that is temporary, the worker shall receive compensation equal to:

(A) Seventy-five percent of the worker's wage that is equal to or less than 75 percent of the average weekly wage in effect on the date of injury, but not less than the amount of 90 percent of the worker's wage a week or the amount of \$50 a week, whichever amount is less; and

(B) Sixty-five percent of the worker's wage that is greater than 75 percent of the average weekly wage, but not more than 133 percent of the average weekly wage, in effect on the date of injury.

(b) Notwithstanding the limitation imposed by this subsection, an injured worker who is not otherwise eligible to receive an increase in benefits for the fiscal year in which compensation is paid shall have the benefits increased each fiscal year by the percentage which the applicable average weekly wage has increased since the previous fiscal year.

(2)(a) For the purpose of this section, the weekly wage of workers shall be *[ascertained]* **calculated:**

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

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

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

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

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

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

(d) For the purpose of this section:

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

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

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

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

(4) When an injured worker with an accepted disabling compensable injury is required to leave work to receive compensable medical services for the compensable injury, the worker shall receive temporary disability benefits calculated pursuant to ORS 656.212 for the period during which the worker is absent, until such time as the worker is determined to be medically stationary. However, benefits under this subsection are not payable if wages are paid for the period of absence by the employer. An insurer may require a worker to confirm the period during which the worker is absent from work to receive compensable medical services under this subsection. The notice requirement under ORS 656.262 (4)(j) does not apply to temporary disability benefits paid pursuant to this subsection.

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

(b) If the insurer or self-insured employer elects not to pay the supplemental temporary disability benefits for a worker employed in more than one job at the time of injury, the director shall

either administer and pay the supplemental benefits directly or shall assign responsibility to administer and process the payment to a paying agent selected by the director.

(6) The director shall adopt rules for the payment and reimbursement of supplemental temporary disability benefits under this section.

SECTION 2. ORS 656.211 is amended to read:

656.211. As used in ORS 656.210 (1)(b), “average weekly wage” means the average weekly wage of workers in covered employment in Oregon, as determined by the Employment Department, for the last quarter of the calendar year preceding the fiscal year in which compensation is paid and as computed by the Employment Department as of May 15 of each year.

SECTION 3. The amendments to ORS 656.210 and 656.211 by sections 1 and 2 of this 2026 Act apply to claims with a date of injury on or after January 1, 2027.

SECTION 4. ORS 656.206 is amended to read:

656.206. (1) As used in this section:

(a) “Essential functions” means the primary tasks associated with the job.

(b) “Materially improved medically” means an actual change for the better in the worker’s medical condition that is supported by objective findings.

(c) “Materially improved vocationally” means an actual change for the better in the:

(A) Worker’s vocational capability; or

(B) Likelihood that the worker can return to work in a gainful and suitable occupation.

(d) “Permanent total disability” means, notwithstanding ORS 656.225, the loss, including preexisting disability, of use or function of any portion of the body which permanently incapacitates the worker from regularly performing work at a gainful and suitable occupation.

(e) “Regularly performing work” means the ability of the worker to discharge the essential functions of the job.

(f) “Suitable occupation” means one that the worker has the ability and the training or experience to perform, or an occupation that the worker is able to perform after rehabilitation.

(g) “Wages” means wages as determined under ORS 656.210.

[*2) If permanent total disability results from a worker’s injury, the worker shall receive during the period of that disability compensation benefits equal to 66-2/3 percent of wages, no more than 133 percent of the average weekly wage or no less than 33 percent of the average weekly wage.*]

(2) During the period of permanent total disability that results from a worker’s injury, the worker shall receive compensation equal to:

(a) Seventy-five percent of the worker’s wage that is equal to or less than 75 percent of the average weekly wage, but not less than 33 percent of the average weekly wage, in effect on the date of injury; and

(b) Sixty-five percent of the worker’s wage that is greater than 75 percent of the average weekly wage, but not more than 133 percent of the average weekly wage, in effect on the date of injury.

