

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for
2 Senate Bill No. 66, Page 11, Section 287.203, Line 11, by inserting immediately after said section
3 and line the following:
4

5 "287.240. If the injury causes death, either with or without disability, the compensation
6 therefor shall be as provided in this section:

7 (1) In all cases the employer shall pay direct to the persons furnishing the same the
8 reasonable expense of the burial of the deceased employee not exceeding five thousand dollars. But
9 no person shall be entitled to compensation for the burial expenses of a deceased employee unless
10 he or she has furnished the same by authority of the widow or widower, the nearest relative of the
11 deceased employee in the county of his or her death, his or her personal representative, or the
12 employer, who shall have the right to give the authority in the order named. All fees and charges
13 under this section shall be fair and reasonable, shall be subject to regulation by the division or the
14 commission and shall be limited to such as are fair and reasonable for similar service to persons of a
15 like standard of living. The division or the commission shall also have jurisdiction to hear and
16 determine all disputes as to the charges. If the deceased employee leaves no dependents, the death
17 benefit in this subdivision provided shall be the limit of the liability of the employer under this
18 chapter on account of the death, except as herein provided for burial expenses and except as
19 provided in section 287.140; provided that in all cases when the employer admits or does not deny
20 liability for the burial expense, it shall be paid within thirty days after written notice, that the service
21 has been rendered, has been delivered to the employer. The notice may be sent by registered mail,
22 return receipt requested, or may be made by personal delivery;

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

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

36 (b) If the injury which caused the death occurred on or after September 28, 1986, but before

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

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

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

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

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

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

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

(b) A natural, posthumous, or adopted child or children, whether legitimate or illegitimate, including any stepchild claimable by the deceased on his or her federal tax return at the time of injury, under the age of eighteen years, or over that age if physically or mentally incapacitated from wage earning, upon the parent legally liable for the support or with whom he, she, or they are living at the time of the death of the parent. In case there is a wife or a husband mentally or physically incapacitated from wage earning, dependent upon a wife or husband, and a child or more than one child thus dependent, the death benefit shall be divided among them in such proportion as may be determined by the commission after considering their ages and other facts bearing on the dependency. In all other cases questions of ~~[total or partial]~~ the degree of dependency shall be determined in accordance with the facts at the time of the injury, and in such other cases if there is

1 more than one person wholly dependent the death benefit shall be divided equally among them. The
2 payment of death benefits to a child or other dependent as provided in this paragraph shall cease
3 when the dependent dies, attains the age of eighteen years, or becomes physically and mentally
4 capable of wage earning over that age, or until twenty-two years of age if the child of the deceased
5 is in attendance and remains as a full-time student in any accredited educational institution, or if at
6 eighteen years of age the dependent child is a member of the Armed Forces of the United States on
7 active duty; provided, however, that such dependent child shall be entitled to compensation during
8 four years of full-time attendance at a fully accredited educational institution to commence prior to
9 twenty-three years of age and immediately upon cessation of his or her active duty in the Armed
10 Forces, unless there are other ~~[total]~~ dependents entitled to the death benefit under this chapter;

11 [(5)] (4) The division or the commission may, in its discretion, order or award the share of
12 compensation of any such child to be paid to the parent, grandparent, or other adult next of kin or
13 conservator of the child for the latter's support, maintenance and education, which order or award
14 upon notice to the parties may be modified from time to time by the commission in its discretion
15 with respect to the person to whom shall be paid the amount of the order or award remaining unpaid
16 at the time of the modification;

17 [(6)] (5) The payments of compensation by the employer in accordance with the order or
18 award of the division or the commission shall discharge the employer from all further obligations as
19 to the compensation;

20 [(7)] (6) All death benefits in this chapter shall be paid in installments in the same manner
21 as provided for disability compensation;

22 [(8)] (7) Every employer shall keep a record of the correct names and addresses of the
23 dependents of each of his or her employees, and upon the death of an employee by accident arising
24 out of and in the course of his or her employment shall so far as possible immediately furnish the
25 division with such names and addresses;

26 [(9)] (8) Dependents receiving death benefits under the provisions of this chapter shall
27 annually report to the division as to marital status in the case of a widow or widower or age and
28 physical or mental condition of a dependent child. The division shall provide forms for the making
29 of such reports."; and
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31 Further amend said bill by amending the title, enacting clause, and intersectional references
32 accordingly.