

FIRST REGULAR SESSION

HOUSE BILL NO. 725

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MCGAUGH.

1400H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 287.240, RSMo, and to enact in lieu thereof one new section relating to death benefits for dependents of deceased employees.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 287.240, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 287.240, to read as follows:

287.240. If the injury causes death, either with or without disability, the compensation therefor shall be as provided in this section:

(1) In all cases the employer shall pay direct to the persons furnishing the same the reasonable expense of the burial of the deceased employee not exceeding five thousand dollars. But no person shall be entitled to compensation for the burial expenses of a deceased employee unless he **or she** has furnished the same by authority of the widow or widower, the nearest relative of the deceased employee in the county of his **or her** death, his **or her** personal representative, or the employer, who shall have the right to give the authority in the order named.

All fees and charges under this section shall be fair and reasonable, shall be subject to regulation by the division or the commission and shall be limited to such as are fair and reasonable for similar service to persons of a like standard of living. The division or the commission shall also have jurisdiction to hear and determine all disputes as to the charges. If the deceased employee leaves no dependents, the death benefit in this subdivision provided shall be the limit of the liability of the employer under this chapter on account of the death, except as herein provided for burial expenses and except as provided in section 287.140; provided that in all cases when the employer admits or does not deny liability for the burial expense, it shall be paid within thirty days after written notice, that the service has been rendered, has been delivered to the employer.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 The notice may be sent by registered mail, return receipt requested, or may be made by personal
19 delivery;

20 (2) The employer shall also pay to the [total] dependents of the employee a death benefit
21 based on the employee's average weekly earnings during the year immediately preceding the
22 injury that results in the death of the employee, as provided in section 287.250. The amount of
23 compensation for death, which shall be paid in installments in the same manner that
24 compensation is required to be paid under this chapter, shall be computed as follows:

25 (a) If the injury which caused the death occurred on or after September 28, 1983, but
26 before September 28, 1986, the weekly compensation shall be an amount equal to sixty-six and
27 two-thirds percent of the employee's average weekly earnings during the year immediately
28 preceding the injury; provided that the weekly compensation paid under this paragraph shall not
29 exceed an amount equal to seventy percent of the state average weekly wage, as such wage is
30 determined by the division of employment security, as of the July first immediately preceding
31 the date of injury[. ~~If there is a total dependent, no death benefits shall be payable to partial~~
32 ~~dependents or any other persons except as provided in subdivision (1) of this section];~~

33 (b) If the injury which caused the death occurred on or after September 28, 1986, but
34 before August 28, 1990, the weekly compensation shall be an amount equal to sixty-six and
35 two-thirds percent of the employee's average weekly earnings during the year immediately
36 preceding the injury; provided that the weekly compensation paid under this paragraph shall not
37 exceed an amount equal to seventy-five percent of the state average weekly wage, as such wage
38 is determined by the division of employment security, as of the July first immediately preceding
39 the date of injury[. ~~If there is a total dependent, no death benefit shall be payable to partial~~
40 ~~dependents or any other persons except as provided in subdivision (1) of this section];~~

41 (c) If the injury which caused the death occurred on or after August 28, 1990, but before
42 August 28, 1991, the weekly compensation shall be an amount equal to sixty-six and two-thirds
43 percent of the injured employee's average weekly earnings as of the date of the injury; provided
44 that the weekly compensation paid under this paragraph shall not exceed an amount equal to one
45 hundred percent of the state average weekly wage;

46 (d) If the injury which caused the death occurred on or after August 28, 1991, the weekly
47 compensation shall be an amount equal to sixty-six and two-thirds percent of the injured
48 employee's average weekly earnings as of the date of the injury; provided that the weekly
49 compensation paid under this paragraph shall not exceed an amount equal to one hundred five
50 percent of the state average weekly wage;

51 (e) If the injury which caused the death occurred on or after September 28, 1981, the
52 weekly compensation shall in no event be less than forty dollars per week;

53 (3) ~~[If there are partial dependents, and no total dependents, a part of the death benefit~~
54 ~~herein provided in the case of total dependents, determined by the proportion of his contributions~~
55 ~~to all partial dependents by the employee at the time of the injury, shall be paid by the employer~~
56 ~~to each of the dependents proportionately;~~

