
By Mr. Buell, a petition (accompanied by bill, Senate, No. 91) of Robert C. Buell for legislation relative to death benefits under the workmen's compensation law. Commerce and Labor.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Four

AN ACT AMENDING THE WORKMEN'S COMPENSATION ACT.

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 31 of Chapter 152 as most recently amended by
2 Chapter 663 of the Acts of 1982 is hereby further amended by
3 striking out said section and inserting in place the following
4 section:—

5 *Section 31.* If death results from the injury, the insurer
6 shall pay the following dependents of the employee, including
7 his or her children by a former spouse, wholly dependent
8 upon his or her earnings for support at the time of his or her
9 injury, or at the time of his or her death, compensation as
10 follows, payable, except as hereinafter provided, in the
11 manner set forth in Section 32.

12 To the widow or widower so long as he or she remains
13 unmarried, a weekly compensation equal to two-thirds of the
14 average weekly wages of the deceased employee, but not
15 more than the average weekly wage in the Commonwealth,
16 as determined according to the provisions of subsection (a)
17 of section twenty-nine of chapter one hundred and fifty-one A,
18 and promulgated by the director of the division of em-
19 ployment security on or before October first preceding the
20 deceased employee's injury or death; provided, however,
21 that in no instance shall said widow or widower, receive less
22 than one hundred and ten dollars per week, to the widow or
23 widower six dollars more a week for each child of the
24 deceased employee under the age of eighteen or over said
25 age and physically or mentally incapacitated from earning,
26 or over said age and a full time student qualified for exemp-

tion as a dependent under section one hundred and fifty-one (e) of the Internal Revenue Code, except that no additional compensation for the benefits of the children of the employee shall be payable when combined with the compensation due the spouse of the deceased employee as hereinbefore provided in this section would allow the widow or widower an amount in excess of one hundred and fifty dollars per week; provided that in case any child of the deceased employee is a child by a former wife or husband, the death benefit shall be divided between the surviving wife or husband and all dependent children of the deceased employee in equal shares, the surviving wife or husband taking the same share as a child. If the widow or widower dies or if there is no surviving wife or husband of the deceased employee, such amount or amounts as would have been payable to or for his or her own use and for the benefit of all children of the employee shall be paid in equal shares to all the surviving children of the employee.

In any case in which a surviving widow or widower with one or more dependent children is receiving survivor's insurance benefits under the federal social security act, the benefits payable under this section shall be reduced by ten percent of the widow or widower's share of the survivor's insurance benefits under the federal social security act for each ten dollars of the deceased's average weekly wage in excess of two hundred ten dollars provided that in no case shall such reduction exceed fifty percent of the surviving spouse's share of the survivors insurance benefits under the federal social security act as set forth in table A below:

TABLE A

over \$210 up to and including \$220	10%
over \$220 up to and including \$230	20%
over \$230 up to and including \$240	30%
over \$240 up to and including \$250	40%
over \$250	50%

The total payments due under this section to the aforementioned dependents of the employee shall not be more than the average weekly wage in effect in the Commonwealth at the time of the injury as determined according to the provisions of subsection (a) of Section 29 of Chapter

67 151A and promulgated by the director of the division of
68 employment security on or before the October first prior to
69 the date of the injury multiplied by two hundred and fifty
70 except that payment to or for the benefit of children of the
71 deceased employee under the age of eighteen shall not be
72 discontinued prior to the age of eighteen, and except that
73 after a dependent unremarried widow or widower or
74 physically or mentally incapacitated child over the age of
75 eighteen has received the maximum payments, he or she
76 shall continue to receive further payments but only during
77 such periods as he or she is in fact not fully self-supporting.
78 Either party may request hearings at reasonable intervals
79 before a board member on the question of granting such
80 payments, or on the question of restoration of such
81 payments. A member of the board may set a case for hearing
82 on his or her initiative, after due notice to both parties.

83 In all other cases of total dependency, the insurer shall pay
84 the dependents of the employee wholly dependent upon his or
85 her earnings for support at the time of the injury, or at the
86 time of his or her death, a weekly payment equal to two-
87 thirds of his or her average weekly wages, but not more than
88 forty dollars nor less than twenty-four dollars a week, for a
89 period of five hundred weeks; but in no case shall the amount
90 be more than seventeen thousand dollars. If at the time of the
91 employee's injury or death the deceased employee leaves
92 dependents only partially dependent upon the deceased
93 employee's earnings or dependent's next of kin to whom the
94 deceased has made contributions for support, independent of
95 gifts and gratuities, the insurer shall pay such dependents a
96 weekly compensation equal to the amount that they received
97 from the deceased employee but individually or in com-
98 bination, no more than would be paid weekly to a surviving
99 spouse of the deceased. When weekly payments have been
100 made to an injured employee before his or her death, com-
101 pensation under this paragraph to dependents shall begin
102 from the date of the death of the employee, but shall not
103 continue for more than five hundred weeks; but in no case of
104 partial dependency shall the amount be more than seventeen
105 thousand dollars.

