

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 348

Session of
2003

INTRODUCED BY LEDERER, WATSON, McGEEHAN, DONATUCCI, CAWLEY,
BISHOP, YOUNGBLOOD, WASHINGTON, STABACK, LAUGHLIN, CRUZ,
DeWEESE, HENNESSEY, GOODMAN, DAILEY, BROWNE, CORRIGAN,
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SCRIMENTI, FLICK, JOSEPHS, MELIO, THOMAS, HORSEY, PALLONE,
J. TAYLOR, PISTELLA AND REICHLEY, FEBRUARY 18, 2003

AS REPORTED FROM COMMITTEE ON LABOR RELATIONS, HOUSE OF
REPRESENTATIVES, AS AMENDED, APRIL 29, 2003

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," further providing for the payment of
8 compensation to widows, widowers and children.

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

11 Section 1. Section 307 of the act of June 2, 1915 (P.L.736,
12 No.338), known as the Workers' Compensation Act, reenacted and
13 amended June 21, 1939 (P.L.520, No.281) and amended July 2, 1993
14 (P.L.190, No.44), is amended to read:

15 Section 307. In case of death, compensation shall be
16 computed on the following basis, and distributed to the
17 following persons: Provided, That in no case shall the wages of
18 the deceased be taken to be less than fifty per centum of the

1 Statewide average weekly wage for purposes of this section:

2 [1.] (1) If there be no widow nor widower entitled to
3 compensation, compensation shall be paid to the guardian of the
4 child or children, or, if there be no guardian, to such other
5 persons as may be designated by the board as hereinafter
6 provided as follows:

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

10 (b) If there be two children, forty-two per centum of wages
11 of deceased, but not in excess of the Statewide average weekly
12 wage.

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

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

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

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

25 The amounts payable under (b), (c), (d), (e) and (f) of clause
26 (1) of section 307 shall be divided equally among the children
27 if those children are with different guardians.

28 [2.] (2) To the widow or widower, if there be no children,
29 fifty-one per centum of wages, but not in excess of the
30 Statewide average weekly wage.

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

4 4. To the widow or widower, if there be two children, sixty-
5 six and two-thirds per centum of wages but not in excess of the
6 Statewide average weekly wage.

7 4 1/2. To the widow or widower, if there be three or more
8 children, sixty-six and two thirds per centum of wages, but not
9 in excess of the Statewide average weekly wage.

10 ~~5.] (3) To the widow or widower who is a custodial parent:~~ <—

11 ~~(a) If there is one child, sixty per centum of wages, but~~
12 ~~not in excess of the Statewide average weekly wage.~~

13 ~~(b) If there are two or more children, sixty six and two~~
14 ~~thirds per centum of wages, but not in excess of the Statewide~~
15 ~~average weekly wage.~~

16 ~~(4) To the widow or widower who is a non custodial parent:~~

17 ~~(a) If there is one child, sixty per centum of wages, but~~
18 ~~not in excess of the Statewide average weekly wage to be divided~~
19 ~~equally between the widow or widower and the child.~~

20 ~~(b) If there are two or more children, sixty six and two~~
21 ~~thirds per centum of wages, but not in excess of the Statewide~~
22 ~~average weekly wage to be divided equally between the widow or~~
23 ~~widower and the children.~~

24 5.] (3) TO THE WIDOW OR WIDOWER WHO IS THE GUARDIAN OF ALL <—
25 OF THE DECEASED'S CHILDREN, PAYMENT SHALL BE AS FOLLOWS:

26 (A) IF THERE IS ONE CHILD, SIXTY PER CENTUM OF WAGES, BUT
27 NOT IN EXCESS OF THE STATEWIDE AVERAGE WEEKLY WAGE.

28 (B) IF THERE ARE TWO OR MORE CHILDREN, SIXTY-SIX AND TWO-
29 THIRDS PER CENTUM OF WAGES, BUT NOT IN EXCESS OF THE STATEWIDE
30 AVERAGE WEEKLY WAGE.

1 (4) IF THERE IS A WIDOW OR WIDOWER WHO IS NOT THE GUARDIAN
2 OF ALL OF THE DECEASED'S CHILDREN, THE WIDOW OR WIDOWER AND TO
3 THE RESPECTIVE GUARDIANS AS FOLLOWS:

4 (A) IF THERE IS ONE CHILD, A TOTAL OF SIXTY PER CENTUM OF
5 WAGES, BUT NOT IN EXCESS OF THE STATEWIDE AVERAGE WEEKLY WAGE,
6 TO BE DIVIDED EQUALLY BETWEEN THE WIDOW OR WIDOWER AND THE
7 CHILD.

