



Washington State Department of  
**Labor & Industries**

# **Workers' Compensation — Monthly Wages — Incarcerated Workers**

SSB 5701

*2024 Report to the Legislature*

**December 2024**

# Executive Summary

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*The 2022 Washington State Legislature changed the way time-loss — defined as partial wage replacement benefits paid when a worker is unable to return to gainful employment as a result of an industrial injury — is calculated for incarcerated individuals who are injured while working.*

*[Substitute Senate Bill \(SSB\) 5701](#) directed the Department of Labor & Industries (L&I) to report the impacts of this change.*

*From July 1, 2022, to June 30, 2024, there were 127 claims filed by workers injured while incarcerated — three of whom have benefited from this change.*

## Using Industry-Average Wage to Set Certain Time-Loss Amounts

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Prior to the legislation, time-loss compensation was based on the wages incarcerated workers were paid at the time of injury, which is commonly \$1.20 per hour.

Most injured workers are paid a time-loss compensation rate of 60-75% of their gross monthly wage at the time of injury. However, workers entitled to time-loss receive no more than the statutory maximum or less than the statutory minimum compensation, per RCW 51.32.060. Inmates were generally paid at a statutory minimum time-loss rate of approximately \$250 per month.

SSB 5701, effective June 9, 2022, changed how time-loss is calculated for inmates who are injured while working and become eligible after release. The legislation calculates wages for inmate workers based on the usual wage paid to employees outside the corrections system who are doing the same or similar work. This allows their wages to be set at a higher amount.

Workers who are injured while incarcerated cannot receive time-loss benefits while confined in any institution under conviction and sentence. However, once these workers are released,

paroled, or released to a halfway house, they may be eligible for time-loss benefits if they are unable to work as a result of their injury.

If a worker is eligible for time-loss after their release, this legislation requires that benefits are based on wages prevalent in the community rather than the lesser amount working incarcerated individuals receive.

The intent is to pay workers released from incarceration a living wage in cases where they need treatment or services after their release and are unable to work.

## IMPACTED CLAIMS

### Volume

From July 1, 2022, to June 30, 2024:

- There were 127 total State Fund claims filed by incarcerated individuals who were injured while working in an institution.
- Three of these claims were paid time-loss benefits, per SSB 5701. Wages were set according to the new law.
- No Self-Insured claims were impacted.

### Claims summary

Brief summary of the three impacted claims:

- Claim #1: The incarcerated worker injured his right shoulder while working on a community work crew as a laborer. He was moving a stack of wood when the injury occurred. His wages while incarcerated were \$1.25 per hour. He was unable to work at the time of his release and has been paid time-loss benefits for dates after his release to the present. His wages were set at \$21.03 per hour based upon the usual wage paid other employees in a similar occupation.
- Claim #2: The incarcerated worker injured his right knee when he stumbled working in a kitchen. His wages while incarcerated were 65 cents per hour. He was unable to work at the time of his release, and was paid time-loss benefits for dates after his release through April 2024. His wages were set at \$15.74 per hour based on the usual wage paid other employees in a similar occupation.
- Claim #3: The incarcerated worker fractured his right arm in a fall while working as a food manufacturer. His wages while incarcerated were \$1.15 per hour. He was unable to work after his release and has been paid time-loss benefits for dates after his release to the present.

His wages were set at \$14.49 per hour based upon the usual wage paid other employees in a similar occupation.

## Conclusion

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*From July 1, 2022, to June 30, 2024, there were 127 State Fund claims filed by incarcerated individuals. Of those, three were impacted by this legislation. These workers would have received approximately \$250 per month in time-loss compensation without this law. The result is a meaningful increase in time-loss compensation for these workers.*

*SSB 5701 allows workers who are released before they are fully recovered and able to work the opportunity to obtain treatment and supports them until they are able to enter the workforce. This affirms L&I's mission to ensure all Washingtonians are safe and working.*