

By Mr. Demers of Chicopee, petition of Richard H. Demers relative to increasing the benefits payable to widows under the workmen's compensation law. Commerce and Labor.

**The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Seventy-Eight.

**AN ACT INCREASING THE BENEFITS PAYABLE TO WIDOWS UNDER THE WORKMEN'S COMPENSATION LAW.**

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Section thirty-one of chapter one hundred and  
2 fifty-two of the General Laws, as most recently amended by section  
3 one of chapter four hundred and thirty-eight of the Acts of  
4 nineteen hundred and seventy-four, is hereby further amended by  
5 striking out the second paragraph of said section thirty-one and  
6 inserting in place thereof the following paragraph:—

7 To the widow or widower, so long as she or he remains  
8 unmarried, a weekly compensation equal to two thirds of the  
9 average wages of the deceased employee, but not more than one  
10 hundred fifty dollars, including dependency allowances, if any,  
11 payable under this section, nor less than thirty dollars a week  
12 unless the weekly wages of the deceased are less than thirty dollars  
13 in which case said weekly compensation shall be equal to the  
14 deceased employee's average weekly wages but not less than fifteen  
15 dollars a week where the number of normal working hours of the  
16 deceased employee in a week were fifteen or more. A payment of  
17 six dollars a week shall be added to the compensation for each  
18 child of the deceased employee who is under the age of eighteen or  
19 over said age and physically or mentally incapacitated from  
20 earning, or over said age and a full-time student qualified for  
21 exemption as a dependent under section one hundred and fifty-one  
22 (e) of the Internal Revenue Code, provided that the combined  
23 compensation and dependency allowances shall not exceed one  
24 hundred and fifty dollars per week. In any case in which such a

25 dependent child is a child by a former wife or husband, the death  
26 benefit shall be divided between the surviving wife or husband and  
27 all living children of the deceased employee in equal shares, the  
28 surviving wife or husband taking the same share as a child. If the  
29 widow or widower dies, such amount or amounts as would have  
30 been payable to or for her or his own use and for the benefit of all  
31 children of the employee shall be paid in equal shares to all the  
32 surviving children of the employee. If the widow or widower  
33 remarries, all payments under the foregoing provisions shall  
34 terminate and said widow or widower shall be paid an amount  
35 equal to two years of benefit payments, excluding dependency  
36 allowances and without discount. In cases where it is determined  
37 that periodic family benefits granted by the federal old age,  
38 survivors, and disability insurance act, other than the so-called  
39 lump sum death payment, are payable to the survivor or survivors  
40 the compensation benefits payable under this section shall be  
41 reduced, but not below zero, by an amount equal to fifty percent of  
42 such federal periodic benefits. If there is no surviving wife or  
43 husband of the deceased employee, such amount or amounts as  
44 would have been payable under this section to or for the use of a  
45 widow or widower and for the benefit of all such children of the  
46 employee, shall be paid in equal shares to all such surviving  
47 children of the employee, provided that the total of the payments  
48 shall not exceed one hundred and fifty dollars per week and that no  
49 individual shall receive an amount in excess of forty-one dollars  
50 per week. The total amount of payments and the period of  
51 payments in all cases under this section shall not be more than  
52 thirty-seven thousand five hundred dollars nor continue for more  
53 than four hundred weeks except that payment to or for the benefit  
54 of children of the deceased employee under the age of eighteen  
55 shall not be discontinued prior to the age of eighteen, and except  
56 that after a dependent unremarried widow or physically in-  
57 capacitated child over the age of eighteen has received the  
58 maximum payments, he or she shall continue to receive further  
59 payments, but only during such period as he or she is in fact not  
60 fully self-supporting. Either party may request hearings at  
61 reasonable intervals before a board member on the question of  
62 granting such payments, or on the question of restoration of such  
63 payments, or on the question of discontinuance of such payments.

64 A member of the board may set a case for hearing on his own  
65 initiative, after due notice to both parties.

1 SECTION 2. Section thirty-one of chapter one hundred and  
2 fifty-two of the General Laws, as most recently amended by section  
3 one of this act, is hereby further amended by striking out the  
4 second paragraph of said section thirty-one and inserting in place  
5 thereof the following paragraph: —

