
By Mr. Wetmore, a petition (accompanied by bill, Senate, No. 164) of Robert D. Wetmore for legislation to increase workmen's compensation benefits to dependents of deceased employees. Commerce and Labor.

The Commonwealth of Massachusetts

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

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 31 of Chapter 12 as most recently amended by
2 Chapter 461 of the Acts of 1978 is hereby further amended by
3 striking out said section and inserting in place thereof the
4 following 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 upon
8 his or her earnings for support at the time of his or her in-
9 jury, or at the time of his or her death, compensation as fol-
10 lows, payable, except as hereinafter provided, in the manner
11 set forth in Section 32.

12 To the widow or widower as long as he or she remains un-
13 married, a weekly compensation equal to two-thirds of the
14 average weekly wages of the deceased employee, but not more
15 than the average weekly wage in the Commonwealth, as de-
16 termined according to the provisions of subsection (a) of sec-
17 tion twenty-nine of chapter one hundred and fifty-one A, and
18 promulgated by the director of the division of employment se-
19 curity on or before October first of each year, however, in no
20 instance shall said widow or widower, receive less than one-
21 hundred and ten dollars per week.

22 Where the deceased employee had persons conclusively pre-
23 sumed to be dependent upon the deceased employee or in fact
24 so dependent the sum of six dollars shall be added to the week-

25 ly compensation payable under this section for each person so
26 dependent. No weekly dependency payments shall be made
27 which will cause the aggregate of weekly compensation to the
28 spouse and any dependent to exceed one hundred and fifty dol-
29 lars per week. Dependency benefits shall be paid for a child
30 of the deceased employee, who is under the age of eighteen, or
31 over said age and physically or mentally incapacitated from
32 earning, or over said age and a full time student qualified for
33 exemption as a dependent under section one hundred and fifty-
34 one (e) of the Internal Revenue Code; provided, in case any
35 child is a child by a former wife or husband, the death benefit
36 shall be divided between the surviving wife or husband and
37 all living children of the deceased employee in equal shares, the
38 surviving wife or husband taking the same share as a child.
39 If the widow or widower dies or remarries, or if there is no
40 surviving wife or husband of the deceased employee, such
41 amount or amounts as would have been payable to or for her
42 or his own use for the benefits of all children of the employee
43 shall be paid in equal shares to all the surviving children of
44 the employee.

45 The total payments due under this section shall not be more
46 than the average weekly wage in effect in the Commonwealth
47 at the time of the injury as determined according to the pro-
48 visions of subsection (a) of Section 29 of Chapter 151A and
49 promulgated by the director of the division of employment
50 security on or before the October first prior to the date of the
51 injury multiplied by two-hundred and fifty plus any costs of
52 living increases provided by this Act except that payment to
53 or for the benefit of children of the deceased employee under
54 the age of eighteen shall not be discontinued prior to the age
55 of eighteen, and except that after a dependent unremarried
56 widow or widower or physically or mentally incapacitated
57 child over the age of eighteen has received the maximum pay-
58 ments, he or she shall continue to receive further payments
59 but only during such periods as he or she is in fact not fully
60 self-supporting. Either party may request hearings at reason-
61 able intervals before a board member on the question of grant-
62 ing such payments, or on the question of restoration of such
63 payments. A member of the board may set a case for hearing

64 on his or her initiative, after due notice to both parties.

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

80 When weekly payments have been made to an injured em-
81 ployee before the employee's death, compensation under this
82 paragraph to dependents shall begin from the date of death
83 of the employee.