(3) A worker has the burden of proving permanent total disability status and must establish that the worker is willing to seek regular gainful employment and that the worker has made reasonable efforts to obtain such employment.

(4) When requested by the Director of the Department of Consumer and Business Services, a worker who receives permanent total disability benefits shall file on a form provided by the director, a sworn statement of the worker’s gross annual income for the preceding year along with such other information as the director considers necessary to determine whether the worker regularly performs work at a gainful and suitable occupation.

(5) Each insurer shall reexamine periodically each permanent total disability claim for which the insurer has current payment responsibility to determine whether the worker has materially improved, either medically or vocationally, and is no longer permanently incapacitated from regularly performing work at a gainful and suitable occupation. Reexamination must be conducted every two years or at such other more frequent interval as the director may prescribe. Reexamination must

include such medical examinations, vocational evaluations, reports and other records as the insurer considers necessary or the director may require.

(6)(a) If a worker receiving permanent total disability benefits is found to be materially improved and capable of regularly performing work at a gainful and suitable occupation, the insurer or self-insured employer shall issue a notice of closure pursuant to ORS 656.268. Permanent total disability benefits shall be paid through the date of the notice of closure. Notwithstanding ORS 656.268 (5), if a worker objects to a notice of closure issued under this subsection, the worker shall request a hearing. If the worker requests a hearing on the notice of closure before the Hearings Division of the Workers' Compensation Board within 30 days of the date of the notice of closure, the insurer or self-insured employer shall continue payment of permanent total disability benefits until an order of the Hearings Division or a subsequent order affirms the notice of closure or until another order that terminates the worker's benefits becomes final. If the worker requests a hearing on the notice of closure more than 30 days from the date of the notice of closure but before the 60-day period for requesting a hearing expires, the insurer or self-insured employer shall resume paying permanent total disability benefits from the date the hearing is requested and shall continue payment of benefits until an order of the Hearings Division or a subsequent order affirms the notice of closure or until another order that terminates the worker's benefits becomes final. If the notice of closure is upheld by the Hearings Division, the insurer or self-insured employer must be reimbursed from the Workers' Benefit Fund for the amount of permanent total disability benefits paid after the date of the notice of closure issued under this subsection.

(b) An insurer or self-insured employer must establish that the condition of a worker who is receiving permanent total disability benefits has materially improved by a preponderance of the evidence presented at hearing.

(c) Medical examinations or vocational evaluations used to support the issuance of a notice of closure under this subsection must include at least one report in which the author personally observed the worker.

(d) Notwithstanding section 54 (3), chapter 2, Oregon Laws 1990, the Hearings Division of the Workers' Compensation Board may request the director to order a medical arbiter examination of an injured worker who has requested a hearing under this subsection.

(7) A worker who has had permanent total disability benefits terminated under this section by an order that has become final is eligible for vocational assistance pursuant to ORS 656.340. Notwithstanding ORS 656.268 (10), if a worker has enrolled in and is actively engaged in a training program, when vocational assistance provided under this section ends or the worker ceases to be enrolled and actively engaged in the training program, the insurer or the self-insured employer shall determine the extent of disability pursuant to ORS 656.214.

(8) A worker receiving permanent total disability benefits is required, if requested by the director, the insurer or the self-insured employer, to submit to a vocational evaluation at a time reasonably convenient to the worker as may be provided by the rules of the director. No more than three evaluations may be requested except after notification to and authorization by the director. If the worker refuses to submit to or obstructs a vocational evaluation, the rights of the worker to compensation must be suspended with the consent of the director until the evaluation has taken place, and no compensation is payable for the period during which the worker refused to submit to or obstructed the evaluation. The insurer or self-insured employer shall pay the costs of the evaluation and related services that are reasonably necessary to allow the worker to attend the evaluation requested under this subsection. As used in this subsection, "related services" includes, but is not limited to, wages, child care, travel, meals and lodging.

(9) Notwithstanding any other provisions of this chapter, if a worker receiving permanent total disability incurs a new compensable injury, the worker's entitlement to compensation for the new injury shall be limited to medical benefits pursuant to ORS 656.245 and permanent partial disability benefits for impairment, as determined in the manner set forth in ORS 656.214 (2).

