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2 86th General Assembly
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A Bill

SENATE BILL 836

4
5 By: Senator Broadway
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For An Act To Be Entitled

9 AN ACT TO INCREASE WORKERS' COMPENSATION FUNERAL
10 BENEFITS; TO ADD A ONE-TIME DEATH BENEFIT; TO
11 AMEND A PORTION OF ARKANSAS CODE WHICH RESULTED
12 FROM INITIATED ACT 4 OF 1948; AND FOR OTHER
13 PURPOSES.
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Subtitle

15 TO INCREASE WORKERS' COMPENSATION
16 FUNERAL BENEFITS; TO ADD A ONE-TIME
17 DEATH BENEFIT; AND TO AMEND A PORTION OF
18 ARKANSAS CODE WHICH RESULTED FROM
19 INITIATED ACT 4 OF 1948.
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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25 SECTION 1. Arkansas Code § 11-9-527, concerning workers' compensation
26 death benefits and derived from Initiated Act 4 of 1948, is amended to read
27 as follows:

28 11-9-527. Compensation for death.

29 (a) Funeral Expenses. If death results from an injury occurring on or
30 after July 1, 1993, the employer shall pay the actual funeral expenses, not
31 exceeding the sum of ~~six thousand dollars (\$6,000)~~ seven thousand five
32 hundred dollars (\$7,500).

33 (b) Time of Death. If death does not result within one (1) year from
34 the date of the accident or within the first three (3) years of the period
35 for compensation payments fixed by the compensation order, a rebuttable
36 presumption shall arise that the death did not result from the injury.



1 (c) Beneficiaries - Amounts. Subject to the limitations as set out in
2 §§ 11-9-501 - 11-9-506, compensation for the death of an employee shall be
3 paid to those persons who were wholly and actually dependent upon the
4 deceased employee in the following percentage of the average weekly wage of
5 the employee and in the following order of preference:

6 (1)(A)(i) To the widow if there is no child, thirty-five percent
7 (35%), and the compensation shall be paid until her death or remarriage.

8 (ii) However, the widow shall establish, in fact,
9 some dependency upon the deceased employee before she will be entitled to
10 benefits as provided in this section;

11 (B)(i) To the widower if there is no child, thirty-five
12 percent (35%), and the compensation shall be paid until his death or
13 remarriage.

14 (ii) However, the widower shall establish, in fact,
15 some dependency upon the deceased employee before he will be entitled to
16 benefits as provided in this section;

17 (2) To the widow or widower if there is a child, the
18 compensation payable under subdivision (c)(1) of this section and fifteen
19 percent (15%) on account of each child;

20 (3)(A) To one (1) child if there is no widow or widower, fifty
21 percent (50%).

22 (B) If more than one (1) child, and there is no widow or
23 widower, fifteen percent (15%) for each child, and in addition thereto,
24 thirty-five percent (35%) to the children as a class, to be divided equally
25 among them;

26 (4) To the parents, twenty-five percent (25%) each;

27 (5) To brothers, sisters, grandchildren, and grandparents,
28 fifteen percent (15%) each.

29 (d) Terminations of Dependence. (1) In the event the widow remarries
30 before full and complete payment to her of the benefits provided in
31 subsection (c) of this section, there shall be paid to her a lump sum equal
32 to compensation for one hundred four (104) weeks, subject to the limitation
33 set out in §§ 11-9-501 - 11-9-506.

34 (2) A physically or mentally incapacitated child, grandchild,
35 brother, or sister shall be entitled to compensation as a dependent of the
36 deceased employee without regard to age or marital status, but if physically

1 or mentally capacitated to earn a livelihood, dependency shall terminate with
2 the attainment of eighteen (18) years of age or upon marriage. However,
3 benefits to an otherwise eligible child shall not terminate at ~~the age of~~
4 eighteen (18) years of age, provided that the child is a full-time student
5 who has not attained ~~the age of~~ twenty-five (25) years of age.

6 (e) Apportionment of Benefits. ~~Where~~ When, because of the limitation
7 in subsection (c) of this section, a person or class of persons cannot
8 receive the percentage of compensation specified as payable to or on account
9 of the person or class, there shall be available to the person or class that
10 proportion of the percentage which, when added to the total percentage
11 payable to all persons having priority or preference, will not exceed a total
12 of sixty-five percent (65%), which proportion shall be paid:

13 (1) To that person; or

14 (2) To that class in equal shares unless the ~~Worker's~~ Workers'
15 Compensation Commission determines otherwise in accordance with the
16 provisions of subsection (f) of this section.

17 (f) Determination of Beneficiaries Within Class. If the commission
18 determines that payments in accordance with subdivision (e)(2) of this
19 section would provide no substantial benefit to any person of the class, it
20 may provide for the payment of the compensation to the persons within the
21 class whom it considers will be most benefited by the payment.

22 (g) Cessation of Portion of Compensation ~~to Part~~. Upon the cessation
23 of compensation under this section to or on account of any person, the
24 compensation of the remaining persons entitled to compensation for the
25 unexpired part of the period during which their compensation is payable shall
26 be that which the persons would have received if they had been the only
27 persons entitled to compensation at the time of the decedent's death.

28 (h) Determination of Dependency. All questions of dependency shall be
29 determined as of the time of the injury.

30 (i) Partial Dependency. (1) If the employee leaves dependents who are
31 only partially dependent upon his or her earnings for support at the time of
32 injury, the compensation payable for partial dependency shall be in the
33 proportion that the partial dependency bears to total dependency.

