

SENATE BILL 863

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9lr3040
CF HB 899

By: **Senator Edwards**

Introduced and read first time: February 6, 2009

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 27, 2009

CHAPTER _____

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~~; requiring the Workers' Compensation Commission to conduct
13 a certain study; requiring the Commission to establish a certain workgroup
14 comprised of certain stakeholders; requiring the Commission to report its
15 findings and recommendations by a certain date to certain committees;
16 providing for the application of this Act; and generally relating to death benefits
17 under workers' compensation law for partially dependent individuals.

18 BY repealing and reenacting, without amendments,
19 Article - Labor and Employment
20 Section 9-101(d) and 9-681(e) and (j)
21 Annotated Code of Maryland
22 (2008 Replacement Volume)

23 BY repealing and reenacting, with amendments,
24 Article - Labor and Employment

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Section ~~9-681(j)~~ and 9-682
 2 Annotated Code of Maryland
 3 (2008 Replacement Volume)

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

6 **Article – Labor and Employment**

7 9-101.

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

9 9-681.

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

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

16 (j) The Commission has continuing jurisdiction to:

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

19 (2) suspend or terminate payments of compensation; ~~and~~

20 (3) reinstate payments of compensation that have been suspended or
 21 terminated; ~~AND~~

22 ~~(4) RECALCULATE THE WEEKLY DEATH BENEFIT PAYABLE TO A~~
 23 ~~PARTIALLY DEPENDENT INDIVIDUAL.~~

24 9-682.

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

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

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

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

4 (2) The weekly death benefit payable under this section shall be the
5 percentage of the maximum weekly death benefit under paragraph (1) of this
6 subsection that:

7 (i) the weekly earnings of the deceased covered employee bears
8 to the combined weekly earnings of the deceased covered employee and the partly
9 dependent individuals; and

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

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

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

14 (2) until [\$60,000] ~~\$45,000~~ \$75,000 has been paid, including any
15 payments made during a period of total dependency under § 9-681 of this subtitle.

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

20 (2) The total of the payments made before the remarriage may not
21 exceed ~~\$60,000~~ \$75,000.

22 ~~(E) (1) IF A SURVIVING SPOUSE WHO WAS PARTIALLY DEPENDENT ON~~
23 ~~THE DECEASED COVERED EMPLOYEE AT THE TIME OF DEATH CONTINUES TO BE~~
24 ~~PARTIALLY DEPENDENT 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 ~~(2) IF A SURVIVING SPOUSE WHO WAS WHOLLY DEPENDENT ON~~
28 ~~THE DECEASED COVERED EMPLOYEE AT THE TIME OF DEATH BECOMES~~
29 ~~PARTIALLY SELF-SUPPORTING AND CONTINUES TO BE PARTIALLY~~
30 ~~SELF-SUPPORTING AFTER \$45,000 HAS BEEN PAID, THE EMPLOYER OR ITS~~
31 ~~INSURER SHALL CONTINUE TO MAKE PAYMENTS TO THE SURVIVING SPOUSE IN~~
32 ~~ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION.~~

33 ~~(3) IF A SURVIVING SPOUSE WHO IS PARTIALLY DEPENDENT AT~~
34 ~~THE TIME OF DEATH BECOMES WHOLLY SELF-SUPPORTING BEFORE \$45,000~~

1 ~~HAS BEEN PAID, THE EMPLOYER OR ITS INSURER SHALL CONTINUE TO MAKE~~
2 ~~PAYMENTS UNTIL \$45,000 HAS BEEN PAID.~~

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

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

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

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

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

16 SECTION 2. AND BE IT FURTHER ENACTED, That:

17 (a) (1) The Workers' Compensation Commission shall conduct a study on
18 the death benefit provisions in §§ 9-678 through 9-686 of the Labor and Employment
19 Article.

20 (2) The study shall determine legislative changes that would:

21 (i) provide fair and equitable benefits to wholly dependent
22 individuals and partially dependent individuals; and

23 (ii) provide for coordination among all of the death benefit
24 provisions.

25 (b) In conducting its study, the Commission shall establish a workgroup that
26 is comprised of representatives of the various stakeholders, including representatives
27 of:

28 (1) the Commission;

29 (2) labor;

30 (3) defense counsel;

31 (4) counsel for claimants;

1 (5) employers, including a representative of small business;

2 (6) workers' compensation insurance companies, including a
3 representative of the Injured Workers' Insurance Fund;

4 (7) local governments; and

5 (8) any other person that the Commission considers appropriate.

6 (c) On or before December 1, 2009, the Commission shall report, in
7 accordance with § 2-1246 of the State Government Article, its findings and
8 recommendations, including draft legislation to the Senate Finance Committee and
9 the House Economic Matters Committee.

10 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall be
11 applied to and interpreted to affect compensation arising from claims for death
12 benefits filed on or after September 1, 2007.

13 SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take
14 effect ~~October 1, 2009~~ July 1, 2009.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.