(10) When a worker eligible for benefits under this section returns to work, if the combined total of the worker's post-injury wages plus permanent total disability benefit exceeds the worker's wage

at the time of injury, the worker's permanent total disability benefit must be reduced by the amount the worker's wages plus statutory permanent total disability benefit exceeds the worker's wage at injury.

(11) For purposes of this section:

(a) A gainful occupation for workers with a date of injury prior to January 1, 2006, who were:

(A) Employed continuously for 52 weeks prior to the injury, is an occupation that provides weekly wages that are the lesser of the most recent federal poverty guidelines for a family of three that are applicable to Oregon residents and that are published annually in the Federal Register by the United States Department of Health and Human Services or 66-2/3 percent of the worker's average weekly wages from all employment for the 52 weeks prior to the date of injury.

(B) Not employed continuously for the 52 weeks prior to the date of injury, but who were employed for at least four weeks prior to the date of injury, is an occupation that provides weekly wages that are the lesser of the most recent federal poverty guidelines for a family of three that are applicable to Oregon residents and that are published annually in the Federal Register by the United States Department of Health and Human Services or 66-2/3 percent of the worker's average weekly wage from all employment for the 52 weeks prior to the date of injury based on weeks of actual employment, excluding any extended periods of unemployment.

(C) Employed for less than four weeks prior to the date of injury with no other employment during the 52 weeks prior to the date of injury, is an occupation that provides weekly wages that are the lesser of the most recent federal poverty guidelines for a family of three that are applicable to Oregon residents and that are published annually in the Federal Register by the United States Department of Health and Human Services or 66-2/3 percent of the average weekly wages intended by the parties at the time of initial hire.

(b) A gainful occupation for workers with a date of injury on or after January 1, 2006, who were:

(A) Employed continuously for 52 weeks prior to the injury, is an occupation that provides weekly wages that are the lesser of the most recent federal poverty guidelines for a family of three that are applicable to Oregon residents and that are published annually in the Federal Register by the United States Department of Health and Human Services or 66-2/3 percent of the worker's average weekly wages from all employment for the 52 weeks prior to the date of injury adjusted by the percentage of change in the applicable federal poverty guidelines for a family of three from the date of injury to the date of evaluation of the extent of the worker's disability.

(B) Not employed continuously for the 52 weeks prior to the date of injury, but who were employed for at least four weeks prior to the date of injury, is an occupation that provides weekly wages that are the lesser of the most recent federal poverty guidelines for a family of three that are applicable to Oregon residents and that are published annually in the Federal Register by the United States Department of Health and Human Services or 66-2/3 percent of the worker's average weekly wage from all employment for the 52 weeks prior to the date of injury based on weeks of actual employment, excluding any extended periods of unemployment and as adjusted by the percentage of change in the applicable federal poverty guidelines for a family of three from the date of injury to the date of evaluation of the extent of the worker's disability.

(C) Employed for less than four weeks prior to the date of injury with no other employment during the 52 weeks prior to the date of injury, is an occupation that provides weekly wages that are the lesser of the most recent federal poverty guidelines for a family of three that are applicable to Oregon residents and that are published annually in the Federal Register by the United States Department of Health and Human Services or 66-2/3 percent of the average weekly wages intended by the parties at the time of initial hire adjusted by the percentage of change in the applicable federal poverty guidelines for a family of three from the date of injury to the date of evaluation of the extent of the worker's disability.

SECTION 5. The amendments to ORS 656.206 by section 4 of this 2026 Act apply to claims with a date of injury on or after January 1, 2027.

Passed by Senate February 27, 2026

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Obadiah Rutledge, Secretary of Senate

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Rob Wagner, President of Senate

Passed by House March 3, 2026

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Julie Fahey, Speaker of House

Received by Governor:

.....M,....., 2026

Approved:

.....M,....., 2026

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Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M,....., 2026

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Tobias Read, Secretary of State