34 (2) In any claim for partial dependency ~~where~~ when the average
35 weekly contributions for support were not such as to entitle all dependents
36 to compensation in the aggregate sum of seven dollars (\$7.00) per week, the

1 dependents shall receive compensation for a period not to exceed four hundred
 2 fifty (450) weeks in an amount not to exceed the amount of average weekly
 3 contributions of the deceased employee for the support of the dependents.

4 (j) Lump-Sum Death Benefit. In addition to any other payment under
 5 this subchapter, the employer shall pay a one-time lump-sum payment of fifty
 6 thousand dollars (\$50,000) to the estate of the deceased employee if death
 7 results from a compensable injury.

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 9 SECTION 2. Arkansas Code § 11-9-501 is amended to read as follows:

10 11-9-501. Limitations on compensation - Death and disability.

11 (a)(1) Compensation to the injured employee shall not be allowed for
 12 the first seven (7) days' disability resulting from injury, excluding the day
 13 of injury.

14 (2) If a disability extends beyond that period, compensation
 15 shall commence with the ninth day of disability.

16 (3) If a disability extends for a period of two (2) weeks,
 17 compensation shall be allowed beginning the first day of disability,
 18 excluding the day of injury.

19 (b) ~~Compensation~~ When compensation is payable to an injured employee
 20 for disability, other than permanent partial disability as specified in
 21 subsection (d) of this section, and compensation in addition to the lump-sum
 22 death benefit under § 11-9-527(j) payable to surviving dependents of a
 23 deceased employee, the total disability rate shall not exceed sixty-six and
 24 two-thirds percent (66 2/3%) of the employee's average weekly wage with a
 25 twenty dollar (\$20.00) per week minimum, subject to the following maximums:

26 (1) For disability or death due to an injury occurring on and
 27 after July 1, 1987, through December 31, 1988, the maximum weekly benefits
 28 payable shall be one hundred eighty-nine dollars (\$189);

29 (2) For disability or death due to an injury occurring on and
 30 after January 1, 1989, through December 31, 1989, the maximum weekly benefits
 31 payable shall be sixty-six and two-thirds percent (66 2/3%) of the state
 32 average weekly wage;

33 (3) For a disability or death which results from an injury
 34 occurring on and after January 1, 1990, the maximum weekly benefit payable
 35 shall be seventy percent (70%) of the state average weekly wage;

36 (4) For a disability or death which results from an injury

1 occurring during a calendar year beginning on or after January 1, 1996, the
2 maximum weekly benefit payable shall be eighty-five percent (85%) of the
3 state average weekly wage if, and only if, the Insurance Commissioner
4 certifies to the Workers' Compensation Commission during December 1995, that
5 the overall workers' compensation insurance rates for Arkansas have decreased
6 by at least ten percent (10%) subsequent to July 1, 1993;

7 (5) After January 1, 1994, the weekly benefit rate shall be
8 rounded to the nearest whole dollar, i.e., if the actual rate be a dollar
9 amount plus forty-nine cents (49¢) or less, the rate for compensation
10 purposes shall be the next lower whole dollar amount, and, if the actual rate
11 be a dollar amount plus fifty cents (50¢) or more, then the rate for
12 compensation purposes shall be the next higher whole dollar amount.

13 (c)(1) Upon request of the respondent or carrier, the commission shall
14 review the claim and determine the necessity for additional temporary total
15 benefits after forty (40) weeks or after any thirteen-week interval
16 thereafter and may, if warranted by the preponderance of the evidence on the
17 basis of the record as a whole, extend the period of payment for temporary
18 total disability.

19 (2) Any weekly benefit payments made after the commission has
20 terminated temporary total benefits shall be classified as warranted by the
21 facts in the case and as otherwise provided for in this chapter.

22 (d)(1) The permanent partial disability rate for compensation payable
23 to an employee for permanent partial disability which results from an injury
24 occurring on or after July 1, 1986, shall not exceed sixty-six and two-thirds
25 percent ($66\frac{2}{3}\%$) of the employee's average weekly wage, with a twenty dollar
26 (\$20.00) per week minimum, subject to a maximum of one hundred fifty-four
27 dollars (\$154). However, if the employee's total disability rate for the
28 injury would be two hundred five dollars and thirty-five cents (\$205.35) per
29 week or greater, then the maximum permanent partial disability rate shall be
30 seventy-five percent (75%) of the employee's total disability rate.

31 (2)(A) The permanent partial disability rate provided herein
32 shall also apply to scheduled permanent injuries except those resulting in
33 amputation or permanent total loss of use of a member.

34 (B) The permanent partial disability rate for amputation
35 or permanent total loss of use of a member shall be the same as the
36 employee's total disability rate as specified in subsection (b) of this

1 section, subject to the maximum as set forth in subdivision (b)(4) of this
2 section.

3 (3) The provisions of this subsection shall apply only to those
4 injuries which occur on or after January 1, 1996.

5 (e) Compensation payable to the dependents of a deceased employee
6 shall be in addition to:

7 (1) ~~the~~ The funeral allowance and lump-sum death benefit under §
8 11-9-527(j); and

9 (2) ~~those benefits~~ Benefits which were paid or to which the
10 injured employee was entitled in his or her lifetime under §§ 11-9-508 - 11-
11 9-517 and §§ 11-9-519 - 11-9-526.

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