

## ACT 53

H. B. NO. 275

A Bill for an Act Relating to Workmen's Compensation and Amending Chapter 386, Hawaii Revised Statutes.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 386-51, Hawaii Revised Statutes, is amended to read as follows:

**“Section 386-51. Computation of average weekly wages.** Average weekly wages shall be computed in such a manner that the resulting amount represents most fairly, in the light of his employment pattern and the duration of his disability, the injured employee's average weekly wages from all covered employment at the time of the personal injury. In no event, however, shall an employee's average weekly wages be computed to be less than his hourly rate of pay multiplied by thirty-five.

- (1) Where appropriate and feasible such computation shall be made on the basis of the injured employee's earnings from covered employment during the twelve months preceding his personal injury; but if during that period, the employee, because of sickness or similar personal circumstances was unable to engage in employment for one or more weeks then the number of such weeks shall not be included in the computation of the average weekly wage.
- (2) Where an employee at the time of the injury was employed at higher wages than during any other period of the preceding twelve months then his average weekly wages shall be computed exclusively on the basis of such higher wages.
- (3) Where, by reason of the shortness of the time during which the employee has been in the employment or the casual nature or terms of the employment, it is not feasible to compute the average weekly wages on the basis of the injured employee's own earnings from such employment, regard may be had to the average weekly wages which during the twelve months preceding the injury was being earned by an employee in comparable employment.

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- (4) In no case shall the total average weekly wages of any employee be computed at a lower amount than the average weekly wages earned at the time of the injury by an employee in comparable employment engaged as a full-time employee on an annual basis in the type of employment in which the injury occurred.
- (5) If an employee, while under twenty-five years of age, sustains a work injury causing permanent disability or death, his average weekly wages shall be computed on the basis of the wages which he would have earned in his employment had he been twenty-five years of age.
- (6) The director of labor and industrial relations may issue rules for the determination of the average weekly wages in particular classes of cases, consistent with the principles laid down in the first paragraph of this section.”

SECTION 2. Chapter 386, Hawaii Revised Statutes, is amended by adding a new section to read as follows:

**“Section 386- . Limited liability in concurrent employment.** Where an employee is concurrently engaged in more than one employment covered by this chapter and sustains a personal injury in one employment under conditions specified in section 386-3, the liability of the employer shall be limited to the benefits as would be payable had the employee no other employment than the one in which he was injured; provided that if the employment in which the employee sustained the injury is a part-time employment, the employer’s liability shall be limited to the benefits as would be payable to an employee in a comparable employment, engaged as a full-time employee on an annual basis in the type of employment in which the injury occurred. The balance of the employee’s benefits shall be paid from the special compensation fund, except that benefits for disability rated as a percentage of total impairment of physical or mental function of the whole man shall be the sole liability of the employer.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 4. This Act shall take effect upon its approval.  
(Approved June 6, 1970.)

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\* Edited accordingly