

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 1988

H.P. 1381

House of Representatives, March 23, 1999

**An Act to Provide for Benefits to Surviving Dependents of Employees
Who Die as a Result of Work Injuries.**

Reference to the Committee on Labor suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative HATCH of Skowhegan.
Cosponsored by Senator CAREY of Kennebec and
Representatives: MATTHEWS of Winslow, RICHARDSON of Brunswick, SAMSON of Jay,
STANLEY of Medway.

Be it enacted by the People of the State of Maine as follows:

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4 **Sec. 1. 39-A MRSA §215**, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is repealed and the following enacted in its place:

6 **§215. Death benefits**

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10 **1. Death of employee.** If death results from the injury of an employee, the employer shall pay or cause to be paid to the dependents of the employee at the time of the injury, a weekly payment equal to 80% of the employee's after-tax average weekly wage, but not more than the maximum benefit under section 211, from the date of death until the time provided for in subsection 2. This weekly compensation must be adjusted annually so that it continues to have the same percentage relationship to the state average weekly wage, as computed by the Maine Unemployment Insurance Commission, as it did at the time of the injury, but the annual adjustment may not exceed the lesser of 5% or the actual percentage increase in the state average weekly wage for the previous year. The annual adjustment required by this section must be made on the anniversary date of the injury, except when the effect of the maximum under section 211 is to reduce the amount of compensation to which the claimant would otherwise be entitled, the adjustment must be made annually on July 1st.

28 **2. Determination of recipients.** Compensation is payable to the dependent spouse of an employee until the death of the spouse or such time that the spouse becomes a dependent of another person. The compensation that previously was payable to the dependent spouse must be paid to any child of the deceased employee, including an adopted child or stepchild under 18 years of age or over that age if physically or mentally incapacitated from earning a wage and who was dependent upon the spouse for support. Compensation must be divided equally among all of the dependent children. Except for those dependents who are physically or mentally incapacitated from earning a wage, compensation ceases when the child reaches 18 years of age or is married before reaching that age.

42 **3. Partial dependency.** If the employee leaves dependents only partly dependent upon the employee's earnings for support at the time of the employee's injury, the employer shall pay those dependents a weekly compensation equal to the same percentage of support that the employer pays to dependents under subsection 2. The percentage of wages that the employee paid to those partial dependents in the year prior to the employee's death must be used to calculate the amount of the employer's contribution.

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SUMMARY

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6 This bill amends the workers' compensation laws regarding
7 weekly compensation that is payable to the surviving dependents
8 of employees who die as a result of work injuries. The bill
9 provides for an annual adjustment of the weekly compensation so
10 that it continues to have the same percentage relationship to the
11 state average weekly wage as computed by the Maine Unemployment
12 Insurance Commission as it did at the time of the employee's
13 injury. The bill removes the current 500 week maximum limit for
14 receiving compensation and allows payable compensation until the
15 death of the dependent spouse or such time that the spouse
16 becomes a dependent of another person. Upon the death of a
17 surviving spouse, this bill continues to provide compensation for
18 any dependent children under 18 years of age or longer if
19 physically or mentally handicapped. Weekly compensation that is
20 equal to the same proportion of weekly payments provided to fully
dependent people is provided to dependents who were partially
dependent upon the employee's support.