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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1643 Session of  
2021

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INTRODUCED BY WHITE, JUNE 16, 2021

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REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, JUNE 16, 2021

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AN ACT

1 Amending the act of June 2, 1915 (P.L.736, No.338), entitled "An  
2 act defining the liability of an employer to pay damages for  
3 injuries received by an employe in the course of employment;  
4 establishing an elective schedule of compensation; providing  
5 procedure for the determination of liability and compensation  
6 thereunder; and prescribing penalties," in liability and  
7 compensation, further providing for compensation in case of  
8 death.

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, is amended to  
13 read:

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

19 (1) If there be no widow nor widower entitled to  
20 compensation, compensation shall be paid to the guardian of the  
21 child or children, or, if there be no guardian, to such other

1 persons as may be designated by the board as hereinafter  
2 provided as follows:

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

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

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

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

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

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

21 The amounts payable under [(b), (c), (d), (e) and (f)] (ii),  
22 (iii), (iv), (v) and (vi) of clause (1) of this [section]  
23 subsection shall be divided equally among the children if those  
24 children are with different guardians.

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

28 (3) To the widow or widower who is the guardian of all of  
29 the deceased's children, payment shall be as follows:

30 [(a)] (i) If there is one child, sixty per centum of wages,

1 but not in excess of the Statewide average weekly wage.

2 [(b)] (ii) If there are two or more children, sixty-six and  
3 two-thirds per centum of wages, but not in excess of the  
4 Statewide average weekly wage.

5 (4) If there is a widow or widower who is not the guardian  
6 of all of the deceased's children, the widow or widower and to  
7 the respective guardians as follows:

8 [(a)] (i) If there is one child, a total of sixty per centum  
9 of wages, but not in excess of the Statewide average weekly  
10 wage, to be divided equally between the widow or widower and the  
11 child.

12 [(b)] (ii) If there are two or more children, a total of  
13 sixty-six and two-thirds per centum of wages, but not in excess  
14 of the Statewide average weekly wage, to be divided as follows:  
15 thirty-three and one-third per centum to the widow or widower  
16 and the remainder to be divided equally among the children.

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

29 (6) If there be neither widow, widower, children, nor  
30 dependent parent, entitled to compensation, then to the brothers

1 and sisters, if actually dependent upon the decedent for support  
2 at the time of his death, twenty-two per centum of wages for one  
3 brother or sister, and five per centum additional for each  
4 additional brother or sister, with a maximum of thirty-two per  
5 centum of wages of deceased, but not in excess of the Statewide  
6 average wage, such compensation to be paid to their guardian, or  
7 if there be no guardian, to such other person as may be  
8 designated by the board, as hereinafter provided.

9 (7) Whether or not there be dependents as aforesaid, the  
10 reasonable expense of burial, not exceeding seven thousand  
11 dollars (\$7,000), which shall be paid by the employer or insurer  
12 directly to the undertaker (without deduction of any amounts  
13 theretofore paid for compensation or for medical expenses).

14 (b) Compensation shall be payable under this section to or  
15 on account of any child, brother, or sister, only if and while  
16 such child, brother, or sister, is under the age of eighteen  
17 unless such child, brother or sister is dependent because of  
18 disability when compensation shall continue or be paid during  
19 such disability of a child, brother or sister over eighteen  
20 years of age or unless such child is enrolled as a full-time  
21 student in any accredited educational institution when  
22 compensation shall continue until such student becomes twenty-  
23 three. No compensation shall be payable under this section to a  
24 widow or widower, unless [she] the widow or widower was living  
25 with [her deceased husband] the widow's or widower's deceased  
26 spouse at the time of [his] the spouse's death, or was then  
27 actually dependent upon [him] and receiving from [him] the  
28 spouse a substantial portion of [her] support. [No compensation  
29 shall be payable under this section to a widower, unless he be  
30 incapable of self-support at the time of his wife's death and be

1 at such time dependent upon her for support.] If members of  
2 decedent's household at the time of his death, the terms "child"  
3 and "children" shall include step-children, adopted children and  
4 children to whom he stood in loco parentis, and children of the  
5 deceased and shall include posthumous children. Should any  
6 dependent of a deceased employe die or remarry, or should the  
7 widower become capable of self-support, the right of such  
8 dependent or widower to compensation under this section shall  
9 cease except that if a widow remarries, she shall receive one  
10 hundred four weeks compensation at a rate computed in accordance  
11 with clause (2) of subsection (a) in a lump sum after which  
12 compensation shall cease: Provided, however, That if, upon  
13 investigation and hearing, it shall be ascertained that the  
14 widow or widower is [living with a man or woman, as the case may  
15 be, in meretricious relationship and not married, or the widow]  
16 living a life of prostitution, the board may order the  
17 termination of compensation payable to such widow or widower. If  
18 the compensation payable under this section to any person shall,  
19 for any cause, cease, the compensation to the remaining persons  
20 entitled thereunder shall thereafter be the same as would have  
21 been payable to them had they been the only persons entitled to  
22 compensation at the time of the death of the deceased.

23 (c) The board may, if the best interest of a child or  
24 children shall so require, at any time order and direct the  
25 compensation payable to a child or children, or to a widow or  
26 widower on account of any child or children, to be paid to the  
27 guardian of such child or children, or, if there be no guardian,  
28 to such other person as the board as hereinafter provided may  
29 direct. If there be no guardian or committee of any minor,  
30 dependent, or insane employe, or dependent, on whose account

1 compensation is payable, the amount payable on account of such  
2 minor, dependent, or insane employe, or dependent may be paid to  
3 any surviving parent, or such other person as the board may  
4 order and direct, and the board may require any person, other  
5 than a guardian or committee, to whom it has directed  
6 compensation for a minor, dependent, or insane employe, or  
7 dependent to be paid, to render, as and when it shall so order,  
8 accounts of the receipts and disbursements of such person, and  
9 to file with it a satisfactory bond in a sum sufficient to  
10 secure the proper application of the moneys received by such  
11 person.

12 Section 2. The amendment of section 307 of the act shall  
13 apply to all claims arising on or after the effective date of  
14 this section.

15 Section 3. This act shall take effect in 60 days.