

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 815

Session of  
1985

INTRODUCED BY BOWSER, MERRY, DISTLER, FARGO, HALUSKA, GEIST,  
GODSHALL, LETTERMAN, E. Z. TAYLOR, JOHNSON, HERMAN, NOYE,  
BARLEY, SEMMEL, TRELLO AND PRATT, APRIL 10, 1985

REFERRED TO COMMITTEE ON LABOR RELATIONS, APRIL 10, 1985

AN ACT

1 Amending the act of June 2, 1915 (P.L.736, No.338), entitled, as  
2 reenacted and amended, "An act defining the liability of an  
3 employer to pay damages for injuries received by an employe  
4 in the course of employment; establishing an elective  
5 schedule of compensation; providing procedure for the  
6 determination of liability and compensation thereunder; and  
7 prescribing penalties," transferring certain powers and  
8 duties from the board to the referees; and making editorial  
9 changes.

10 The General Assembly of the Commonwealth of Pennsylvania  
11 hereby enacts as follows:

12 Section 1. Section 307 of the act of June 2, 1915 (P.L.736,  
13 No.338), known as The Pennsylvania Workmen's Compensation Act,  
14 reenacted and amended June 21, 1939 (P.L.520, No.281) and  
15 amended December 5, 1974 (P.L.782, No.263), is amended to read:

16 Section 307. (a) In case of death, compensation shall be  
17 computed on the following basis, and distributed to the  
18 following persons: Provided, That in no case shall the wages of  
19 the deceased be taken to be less than fifty per centum of the  
20 Statewide average weekly wage for purposes of this section:

21 1. If there be no widow nor widower entitled to

1 compensation, compensation shall be paid to the guardian of the  
2 child or children, or, if there be no guardian, to such other  
3 persons as may be designated by [the board] a referee as  
4 hereinafter provided as follows:

5 [(a)] (i) If there be one child, thirty-two per centum of  
6 wages of deceased, but not in excess of the Statewide average  
7 weekly wage.

8 [(b)] (ii) If there be two children, forty-two per centum of  
9 wages of deceased, but not in excess of the Statewide average  
10 weekly wage.

11 [(c)] (iii) If there be three children, fifty-two per centum  
12 of wages of deceased, but not in excess of the Statewide average  
13 weekly wage.

14 [(d)] (iv) If there be four children, sixty-two per centum  
15 of wages of deceased, but not in excess of the Statewide average  
16 weekly wage.

17 [(e)] (v) If there be five children, sixty-four per centum  
18 of wages of deceased, but not in excess of the Statewide average  
19 weekly wage.

20 [(f)] (vi) If there be six or more children, sixty-six and  
21 two-thirds per centum of wages of deceased, but not in excess of  
22 the Statewide average weekly wage.

23 2. To the widow or widower, if there be no children, fifty-  
24 one per centum of wages, but not in excess of the Statewide  
25 average weekly wage.

26 3. To the widow or widower, if there be one child, sixty per  
27 centum of wages, but not in excess of the Statewide average  
28 weekly wage.

29 4. To the widow or widower, if there be two children, sixty-  
30 six and two-thirds per centum of wages but not in excess of the

1   Statewide average weekly wage.

2       4 1/2. To the widow or widower, if there be three or more  
3   children, sixty-six and two thirds per centum of wages, but not  
4   in excess of the Statewide average weekly wage.

5       5. If there be neither widow, widower, nor children entitled  
6   to compensation, then to the father or mother, if dependent to  
7   any extent upon the employe at the time of the injury, thirty-  
8   two per centum of wages but not in excess of the Statewide  
9   average weekly wage: Provided, however, That in the case of a  
10  minor child who has been contributing to his parents, the  
11  dependency of said parents shall be presumed: And provided  
12  further, That if the father or mother was totally dependent upon  
13  the deceased employe at the time of the injury, the compensation  
14  payable to such father or mother shall be fifty-two per centum  
15  of wages, but not in excess of the Statewide average weekly  
16  wage.

