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**ENGROSSED SUBSTITUTE HOUSE BILL 1648**

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**State of Washington**

**54th Legislature**

**1995 Regular Session**

**By** House Committee on Commerce & Labor (originally sponsored by Representatives Lisk, Romero, Goldsmith and Thompson; by request of Employment Security Department)

Read first time 03/01/95.

1       AN ACT Relating to charges against industrial insurance awards;  
2 amending RCW 51.32.040 and 50.20.085; and providing an effective date.

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

4       **Sec. 1.** RCW 51.32.040 and 1995 c 160 s 3 are each amended to read  
5 as follows:

6       (1) Except as provided in RCW 43.20B.720, 50.20.085, and  
7 74.20A.260, no money paid or payable under this title shall, before the  
8 issuance and delivery of the check or warrant, be assigned, charged, or  
9 taken in execution, attached, garnished, or pass or be paid to any  
10 other person by operation of law, any form of voluntary assignment, or  
11 power of attorney. Any such assignment or charge is void unless the  
12 transfer is to a financial institution at the request of a worker or  
13 other beneficiary and made in accordance with RCW 51.32.045.

14       (2)(a) If any worker suffers (i) a permanent partial injury and  
15 dies from some other cause than the accident which produced the injury  
16 before he or she receives payment of the award for the permanent  
17 partial injury or (ii) any other injury before he or she receives  
18 payment of any monthly installment covering any period of time before  
19 his or her death, the amount of the permanent partial disability award

1 or the monthly payment, or both, shall be paid to the surviving spouse  
2 or the child or children if there is no surviving spouse.

3 (b) If any worker suffers an injury and dies from it before he or  
4 she receives payment of any monthly installment covering time loss for  
5 any period of time before his or her death, the amount of the monthly  
6 payment shall be paid to the surviving spouse or the child or children  
7 if there is no surviving spouse.

8 (c) Any application for compensation under this subsection (2)  
9 shall be filed with the department or self-insuring employer within one  
10 year of the date of death. However, if the injured worker resided in  
11 the United States as long as three years before the date of injury,  
12 payment under this subsection (2) shall not be made to any surviving  
13 spouse or child who was at the time of the injury a nonresident of the  
14 United States.

15 (3)(a) Any worker or beneficiary receiving benefits under this  
16 title who is subsequently confined in, or who subsequently becomes  
17 eligible for benefits under this title while confined in, any  
18 institution under conviction and sentence shall have all payments of  
19 the compensation canceled during the period of confinement. After  
20 discharge from the institution, payment of benefits due afterward shall  
21 be paid if the worker or beneficiary would, except for the provisions  
22 of this subsection (3), otherwise be entitled to them.

23 (b) If any prisoner is injured in the course of his or her  
24 employment while participating in a work or training release program  
25 authorized by chapter 72.65 RCW and is subject to the provisions of  
26 this title, he or she is entitled to payments under this title, subject  
27 to the requirements of chapter 72.65 RCW, unless his or her  
28 participation in the program has been canceled, or unless he or she is  
29 returned to a state correctional institution, as defined in RCW  
30 72.65.010(3), as a result of revocation of parole or new sentence.

31 (c) If the confined worker has any beneficiaries during the  
32 confinement period during which benefits are canceled under (a) or (b)  
33 of this subsection, they shall be paid directly the monthly benefits  
34 which would have been paid to the worker for himself or herself and the  
35 worker's beneficiaries had the worker not been confined.

36 (4) Any lump sum benefits to which a worker would otherwise be  
37 entitled but for the provisions of this section shall be paid on a  
38 monthly basis to his or her beneficiaries.

1       **Sec. 2.** RCW 50.20.085 and 1991 c 117 s 2 are each amended to read  
2 as follows:

3       (1) An individual is disqualified from benefits with respect to any  
4 day or days for which he or she is receiving, has received, or will  
5 receive compensation under RCW 51.32.060 or 51.32.090.

6       (2)(a) By accepting benefits under this title, the individual shall  
7 be deemed to have subrogated the employment security department to the  
8 individual's right to recover temporary total disability compensation  
9 or permanent total disability compensation, or both, due the individual  
10 under Title 51 RCW to the extent of such unemployment benefits or  
11 compensation under Title 51 RCW, whichever is less, furnished to the  
12 recipient for the period for which compensation under Title 51 RCW is  
13 payable.

14       (b)(i) The employment security department may assert and enforce a  
15 lien and notice to withhold and deliver as provided in this section to  
16 secure reimbursement of any benefits paid for or during the period and  
17 for the purposes expressed in this section.

18       (ii) The effective date of the lien and notice to withhold and  
19 deliver shall be the day that it is received by the director of the  
20 department of labor and industries, an employee of the director's  
21 office of suitable discretion, or a self-insurer as defined in chapter  
22 51.08 RCW. Service of the lien and notice to withhold and deliver may  
23 be made personally, by regular mail postage prepaid, or by electronic  
24 transmission. A copy of the lien and notice to withhold and deliver  
25 shall be mailed to the individual at his or her last known address by  
26 certified mail, return receipt requested, no later than the next  
27 business day after the lien and notice to withhold and deliver has been  
28 mailed or delivered to the department of labor and industries or to a  
29 self-insurer.

30       NEW SECTION. **Sec. 3.** This act shall take effect January 1, 1997.

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