

SENATE BILL 863

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9lr3040
CF 9lr2699

By: **Senator Edwards**

Introduced and read first time: February 6, 2009

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Workers' Compensation - Death Benefits for Partially Dependent Individuals**
3 **- Payment**

4 FOR the purpose of requiring an employer or insurer to continue certain payments
5 under certain circumstances to certain individuals who were partially
6 dependent at the time of the covered employee's death or who were wholly
7 dependent at the time of the covered employee's death and became partially
8 self-supporting; altering the total amount of compensation payable to an
9 individual who was partially dependent at the time of the covered employee's
10 death or became self-supporting after the covered employee's death; authorizing
11 the Workers' Compensation Commission to recalculate certain weekly death
12 benefit payments; providing for the application of this Act; and generally
13 relating to death benefits under workers' compensation law for partially
14 dependent individuals.

15 BY repealing and reenacting, without amendments,
16 Article - Labor and Employment
17 Section 9-101(d) and 9-681(e)
18 Annotated Code of Maryland
19 (2008 Replacement Volume)

20 BY repealing and reenacting, with amendments,
21 Article - Labor and Employment
22 Section 9-681(j) and 9-682
23 Annotated Code of Maryland
24 (2008 Replacement Volume)

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

27 **Article - Labor and Employment**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 9–101.

2 (d) “Commission” means the State Workers’ Compensation Commission.

3 9–681.

4 (e) (1) If a surviving spouse who is wholly dependent at the time of death
5 becomes wholly self-supporting before \$45,000 has been paid, the employer or its
6 insurer shall continue to pay death benefits until \$45,000 has been paid.

7 (2) If a surviving spouse who is wholly dependent at the time of death
8 becomes partly self-supporting, the employer or its insurer shall continue to make
9 payments to the surviving spouse in accordance with § 9–682 of this subtitle.

10 (j) The Commission has continuing jurisdiction to:

11 (1) determine whether a surviving spouse or child has become wholly
12 or partly self-supporting;

13 (2) suspend or terminate payments of compensation; [and]

14 (3) reinstate payments of compensation that have been suspended or
15 terminated; **AND**

16 (4) **RECALCULATE THE WEEKLY DEATH BENEFIT PAYABLE TO A**
17 **PARTIALLY DEPENDENT INDIVIDUAL.**

18 9–682.

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

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

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

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

29 (2) The weekly death benefit payable under this section shall be the
30 percentage of the maximum weekly death benefit under paragraph (1) of this
31 subsection that:

1 (i) the weekly earnings of the deceased covered employee bears
2 to the combined weekly earnings of the deceased covered employee and the partly
3 dependent individuals; and

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

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

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

8 (2) until ~~[\$60,000]~~ **\$45,000** has been paid, including any payments
9 made during a period of total dependency under § 9-681 of this subtitle.

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

14 (2) The total of the payments made before the remarriage may not
15 exceed \$60,000.

16 **(E) (1) IF A SURVIVING SPOUSE WHO WAS PARTIALLY DEPENDENT ON**
17 **THE DECEASED COVERED EMPLOYEE AT THE TIME OF DEATH CONTINUES TO BE**
18 **PARTIALLY DEPENDENT AFTER \$45,000 HAS BEEN PAID, THE EMPLOYER OR ITS**
19 **INSURER SHALL CONTINUE TO MAKE PAYMENTS TO THE SURVIVING SPOUSE IN**
20 **ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION.**

21 **(2) IF A SURVIVING SPOUSE WHO WAS WHOLLY DEPENDENT ON**
22 **THE DECEASED COVERED EMPLOYEE AT THE TIME OF DEATH BECOMES**
23 **PARTIALLY SELF-SUPPORTING AND CONTINUES TO BE PARTIALLY**
24 **SELF-SUPPORTING AFTER \$45,000 HAS BEEN PAID, THE EMPLOYER OR ITS**
25 **INSURER SHALL CONTINUE TO MAKE PAYMENTS TO THE SURVIVING SPOUSE IN**
26 **ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION.**

27 **(3) IF A SURVIVING SPOUSE WHO IS PARTIALLY DEPENDENT AT**
28 **THE TIME OF DEATH BECOMES WHOLLY SELF-SUPPORTING BEFORE \$45,000**
29 **HAS BEEN PAID, THE EMPLOYER OR ITS INSURER SHALL CONTINUE TO MAKE**
30 **PAYMENTS UNTIL \$45,000 HAS BEEN PAID.**

31 ~~[(e)]~~ **(F)** (1) Except as provided in paragraphs (2) and (3) of this
32 subsection, the employer or its insurer shall continue to make payments to, or for the
33 benefit of, a surviving child until the child reaches 18 years of age.

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

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

7 (i) the child is attending school on a full-time basis; and

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

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be applied
12 to and interpreted to affect compensation arising from claims for death benefits filed
13 on or after September 1, 2007.

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