

HOUSE BILL 1256

K1

9lr1334

By: **Delegates Manno and Schuler**

Introduced and read first time: February 13, 2009

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Workers' Compensation - Death Benefits - Partially Dependent Individuals**

3 FOR the purpose of increasing the maximum weekly death benefit payable to certain
4 individuals who were partially dependent at the time of the covered employee's
5 death; increasing the total benefit payable under certain circumstances if a
6 certain surviving spouse remarries; providing for the application of this Act; and
7 generally relating to death benefits under workers' compensation law for
8 partially dependent individuals.

9 BY repealing and reenacting, without amendments,
10 Article - Labor and Employment
11 Section 9-678 and 9-679
12 Annotated Code of Maryland
13 (2008 Replacement Volume)

14 BY repealing and reenacting, with amendments,
15 Article - Labor and Employment
16 Section 9-682
17 Annotated Code of Maryland
18 (2008 Replacement Volume)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article - Labor and Employment**

22 9-678.

23 A dependent of a covered employee who is entitled to compensation for the
24 death of the covered employee resulting from an accidental personal injury or

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 occupational disease shall be paid compensation in accordance with this Part XII of
2 this subtitle.

3 9-679.

4 Except as otherwise provided in this subtitle, the Commission shall determine
5 all questions of partial or total dependency in accordance with the facts of each case
6 that existed:

7 (1) at the time of the occurrence of the accidental personal injury that
8 caused the death of the covered employee; or

9 (2) on the date of disablement from the occupational disease that
10 caused the death of the covered employee.

11 9-682.

12 (a) The employer or its insurer shall pay a death benefit in accordance with
13 this section if:

14 (1) there are no individuals who were wholly dependent on the
15 deceased covered employee at the time of death, but there are individuals who were
16 partly dependent; or

17 (2) a surviving spouse who was wholly dependent on the deceased
18 covered employee at the time of death becomes partly self-supporting.

19 (b) (1) The maximum weekly death benefit payable under this section
20 shall equal two-thirds of the average weekly wage of the deceased covered employee,
21 but may not exceed two-thirds of the State average weekly wage.

22 (2) The weekly death benefit payable under this section shall be the
23 percentage of the maximum weekly death benefit under paragraph (1) of this
24 subsection that:

25 (i) the weekly earnings of the deceased covered employee bears
26 to the combined weekly earnings of the deceased covered employee and the partly
27 dependent individuals; and

28 (ii) does not exceed the maximum weekly death benefit.

29 (c) Except as otherwise provided in this section, the employer or its insurer
30 shall pay the weekly death benefit:

31 (1) for the period of partial dependency; or

1 (2) until [\$60,000 has been paid] **THE AMOUNT PAID EQUALS 68.4**
2 **MULTIPLIED BY THE STATE AVERAGE WEEKLY WAGE THAT WAS IN EFFECT AT**
3 **THE TIME OF DEATH OF THE COVERED EMPLOYEE**, including any payments made
4 during a period of total dependency under § 9–681 of this subtitle.

5 (d) (1) Subject to paragraph (2) of this subsection, if a surviving spouse
6 who is partly dependent remarries and does not have dependent children at the time
7 of the remarriage, the employer or its insurer shall make payments to the surviving
8 spouse for 2 years after the date of the remarriage.

9 (2) The total of the payments made before the remarriage may not
10 exceed [\$60,000] **AN AMOUNT EQUAL TO 68.4 MULTIPLIED BY THE STATE**
11 **AVERAGE WEEKLY WAGE THAT WAS IN EFFECT AT THE TIME OF DEATH OF THE**
12 **COVERED EMPLOYEE.**

13 (e) (1) Except as provided in paragraphs (2) and (3) of this subsection, the
14 employer or its insurer shall continue to make payments to, or for the benefit of, a
15 surviving child until the child reaches 18 years of age.

16 (2) If a child who is 18 years old or older remains partly dependent on
17 the deceased covered employee, the employer or its insurer shall continue to make
18 payments in accordance with subsections (b) and (c) of this section.

19 (3) The employer or its insurer shall continue to make payments to, or
20 for the benefit of, a child who is 18 years old or older for up to 5 years after reaching
21 the age of 18 if:

22 (i) the child is attending school on a full–time basis; and

23 (ii) the school offers an educational program or a vocational
24 training program and the program is accredited or approved by the Maryland State
25 Department of Education.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
27 construed to apply only prospectively and may not be applied or interpreted to have
28 any effect on or application to any claims for death benefits filed before the effective
29 date of this Act.

30 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2009.