57 ~~——(4)] The word "dependent" as used in this chapter shall [be construed to] mean [a relative~~
58 ~~by blood or marriage of a deceased employee, who is actually dependent for support, in whole~~
59 ~~or in part, upon his or her wages at the time of the injury. The following persons shall be~~
60 ~~conclusively presumed to be totally dependent for support upon a deceased employee, and any~~
61 ~~death benefit shall be payable to them to the exclusion of other total dependents]:~~

62 (a) A wife upon a husband with whom she lives or who is legally liable for her support,
63 and a husband upon a wife with whom he lives or who is legally liable for his support; provided
64 that on the death or remarriage of a widow or widower, the death benefit shall cease unless there
65 be other ~~[total]~~ dependents entitled to any death benefits under this chapter. In the event of
66 remarriage, a lump sum payment equal in amount to the benefits due for a period of two years
67 shall be paid to the widow or widower. Thereupon the periodic death benefits shall cease unless
68 there are other ~~[total]~~ dependents entitled to any death benefit under this chapter, in which event
69 the periodic benefits to which such widow or widower would have been entitled had he or she
70 not died or remarried shall be divided among such other ~~[total]~~ dependents and paid to them
71 during their period of entitlement under this chapter; **or**

72 (b) A natural, posthumous, or adopted child or children, whether legitimate or
73 illegitimate, under the age of eighteen years, or over that age if physically or mentally
74 incapacitated from wage earning, upon the parent legally liable for the support or with whom he,
75 she, or they are living at the time of the death of the parent. In case there is a wife or a husband
76 mentally or physically incapacitated from wage earning, dependent upon a wife or husband, and
77 a child or more than one child thus dependent, the death benefit shall be divided among them in
78 such proportion as may be determined by the commission after considering their ages and other
79 facts bearing on the dependency. In all other cases questions of ~~[total or partial]~~ **the degree of**
80 dependency shall be determined in accordance with the facts at the time of the injury, and in such
81 other cases if there is more than one person wholly dependent the death benefit shall be divided
82 equally among them. The payment of death benefits to a child or other dependent as provided
83 in this paragraph shall cease when the dependent dies, attains the age of eighteen years, or
84 becomes physically and mentally capable of wage earning over that age, or until twenty-two
85 years of age if the child of the deceased is in attendance and remains as a full-time student in any
86 accredited educational institution, or if at eighteen years of age the dependent child is a member
87 of the Armed Forces of the United States on active duty; provided, however, that such dependent
88 child shall be entitled to compensation during four years of full-time attendance at a fully

89 accredited educational institution to commence prior to twenty-three years of age and
90 immediately upon cessation of his **or her** active duty in the Armed Forces, unless there are other
91 ~~[total]~~ dependents entitled to the death benefit under this chapter;

92 ~~[(5)]~~ (4) The division or the commission may, in its discretion, order or award the share
93 of compensation of any such child to be paid to the parent, grandparent, or other adult next of
94 kin or conservator of the child for the latter's support, maintenance and education, which order
95 or award upon notice to the parties may be modified from time to time by the commission in its
96 discretion with respect to the person to whom shall be paid the amount of the order or award
97 remaining unpaid at the time of the modification;

98 ~~[(6)]~~ (5) The payments of compensation by the employer in accordance with the order
99 or award of the division or the commission shall discharge the employer from all further
100 obligations as to the compensation;

101 ~~[(7)]~~ (6) All death benefits in this chapter shall be paid in installments in the same
102 manner as provided for disability compensation;

103 ~~[(8)]~~ (7) Every employer shall keep a record of the correct names and addresses of the
104 dependents of each of his **or her** employees, and upon the death of an employee by accident
105 arising out of and in the course of his **or her** employment shall so far as possible immediately
106 furnish the division with such names and addresses;

107 ~~[(9)]~~ (8) Dependents receiving death benefits under the provisions of this chapter shall
108 annually report to the division as to marital status in the case of a widow or widower or age and
109 physical or mental condition of a dependent child. The division shall provide forms for the
110 making of such reports.

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