6 To the widow or widower, so long as she or he remains  
7 unmarried, a weekly compensation equal to two thirds of the  
8 average weekly wages of the deceased employee, but not more than  
9 the average weekly wage in the commonwealth in effect at the time  
10 of injury as determined according to the provisions of subsection  
11 (a) of section twenty-nine of chapter one hundred and fifty-one A  
12 and promulgated by the director of the division of employment  
13 security on or before October first of each year, nor less than forty  
14 dollars a week unless the weekly wages of the deceased are less than  
15 forty dollars in which case said weekly compensation shall be equal  
16 to the deceased employee's average weekly wages but not less than  
17 twenty dollars a week where the number of normal working hours  
18 of the deceased employee in a week was fifteen or more. A payment  
19 of six dollars a week shall be added to the compensation for each  
20 child of the deceased employee who is under the age of eighteen or  
21 over said age and physically or mentally incapacitated from  
22 earning, or over said age and a full-time student qualified for  
23 exemption as a dependent under section one hundred and fifty-one  
24 (e) of the Internal Revenue Code, provided that the combined  
25 compensation and dependency allowances shall exceed one  
26 hundred and fifty dollars per week unless the average weekly wage  
27 of the decedent was sufficient by itself to produce a weekly benefit  
28 in excess of one hundred and fifty dollars but in no event shall the  
29 benefit exceed the average weekly wage in the commonwealth in  
30 effect at the time of injury as determined according to the  
31 provisions of subsection (a) of section twenty-nine of chapter one  
32 hundred and fifty-one A and promulgated by the director of the  
33 division of employment security on or before October first of each  
34 year. In any case in which such a dependent child is a child by a  
35 former wife or husband, the death benefit shall be divided between  
36 the surviving wife or husband and all living children of the

37 deceased employee in equal shares, the surviving wife or husband  
38 taking the same share as a child. If the widow or widower dies, such  
39 amount or amounts as would have been payable to or for her or his  
40 own use and for the benefit of all children of the employee shall be  
41 paid in equal shares to all the surviving children of the employee. If  
42 the widow or widower remarries, all payments under the foregoing  
43 provisions shall terminate and said widow or widower shall be paid  
44 an amount equal to two years of benefit payments, excluding  
45 dependency allowances and without discount. In cases where it is  
46 determined that periodic family benefits granted by the federal old  
47 age, survivors, and disability insurance act, other than the so-  
48 called lump sum death payment, are payable to the survivor or  
49 survivors the compensation benefits payable under this section  
50 shall be reduced, but not below zero, by an amount equal to fifty  
51 percent of such federal periodic benefits. If there is no surviving  
52 wife or husband of the deceased employee, such amount or  
53 amounts as would have been payable under this section to or for  
54 the use of a widow or widower and for the benefit of all such  
55 children of the employee, shall be paid in equal shares to all such  
56 surviving children of the employee, provided that the total of the  
57 payments shall not exceed the average weekly wage in the  
58 commonwealth in effect at the time of injury as determined  
59 according to the provisions of subsection (a) of section twenty-nine  
60 of chapter one hundred and fifty-one A and promulgated by the  
61 director of the division of employment security on or before  
62 October first of each year and that no individual shall receive an  
63 amount in excess of forty-one dollars per week. the total amount  
64 of payments and the period of payments in all cases under this  
65 section shall not be more than forty-five thousand dollars nor  
66 continue for more than four hundred weeks except that payment to  
67 or for the benefit of children of the deceased employee under the  
68 age of eighteen shall not be discontinued prior to the age of  
69 eighteen, and except that after a dependent unremarried widow or  
70 physically or mentally incapacitated child over the age of eighteen  
71 has received the maximum payments, he or she shall continue to  
72 receive further payments, but only during such period as he or she  
73 is in fact not fully self-supporting. Either party may request  
74 hearings at reasonable intervals before a board member on the  
75 question of granting such payments, or on the question of

76 restoration of such payments, or on the question of discontinuance  
77 of such payments. A member of the board may set a case for  
78 hearing on his own initiative, after due notice to both parties.

1 SECTION 3. Section 36A of chapter one hundred and fifty-  
2 two of the General Laws, as most recently amended by chapter  
3 four hundred and ninety-four of the acts of nineteen hundred and  
4 fifty-one, is hereby further amended by striking out the first  
5 sentence of said section 36A and inserting in place thereof the  
6 following sentence:—

7 Except in the event that death does not result from the effects of  
8 the industrial injury, if an injured employee, who has become  
9 entitled to compensation under section 36 and has survived for a  
10 period of thirty days following the injury, dies before fully  
11 collecting the said compensation, the balance remaining shall  
12 become due and payable in a lump sum to his dependent, or if  
13 none, to his surviving issue, or if no surviving issue, then to  
14 surviving parents, or if no surviving parents, then to surviving  
15 brothers and sisters.

1 SECTION 4. Sections one and three of this act shall take effect  
2 on October first, nineteen hundred and seventy-eight and shall  
3 apply only to injuries occurring on or after said date. Section two  
4 of this act shall take effect on October first, nineteen hundred and  
5 seventy-nine and shall apply only to injuries occurring on or after  
6 said date.





