

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 1253

H.P. 914

House of Representatives, March 14, 2019

**An Act To Fairly Compensate for Fatal Accidents under the Maine
Workers' Compensation Act of 1992**

Reference to the Committee on Labor and Housing suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative SYLVESTER of Portland.

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

2 **Sec. 1. 39-A MRSA §215, sub-§1**, as amended by PL 2011, c. 647, §12, is
3 further amended to read:

4 **1. Death of employee; date of injury prior to January 1, 2013.** If an injured
5 employee's date of injury is prior to January 1, 2013 and if death results from the injury of
6 the employee, the employer shall pay or cause to be paid to the dependents of the
7 employee who were wholly dependent upon the employee's earnings for support at the
8 time of the injury a weekly payment equal to 80% of the employee's after-tax average
9 weekly wage, but not more than the maximum benefit under section 211, ~~for a period of~~
10 ~~500 weeks from the date of death~~. If the employee leaves dependents only partially
11 dependent upon the employee's earnings for support at the time of injury, the employer
12 shall pay weekly compensation equal to the same proportion of the weekly payments for
13 the benefit of persons wholly dependent, as 80% of the amount contributed by the
14 employee to such partial dependents bears to the annual earnings of the deceased at the
15 time of injury. ~~If, at the expiration of the 500-week period,~~ any wholly or partially
16 dependent person is less than 18 years of age, the employer shall continue to pay or cause
17 to be paid the weekly compensation until 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 The remaining ~~weeks of~~ compensation, if any, are ~~is~~ payable to those persons either
22 wholly or partially dependent upon the employee for support at the employee's death.
23 ~~When, at the expiration of the 500-week period,~~ any wholly or partially dependent person
24 is less than 18 years of age, the employer shall continue to pay or cause to be paid the
25 weekly compensation, until that person reaches the age of 18. The payment of
26 compensation to any dependent child ~~after the expiration of the 500-week period~~ ceases
27 when the child reaches the age of 18 years, if at the age of 18 years the child is neither
28 physically nor mentally incapacitated from earning, or when the child reaches the age of
29 16 years and thereafter is self-supporting for 6 months. If the child ceases to be self-
30 supporting thereafter, the dependency must be reinstated. ~~As long as any of the 500~~
31 ~~weeks of compensation remain,~~ and that compensation is payable to the person either
32 wholly or partially dependent upon the deceased employee for support at the time of the
33 employee's death, with the exception of a dependent spouse who becomes a dependent of
34 another. If a wholly dependent or partially dependent child who reaches 18 years of age
35 is either physically or mentally incapacitated so as to be unable to earn a living as
36 determined by the board, the payments must continue until such time as the child either
37 dies or is no longer physically or mentally incapacitated from earning.

38 **Sec. 2. 39-A MRSA §215, sub-§1-A**, as enacted by PL 2011, c. 647, §13, is
39 amended to read:

40 **1-A. Death of employee; date of injury on or after January 1, 2013.** If an injured
41 employee's date of injury is on or after January 1, 2013 and if death results from the
42 injury of the employee, the employer shall pay or cause to be paid to the dependents of
43 the employee who were wholly dependent upon the employee's earnings for support at

1 the time of the injury a weekly payment equal to 2/3 of the employee's gross average
2 weekly wages, earnings or salary, but not more than the maximum benefit under section
3 211, ~~for a period of 500 weeks from the date of death.~~ If the employee leaves dependents
4 only partially dependent upon the employee's earnings for support at the time of injury,
5 the employer shall pay weekly compensation equal to the same proportion of the weekly
6 payments for the benefit of persons wholly dependent, as 2/3 of the amount contributed
7 by the employee to such partial dependents bears to the annual earnings of the deceased
8 at the time of injury. ~~If, at the expiration of the 500-week period,~~ any wholly or partially
9 dependent person is less than 18 years of age, the employer shall continue to pay or cause
10 to be paid the weekly compensation until that person reaches the age of 18.

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

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SUMMARY

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Current law limits to 500 weeks the duration of death benefits under the laws
33 governing workers' compensation. This bill removes the 500-week cap.