

JAN 17 2020

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# A BILL FOR AN ACT

RELATING TO WORKERS' COMPENSATION.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 386-51, Hawaii Revised Statutes, is  
2 amended to read as follows:  
3           "**§386-51 Computation of average weekly wages.** Average  
4 weekly wages shall be computed in a manner that the resulting  
5 amount represents most fairly, in the light of the employee's  
6 employment pattern and the duration of the employee's  
7 disability, the injured employee's average weekly wages from all  
8 covered employment [~~at the time of the personal injury~~]. In no  
9 event, however, shall an employee's average weekly wages be  
10 computed to be less than the employee's hourly rate of pay  
11 multiplied by thirty-five; provided that where the employee  
12 holds part-time employment of fewer than thirty-five hours per  
13 week, the employee's average weekly wages shall be the hourly  
14 rate at the place of employment where the injury occurred  
15 multiplied by the average hours worked in the fifty-two weeks  
16 (or portions thereof) preceding the week in which the injury  
17 occurred, for the calculation of temporary partial disability



1 and temporary total disability benefits only. Other benefits  
2 including permanent partial disability, permanent total  
3 disability, and death shall be calculated as if the employee had  
4 been a full-time employee.

5 (1) Where appropriate and feasible, computation shall be  
6 made on the basis of the injured employee's earnings  
7 from covered employment during the twelve months  
8 preceding the employee's personal injury; but if  
9 during that period, the employee, because of sickness  
10 or similar personal circumstances was unable to engage  
11 in employment for one or more weeks then the number of  
12 those weeks shall not be included in the computation  
13 of the average weekly wage.

14 (2) Where an employee at the time of the injury was  
15 employed at higher wages than during any other period  
16 of the preceding twelve months then the employee's  
17 average weekly wages shall be computed exclusively on  
18 the basis of the higher wages.

19 (3) Where, by reason of the shortness of the time during  
20 which the employee has been in the employment or the  
21 casual nature or terms of the employment, it is not



1           feasible to compute the average weekly wages on the  
2           basis of the injured employee's own earnings from that  
3           employment, regard may be had to the average weekly  
4           wages which during the twelve months preceding the  
5           injury was being earned by an employee in comparable  
6           employment.

7           (4) Except as otherwise provided, the total average weekly  
8           wages of any employee shall be computed at a lower  
9           amount than the average weekly wages earned at the  
10          time of the injury by an employee in comparable  
11          employment engaged as a full-time employee on an  
12          annual basis in the type of employment in which the  
13          injury occurred.

14          (5) If an employee, while under twenty-five years of age,  
15          sustains a work injury causing permanent disability or  
16          death, the employee's average weekly wages shall be  
17          computed on the basis of the wages which the employee  
18          would have earned in the employee's employment had the  
19          employee been twenty-five years of age.

20          (6) The director may issue rules for the determination of  
21          the average weekly wages in particular classes of



# S.B. NO. 2641

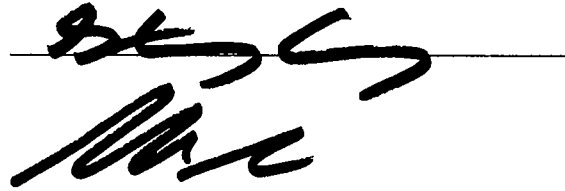
1 cases, consistent with the principles laid down in the  
2 first paragraph of this section."

3 SECTION 2. Statutory material to be repealed is bracketed  
4 and stricken.

5 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY:



# S.B. NO. 2641

**Report Title:**

Workers' Compensation; Average Weekly Wages; Computation

**Description:**

Adjusts the method of calculating average weekly wages for workers' compensation claims.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