8 (B) IF THERE ARE TWO OR MORE CHILDREN, A TOTAL OF SIXTY-SIX
9 AND TWO-THIRDS PER CENTUM OF WAGES, BUT NOT IN EXCESS OF THE
10 STATEWIDE AVERAGE WEEKLY WAGE, TO BE DIVIDED AS FOLLOWS: THIRTY-
11 THREE AND ONE-THIRD PER CENTUM TO THE WIDOW OR WIDOWER AND THE
12 REMAINDER TO BE DIVIDED EQUALLY AMONG THE CHILDREN.

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

25 [6.] (6) If there be neither widow, widower, children, nor
26 dependent parent, entitled to compensation, then to the brothers
27 and sisters, if actually dependent upon the decedent for support
28 at the time of his death, twenty-two per centum of wages for one
29 brother or sister, and five per centum additional for each
30 additional brother or sister, with a maximum of thirty-two per

1 centum of wages of deceased, but not in excess of the Statewide
2 average wage, such compensation to be paid to their guardian, or
3 if there be no guardian, to such other person as may be
4 designated by the board, as hereinafter provided.

5 [7.] (7) Whether or not there be dependents as aforesaid,
6 the reasonable expense of burial, not exceeding three thousand
7 dollars (\$3,000), which shall be paid by the employer or insurer
8 directly to the undertaker (without deduction of any amounts
9 theretofore paid for compensation or for medical expenses).

10 Compensation shall be payable under this section to or on
11 account of any child, brother, or sister, only if and while such
12 child, brother, or sister, is under the age of eighteen unless
13 such child, brother or sister is dependent because of disability
14 when compensation shall continue or be paid during such
15 disability of a child, brother or sister over eighteen years of
16 age or unless such child is enrolled as a full-time student in
17 any accredited educational institution when compensation shall
18 continue until such student becomes twenty-three. No
19 compensation shall be payable under this section to a widow,
20 unless she was living with her deceased husband at the time of
21 his death, or was then actually dependent upon him and receiving
22 from him a substantial portion of her support. No compensation
23 shall be payable under this section to a widower, unless he be
24 incapable of self-support at the time of his wife's death and be
25 at such time dependent upon her for support. If members of
26 decedent's household at the time of his death, the terms "child"
27 and "children" shall include step-children, adopted children and
28 children to whom he stood in loco parentis, and children of the
29 deceased and shall include posthumous children. Should any
30 dependent of a deceased employe die or remarry, or should the

1 widower become capable of self-support, the right of such
2 dependent or widower to compensation under this section shall
3 cease except that if a widow remarries, she shall receive one
4 hundred four weeks compensation at a rate computed in accordance
5 with clause [2.]—~~(2)~~ of section 307] (2) in a lump sum after <—
6 which compensation shall cease: Provided, however, That if, upon
7 investigation and hearing, it shall be ascertained that the
8 widow or widower is living with a man or woman, as the case may
9 be, in meretricious relationship and not married, or the widow
10 living a life of prostitution, the board may order the
11 termination of compensation payable to such widow or widower. If
12 the compensation payable under this section to any person shall,
13 for any cause, cease, the compensation to the remaining persons
14 entitled thereunder shall thereafter be the same as would have
15 been payable to them had they been the only persons entitled to
16 compensation at the time of the death of the deceased.

17 The board may, if the best interest of a child or children
18 shall so require, at any time order and direct the compensation
19 payable to a child or children, or to a widow or widower on
20 account of any child or children, to be paid to the guardian of
21 such child or children, or, if there be no guardian, to such
22 other person as the board as hereinafter provided may direct. If
23 there be no guardian or committee of any minor, dependent, or
24 insane employe, or dependent, on whose account compensation is
25 payable, the amount payable on account of such minor, dependent,
26 or insane employe, or dependent may be paid to any surviving
27 parent, or such other person as the board may order and direct,
28 and the board may require any person, other than a guardian or
29 committee, to whom it has directed compensation for a minor,
30 dependent, or insane employe, or dependent to be paid, to

1 render, as and when it shall so order, accounts of the receipts
2 and disbursements of such person, and to file with it a
3 satisfactory bond in a sum sufficient to secure the proper
4 application of the moneys received by such person.

5 Section 2. This act shall apply to all claims arising on or
6 after the effective date of this ~~act~~ SECTION. <—

7 Section 3. This act shall take effect immediately.