

SENATE BILL 2559

By Haynes

AN ACT to amend Tennessee Code Annotated, Title 50,
Chapter 6, relative to workers' compensation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 50-6-102(3), is amended by deleting the subdivision in its entirety and by substituting instead the following:

(3)

(A) "Average weekly wages" means the actual weekly earnings of an employee under the employment contract or contract of hire that is in force at the time of the injury plus the average of any overtime earnings and bonuses actually paid to the employee to be computed by dividing the overtime earnings and bonuses by the number of weeks worked by the employee in the same employment under the employment contract or contract of hire in force at the time of the injury, not to exceed a period of fifty-two (52) weeks preceding the accident and in no case shall the average weekly wages be computed on less than a full-time workweek in the employment;

(B) "Earnings" include anything received by the employee under the terms of the employment contract or contract of hire from which the employee realizes economic gain and shall include any allowances of any character made to the employee in lieu of wages;

(C) "Employment contract" or "contract of hire" does not require a written document; it can be implied by the terms of the agreement between the employer and the employee as to the monetary compensation and/or allowances in lieu of

wages the employee is to receive from the employer for performing the work for which the employee was hired;

(D) If, because of exceptional circumstances, the employee's average weekly wages cannot be fairly and justly determined by this subdivision (3), then the average weekly wages earned by a person in the same grade/classification employed at the same work by the same employer at the time of the employee's injury shall be utilized; if a similar employee does not exist, the usual wage paid in the vicinity of the employer for the same or similar services; provided, however, the results obtained shall be just and fair to both the employee and the employer.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.