

Reported by the committee on Ways and Means, on a part of House order No. 6385, and as amended on recommendation of the committee on Bills in the Third Reading. December 14.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Two.

AN ACT INCREASING THE BENEFITS TO DEPENDENTS OF DECEASED EMPLOYEES.

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. Chapter 152 of the General Laws is hereby
2 amended by striking out section 31, as most recently amended by
3 section 1 of chapter 461 of the acts of 1978, and inserting in place
4 thereof the following section:—

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

11 To the widow or widower so long as he or she remains unmar-
12 ried, a weekly compensation equal to two-thirds of the average
13 weekly wages of the deceased employee, but not more than the
14 average weekly wage in the commonwealth, as determined accord-
15 ing to the provisions of subsection (a) of section twenty-nine of
16 chapter one hundred and fifty-one A, and promulgated by the
17 director of the division of employment security on or before
18 October first preceding the deceased employee's injury or death
19 whichever provides the higher compensation rate, however, in no
20 instance shall said widow or widower, receive less than one
21 hundred and ten dollars per week, to the widow or widower six
22 dollars more a week for each child of the deceased employee under
23 the age of eighteen or over said age and physically or mentally

24 incapacitated from earning, or over said age and a full time student
25 qualified for exemption as a dependent under section one hundred
26 and fifty-one (e) of the Internal Revenue Code, except that no
27 additional compensation for the benefits of the children of the
28 employee shall be payable when combined with the compensation
29 due the spouse of the deceased employee as hereinbefore provided
30 in this section would allow the widow or widower an amount in
31 excess of one hundred and fifty dollars per week; provided that in
32 case any child of the deceased employee is a child by a former wife
33 or husband, the death benefit shall be divided between the surviv-
34 ing wife or husband and all dependent children of the deceased
35 employee in equal shares, the surviving wife or husband taking the
36 same share as a child. If the widow or widower dies or remarries, or
37 if there is no surviving wife or husband of the deceased employee,
38 such amount or amounts as would have been payable to or for his
39 or her own use and for the benefit of all children of the employee
40 shall be paid in equal shares to all the surviving children of the
41 employee.

42 The total payments due under this section shall not be more than
43 the average weekly wage in effect in the Commonwealth at the time
44 of the injury as determined according to the provisions of subsec-
45 tion (a) of section twenty-nine of chapter one hundred and fifty-
46 one A, and promulgated by the director of the division of
47 employment security on or before the October first prior to the
48 date of the injury multiplied by two hundred and fifty plus any
49 costs of living increases provided by this section except that pay-
50 ment to or for the benefit of children of the deceased employee
51 under the age of eighteen shall not be discontinued prior to the age
52 of eighteen, and except that after a dependent unremarried widow
53 or widower or physically or mentally incapacitated child over the
54 age of eighteen has received the maximum payments, he or she shall
55 continue to receive further payments but only during such periods
56 as he or she is in fact not fully self-supporting. Either party may
57 request hearings at reasonable intervals before a board member on
58 the question of granting such payments, or on the question of
59 restoration of such payments or on the question of discontinuance
60 of such payments. A member of the board may set a case for
61 hearing on his or her initiative, after due notice to both parties.

62 In all other cases of total dependency, the insurer shall pay the

63 dependent of the deceased employee wholly dependent upon the
64 earning of the deceased employee for support at the time of the
65 injury, or at the time of the employee's death, the same compensa-
66 tion that a surviving spouse receives. If there is more than one such
67 dependent the benefit shall be paid in equal shares to all such
68 surviving dependents. If at the time of the employee's injury or
69 death the deceased employee leaves dependents only partially
70 dependent upon the deceased employee's earnings or dependent's
71 next of kin to whom the deceased has made contributions for
72 support, independent of gifts and gratuities, the insurer shall pay
73 such dependents a weekly compensation equal to the amount that
74 they received from the deceased employee but individually or in
75 combination, no more than would be paid to a surviving spouse.

76 When weekly payments have been made to an injured employee
77 before the employee's death, compensation under this section to
78 dependents shall begin from the date of death of the employee.

79 Effective October first of each year weekly benefits payable to
80 each person under this section for a death which occurred after the
81 date of enactment of this section shall be increased by a percentage
82 equal to the percentage the average weekly wage in the common-
83 wealth, as determined according to the provisions of subsection (a)
84 of section twenty-nine of chapter one hundred and fifty-one A, and
85 promulgated by the director of the division of employment security
86 on or before October first of each year, exceeds the average weekly
87 wage in the commonwealth, as above determined, for the period
88 beginning with the preceding October first.

89 In the event the average weekly wage in the commonwealth, as
90 above determined, decreases, compensation benefits shall not be
91 reduced.

92 The chairman of the industrial accident board shall compute and
93 promulgate such compensation benefits on each October first.

1 SECTION 2. This act shall apply to injuries arising on and after
2 the effective date of this act.

