

# MAINE STATE LEGISLATURE

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# 123rd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2007

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Legislative Document

No. 1327

H.P. 935

House of Representatives, March 12, 2007

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

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Reference to the Committee on Labor suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative WATSON of Bath.  
Cosponsored by Senator STRIMLING of Cumberland and  
Representatives: CLARK of Millinocket, PRIEST of Brunswick, RAND of Portland,  
SIMPSON of Auburn, Senator: BARTLETT of Cumberland.

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

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

4 **§215. Death benefits**

5 **1. Death of employee.** If death results from the injury of an employee, the employer  
6 shall pay or cause to be paid to the dependents of the employee who were wholly  
7 dependent upon the employee's earnings for support at the time of the injury; a weekly  
8 payment equal to 80% of the employee's after-tax average weekly wage, but not more  
9 than the maximum benefit under section 211, ~~for a period of 500 weeks from the date of~~  
10 ~~death.~~ If the employee leaves dependents only partially dependent upon the employee's  
11 earnings for support at the time of injury, the employer shall pay weekly compensation  
12 equal to the same proportion of the weekly payments for the benefit of persons wholly  
13 dependent; as 80% of the amount contributed by the employee to such partial dependents  
14 bears to the annual earnings of the deceased at the time of injury. ~~If, at the expiration of~~  
15 ~~the 500-week period, any wholly or partially dependent person is less than 18 years of~~  
16 ~~age, the employer shall continue to pay or cause to be paid the weekly compensation until~~  
17 ~~that person reaches the age of 18.~~

18 If a dependent spouse dies or becomes a dependent of another person, the payments must  
19 cease ~~upon the payment to the spouse of the balance of the compensation to which the~~  
20 ~~spouse would otherwise have been entitled but in no event to exceed the sum of \$500.00~~  
21 unless any wholly dependent or partially dependent person is less than 18 years of age, in  
22 which case the employer shall continue to pay or cause to be paid weekly compensation  
23 until that person reaches 18 years of age. ~~The remaining weeks of compensation, if any,~~  
24 ~~are payable to those persons either wholly or partially dependent upon the employee for~~  
25 ~~support at the employee's death. The board shall determine the amount of compensation~~  
26 ~~or portion thereof that is payable weekly to the wholly or partially dependent person.~~  
27 ~~When, at the expiration of the 500-week period, any wholly or partially dependent person~~  
28 ~~is less than 18 years of age, the employer shall continue to pay or cause to be paid the~~  
29 ~~weekly compensation, until that person reaches the age of 18. The payment of~~  
30 ~~compensation to any dependent child after the expiration of the 500-week period ceases~~  
31 ~~when the child reaches the age of 18 years, if at the age of 18 years the child is neither~~  
32 ~~physically nor mentally incapacitated from earning, or when the child reaches the age of~~  
33 ~~16 years and thereafter is self-supporting for 6 months. If the child ceases to be self-~~  
34 ~~supporting thereafter, the dependency must be reinstated. As long as any of the 500~~  
35 ~~weeks of compensation remain, that compensation is payable to the person either wholly~~  
36 ~~or partially dependent upon the deceased employee for support at the time of the~~  
37 ~~employee's death, with the exception of a dependent spouse who becomes a dependent of~~  
38 ~~another. If a wholly dependent or partially dependent child who reaches 18 years of age is~~  
39 either physically or mentally incapacitated from earning then the payments must continue  
40 until such time as the child either dies or is no longer physically or mentally incapacitated  
41 from earning.

42 ~~**2. Death of an injured employee.** The death of the injured employee prior to the~~  
43 ~~expiration of the period within which the employee would receive weekly payments ends~~

1 ~~the disability and all liability for the remainder of the payments that the employee would~~  
2 ~~have received in case the employee had lived is terminated, but the employer is liable for~~  
3 ~~the following death benefits in lieu of any further disability indemnity.~~

4 ~~A.— If the injury received by the employee was the proximate cause of the~~  
5 ~~employee's death and the deceased employee leaves dependents wholly or partially~~  
6 ~~dependent on the employee for support, the death benefit must be a sum sufficient,~~  
7 ~~when added to the indemnity benefits that at the time of death have been paid or~~  
8 ~~become payable under section 212 or 213 to the deceased employee, to make the total~~  
9 ~~compensation for the injury and death equal to the full amount that the dependents~~  
10 ~~would have been entitled to receive under subsection 1 if the injury had resulted in~~  
11 ~~immediate death. Benefits under this paragraph are payable in the same manner as if~~  
12 ~~the injury resulted in immediate death.~~

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

#### 19 SUMMARY

20 This bill amends the law governing survivors' benefits under the workers'  
21 compensation laws to remove the 500-week limitation on survivors' benefits.