17       6. If there be neither widow, widower, children, nor  
18  dependent parent, entitled to compensation, then to the brothers  
19  and sisters, if actually dependent upon the decedent for support  
20  at the time of his death, twenty-two per centum of wages for one  
21  brother or sister, and five per centum additional for each  
22  additional brother or sister, with a maximum of thirty-two per  
23  centum of wages of deceased, but not in excess of the Statewide  
24  average wage, such compensation to be paid to their guardian, or  
25  if there be no guardian, to such other person as may be  
26  designated by [the board] a referee, as hereinafter provided.

27       7. Whether or not there be dependents as aforesaid, the  
28  reasonable expense of burial, not exceeding one thousand five  
29  hundred dollars, which shall be paid by the employer or insurer  
30  directly to the undertaker (without deduction of any amounts

1 theretofore paid for compensation or for medical expenses).

2     **(b)** Compensation shall be payable under this section to or  
3 on account of any child, brother, or sister, only if and while  
4 such child, brother, or sister, is under the age of eighteen  
5 unless such child, brother or sister is dependent because of  
6 disability when compensation shall continue or be paid during  
7 such disability of a child, brother or sister over eighteen  
8 years of age or unless such child is enrolled as a full-time  
9 student in any accredited educational institution when  
10 compensation shall continue until such student becomes twenty-  
11 three. No compensation shall be payable under this section to a  
12 widow, unless she was living with her deceased husband at the  
13 time of his death, or was then actually dependent upon him and  
14 receiving from him a substantial portion of her support. No  
15 compensation shall be payable under this section to a widower,  
16 unless he be incapable of self-support at the time of his wife's  
17 death and be at such time dependent upon her for support. If  
18 members of decedent's household at the time of his death, the  
19 terms "child" and "children" shall include step-children,  
20 adopted children and children to whom he stood in loco parentis,  
21 and shall include posthumous children. Should any dependent of a  
22 deceased employe die or remarry, or should the widower become  
23 capable of self-support, the right of such dependent or widower  
24 to compensation under this section shall cease except that if a  
25 widow remarries, she shall receive one hundred four weeks  
26 compensation at a rate computed in accordance with clause 2. of  
27 section 307 in a lump sum after which compensation shall cease:  
28 Provided, however, That if, upon investigation and hearing, it  
29 shall be ascertained that the widow or widower is living with a  
30 man or woman, as the case may be, in meretricious relationship

1 and not married, or the widow living a life of prostitution,  
2 [the board] a referee may order the termination of compensation  
3 payable to such widow or widower. If the compensation payable  
4 under this section to any person shall, for any cause, cease,  
5 the compensation to the remaining persons entitled thereunder  
6 shall thereafter be the same as would have been payable to them  
7 had they been the only persons entitled to compensation at the  
8 time of the death of the deceased.

9 [The board] (c) A referee may, if the best interest of a  
10 child or children shall so require, at any time order and direct  
11 the compensation payable to a child or children, or to a widow  
12 or widower on account of any child or children, to be paid to  
13 the guardian of such child or children, or, if there be no  
14 guardian, to such other person as [the board] a referee as  
15 hereinafter provided may direct. If there be no guardian or  
16 committee of any minor, dependent, or insane employe, or  
17 dependent, on whose account compensation is payable, the amount  
18 payable on account of such minor, dependent, or insane employe,  
19 or dependent may be paid to any surviving parent, or such other  
20 person as [the board] a referee may order and direct, and [the  
21 board] a referee may require any person, other than a guardian  
22 or committee, to whom [it] the referee has directed compensation  
23 for a minor, dependent, or insane employe, or dependent to be  
24 paid, to render, as and when [it] the referee shall so order,  
25 accounts of the receipts and disbursements of such person, and  
26 to file with [it] the referee a satisfactory bond in a sum  
27 sufficient to secure the proper application of the moneys  
28 received by such person.

