

MAINE STATE LEGISLATURE

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Date: 6/8/07

L.D. 1327
(Filing No. H-504)

LABOR

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
123RD LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 935, L.D. 1327, Bill, "An Act To Amend Survivors' Benefits under the Workers' Compensation Laws"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'Sec. 1. 39-A MRSA §215, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

§215. Death benefits

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 who were wholly dependent upon the employee's earnings for support 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, for a period of 500 weeks from the date of death. If the employee leaves dependents only partially dependent upon the employee's earnings for support at the time of injury, the employer shall pay weekly compensation equal to the same proportion of the weekly payments for the benefit of persons wholly dependent, as 80% of the amount contributed by the employee to such partial dependents bears to the annual earnings of the deceased at the time of injury. If, at the expiration of the 500-week period, any wholly or partially dependent person is less than 18 years of age, the employer shall continue to pay or cause to be paid the weekly compensation until that person reaches the age of 18.

If a dependent spouse dies or becomes a dependent of another person, the payments must cease upon the payment to the spouse of the balance of the compensation to which the spouse would otherwise have been entitled but in no event to exceed the sum of \$500.00. The remaining weeks of compensation, if any, are payable to those persons either wholly or partially dependent upon the employee for support at the employee's death. ~~The board shall determine the amount of compensation or portion thereof that is payable weekly to the wholly or partially dependent person.~~ When, at the expiration of the 500-week period, any wholly or partially dependent person is less than 18 years of age, the

COMMITTEE AMENDMENT

1 employer shall continue to pay or cause to be paid the weekly compensation, until that
2 person reaches the age of 18. The payment of compensation to any dependent child after
3 the expiration of the 500-week period ceases when the child reaches the age of 18 years,
4 if at the age of 18 years the child is neither physically nor mentally incapacitated from
5 earning, or when the child reaches the age of 16 years and thereafter is self-supporting for
6 6 months. If the child ceases to be self-supporting thereafter, the dependency must be
7 reinstated. As long as any of the 500 weeks of compensation remain, that compensation
8 is payable to the person either wholly or partially dependent upon the deceased employee
9 for support at the time of the employee's death, with the exception of a dependent spouse
10 who becomes a dependent of another. If a wholly dependent or partially dependent child
11 who reaches 18 years of age is either physically or mentally incapacitated so as to be
12 unable to earn a living as determined by the board, the payments must continue until such
13 time as the child either dies or is no longer physically or mentally incapacitated from
14 earning.

15 **2. Death of an injured employee.** The death of the injured employee prior to the
16 expiration of the period within which the employee would receive weekly payments ends
17 the disability and all liability for the remainder of the payments that the employee would
18 have received in case the employee had lived is terminated, but the employer is liable for
19 the following death benefits in lieu of any further disability indemnity.

20 A. If the injury received by the employee was the proximate cause of the
21 employee's death and the deceased employee leaves dependents wholly or partially
22 dependent on the employee for support, the death benefit ~~must be a sum sufficient,~~
23 ~~when added to the indemnity benefits that at the time of death have been paid or~~
24 ~~become payable under section 212 or 213 to the deceased employee, to make the total~~
25 ~~compensation for the injury and death is~~ equal to the full amount that the dependents
26 would have been entitled to receive under subsection 1 if the injury had resulted in
27 immediate death. Benefits under this paragraph are payable in the same manner as if
28 the injury resulted in immediate death.

29 B. If an application for benefits has been filed but has not been decided by the
30 board or is on appeal and the employee dies from a cause unrelated to the employee's
31 injury, the proceedings may be continued in the name of the employee's personal
32 representative. In such a case, any benefits awarded are payable up to time of death
33 and must be paid to the same beneficiaries and in the same amounts as would have
34 been payable if the employee had suffered a compensable injury resulting in death.

35 **Sec. 2. Application.** This Act applies to claims filed on or after the effective date
36 of this Act.

37 **SUMMARY**

38 This amendment restores the 500-week limitation on payment of survivors' benefits
39 removed by the bill but removes the death benefit credit employers have under current
40 law for indemnity payments made to an injured worker up to the time of death.

FISCAL NOTE REQUIRED
(See attached)



Approved: 06/08/07 *MAC*

123rd MAINE LEGISLATURE

LD 1327

LR 1601(02)

An Act To Amend Survivors' Benefits under the Workers' Compensation Laws

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Labor

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - All Funds

Fiscal Detail and Notes

This legislation may increase the amount of funds paid out by the State from the Workers' Compensation Management Fund. The impact to the State as an employer can not be determined at this time but is not expected to be significant.