

STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

SENATE BILL 349

By: Robinson

AS INTRODUCED

An Act relating to workers' compensation; amending 85 O.S. 1991, Section 21, as amended by Section 6, Chapter 294, O.S.L. 1992 (85 O.S. Supp. 2000, Section 21), which relates to basis for compensation; making language gender neutral; clarifying language; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 85 O.S. 1991, Section 21, as amended by Section 6, Chapter 294, O.S.L. 1992 (85 O.S. Supp. 2000, Section 21), is amended to read as follows:

Section 21. Except as otherwise provided in this act, the average weekly wages of the injured employee at the time of the injury shall be taken as the basis upon which to compute compensation and shall be determined as follows:

1. If the injured employee shall have worked in the employment in which ~~he~~ the employee was working at the time of the accident whether for the same employer or not, during substantially the whole of the year immediately preceding ~~his~~ the injury, ~~his~~ the employee's average annual earnings shall consist of two hundred sixty times the average daily wage or salary which ~~he~~ the employee shall have earned in ~~such~~ the employment during the days when so employed.

2. If the injured employee shall not have worked in ~~such~~ the employment during substantially the whole of ~~such~~ the year, ~~his~~ the employee's average annual earnings shall consist of two hundred sixty times the average daily wage or salary which an employee of the same class working substantially the whole of ~~such~~ the immediately preceding year in the same or in a similar employment in

the same or a neighboring place shall have earned in ~~such~~ the employment during the days when so employed.

3. If either of the foregoing methods of arriving at the annual average earnings of an injured employee cannot reasonably and fairly be applied, ~~such~~ the annual earnings shall be such sum as, having regard to the previous earnings of the injured employee and of other employees of the same or most similar class, working in the same or most similar employment in the same or neighboring locality, shall reasonably represent the annual earning capacity of the injured employee in the employment in which ~~he~~ the employee was working at the time of the accident.

4. The average weekly wages of an employee shall be one fifty-second (1/52) part of ~~his~~ the employee's average annual earnings.

5. If it be established that the injured employee was a minor when injured, and that under normal conditions ~~his~~ the employee's wages would be expected to increase, the fact may be considered in arriving at ~~his~~ the employee's average weekly wages.

SECTION 2. This act shall become effective November 1, 2001.

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