29 Section 2. Sections 314 and 316 of the act, amended February  
30 28, 1956 (1955 P.L.1120, No.356), are amended to read:

1       Section 314. (a) At any time after an injury the employe,  
2 if so requested by his employer, must submit himself for  
3 examination, at some reasonable time and place, to a physician  
4 or physicians legally authorized to practice under the laws of  
5 such place, who shall be selected and paid by the employer. If  
6 the employe shall refuse upon the request of the employer, to  
7 submit to the examination by the physician or physicians  
8 selected by the employer, the [board] referee may, upon petition  
9 of the employer, order the employe to submit to an examination  
10 at a time and place set by [it] him, and by the physician or  
11 physicians selected and paid by the employer, or by a physician  
12 or physicians designated by [it] the referee and paid by the  
13 employer. The [board] referee may at any time after such first  
14 examination, upon petition of the employer, order the employe to  
15 submit himself to such further examinations as [it] he shall  
16 deem reasonable and necessary, at such times and places and by  
17 such physicians as [it] the referee may designate; and in such  
18 case, the employer shall pay the fees and expenses of the  
19 examining physician or physicians, and the reasonable traveling  
20 expenses and loss of wages incurred by the employe in order to  
21 submit himself to such examination. The refusal or neglect,  
22 without reasonable cause or excuse, of the employe to submit to  
23 such examination ordered by the [board] referee, either before  
24 or after an agreement or award, shall deprive him of the right  
25 to compensation, under this article, during the continuance of  
26 such refusal or neglect, and the period of such neglect or  
27 refusal shall be deducted from the period during which  
28 compensation would otherwise be payable.

29       (b) The employe shall be entitled to have a physician or  
30 physicians of his own selection, to be paid by him, participate

1 in any examination requested by his employer or ordered by the  
2 [board] referee.

3 Section 316. The compensation contemplated by this article  
4 may at any time be commuted by [the board] a referee, at its  
5 then value when discounted at five per centum interest, with  
6 annual rests, upon application of either party, with due notice  
7 to the other, if it appear that such commutation will be for the  
8 best interest of the employe or the dependents of the deceased  
9 employe, and that it will avoid undue expense or undue hardship  
10 to either party, or that such employe or dependent has removed  
11 or is about to remove from the United States, or that the  
12 employer has sold or otherwise disposed of the whole or the  
13 greater part of his business or assets: Provided, however, That  
14 unless the employer agrees to make such commutation, the [board]  
15 referee may require the employe or the dependents of the  
16 deceased employe to furnish proper indemnity safeguarding the  
17 employer's rights.

18 Section 3. Section 317 of the act is amended to read:

19 Section 317. At any time after the approval of an agreement  
20 or after the entry of the award, a sum equal to all future  
21 instalments of compensation may (where death or the nature of  
22 the injury renders the amount of future payments certain), with  
23 the approval of [the board] a referee, be paid by the employer  
24 to any savings bank, trust company, or life insurance company,  
25 in good standing and authorized to do business in this  
26 Commonwealth, and such sum, together with all interest thereon,  
27 shall thereafter be held in trust for the employe or the  
28 dependents of the employe, who shall have no further recourse  
29 against the employer. The payment of such sum by the employer,  
30 evidenced by the receipt of the trustee noted upon the

1 prothonotary's docket, shall operate as a satisfaction of said  
2 award as to the employer. Payments from said fund shall be made  
3 by the trustee in the same amounts and at the same periods as  
4 are herein required of the employer, until said fund and  
5 interest shall be exhausted. In the appointment of the trustee  
6 preference shall be given in the discretion of the [board]  
7 referee, to the choice of the employe or the dependents of the  
8 deceased employe. Should, however, there remain any unexpended  
9 balance of any fund after the payment of all sums due under this  
10 act, such balance shall be repaid to the employer who made the  
11 original payment, or to his legal representatives.

12 Section 4. This act shall take effect immediately.