

HOUSE BILL 421

K1

2lr1969

By: **Delegate Feldman**

Introduced and read first time: February 1, 2012

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Workers' Compensation – Death Benefits – Determination of Benefits**

3 FOR the purpose of altering the calculation of workers' compensation death benefits
4 for a dependent of a deceased covered employee who died due to an occupational
5 disease; and generally relating to workers' compensation death benefits for
6 dependents of covered employees.

7 BY repealing and reenacting, with amendments,
8 Article – Labor and Employment
9 Section 9–683.3
10 Annotated Code of Maryland
11 (2008 Replacement Volume and 2011 Supplement)

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

14 **Article – Labor and Employment**

15 9–683.3.

16 (a) This section does not apply to a covered employee of a municipal
17 corporation or a county who is subject to § 9–503 of this title and the dependents of
18 those covered employees, unless the municipal corporation or county has made an
19 election under § 9–683.6 of this subtitle.

20 (b) If there are individuals who were dependent on a deceased covered
21 employee at the time of death resulting from an accidental personal injury or
22 occupational disease, the employer or its insurer shall pay death benefits in
23 accordance with this section.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (c) (1) Beginning on the date of death of a deceased covered employee and
2 continuing for a period of 144 months, the employer or its insurer shall pay death
3 benefits, as calculated in this section, to the dependents of the deceased covered
4 employee.

5 (2) Except as otherwise provided in this subsection, death benefits
6 shall be paid at the rate of two-thirds of the deceased covered employee's average
7 weekly wage at the time of the occurrence of the accidental personal injury that
8 caused the death of the covered employee or on the date of [disablement from] **THE**
9 **LAST INJURIOUS EXPOSURE OF THE COVERED EMPLOYEE TO THE HAZARDS OF**
10 the occupational disease that caused the death of the covered employee, not to exceed
11 the State average weekly wage.

12 (3) The average weekly wage of all dependents and the deceased
13 covered employee's average weekly wage shall be combined to determine the family
14 income.

15 (4) The deceased covered employee's income shall be divided by the
16 family income to determine the percent of the family income earned by the deceased
17 covered employee.

18 (5) The percent of the family income earned by the deceased covered
19 employee shall be multiplied by the death benefit, as calculated in paragraph (2) of
20 this subsection, to determine the amount payable, collectively, to all dependents.

21 (6) If the average weekly wage of the deceased covered employee was
22 less than \$100 at the time of the occurrence of the accidental personal injury that
23 caused the death of the covered employee or on the date of disablement from the
24 occupational disease that caused the death of the covered employee, the weekly death
25 benefit paid under this section shall equal the average weekly wage of the deceased
26 covered employee up to \$100 per week.

27 (d) (1) Death benefits shall be paid for a minimum of 5 years after the
28 covered employee's death.

29 (2) Subject to subsections (e) through (i) of this section, provided that a
30 minimum of 5 years of death benefits has been paid, death benefits shall terminate on
31 the date that would have been the deceased covered employee's 70th birthday.

32 (e) Notwithstanding the time limitations under subsections (c) and (d) of this
33 section, if a dependent spouse or dependent child is incapable of self-support because
34 of a mental or physical disability that preexisted the covered employee's death, death
35 benefits shall continue for the duration of the dependent's disability.

36 (f) If a dependent spouse remarries, death benefits shall terminate 2 years
37 after the date of remarriage.

1 (g) The employer or its insurer shall continue to make payments to or for the
2 benefit of a dependent child until the child reaches 18 years of age.

3 (h) The employer or its insurer shall continue to make payments to, or for
4 the benefit of, a dependent child for up to 5 years after the child reaches 18 years of
5 age if:

6 (1) the child is attending school on a full-time basis; and

7 (2) the school offers an educational program or a vocational training
8 program that is accredited or approved by the State Department of Education.

9 (i) (1) Except as provided in paragraph (2) of this subsection, all
10 dependents who are neither a dependent spouse nor a dependent child shall be
11 entitled to no more than a total of \$65,000, collectively, as their portion of the total
12 death benefits payable in accordance with subsection (c) of this section.

13 (2) Beginning on January 1, 2012, the benefit limit under paragraph
14 (1) of this subsection shall be adjusted annually by the same percent applicable to the
15 adjustment of the State average weekly wage.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 2012.