

ASSEMBLY, No. 4655

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED DECEMBER 13, 2007

Sponsored by:
Assemblyman NEIL M. COHEN
District 20 (Union)

SYNOPSIS

Increases workers' compensation benefits for dependents.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT increasing certain workers' compensation benefits for
2 dependents and amending R.S.34:15-13.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. R.S.34:15-13 is amended to read as follows:

8 34:15-13. Except as hereinafter provided, in case of death,
9 compensation shall be computed, but not distributed, on the
10 following basis:

11 a. For one or more dependents, **[70%]** 100% of wages.

12 b. (Deleted by amendment, P.L.2003, c.253).

13 c. (Deleted by amendment, P.L.2003, c.253).

14 d. (Deleted by amendment, P.L.2003, c.253).

15 e. (Deleted by amendment, P.L.2003, c.253).

16 f. The term "dependents" shall apply to and include any or all
17 of the following who are dependent upon the deceased at the time of
18 accident or the occurrence of occupational disease, or at the time of
19 death, namely: husband, wife, parent, stepparents, grandparents,
20 children, stepchildren, grandchildren, child in esse, posthumous
21 child, illegitimate children, brothers, sisters, half brothers, half
22 sisters, niece, nephew. Legally adopted children shall, in every
23 particular, be considered as natural children. Dependency shall be
24 conclusively presumed as to the decedent's spouse and to any
25 natural child of a decedent under 18 years of age or, if enrolled as a
26 full-time student, under 23 years of age, who was actually a part of
27 the decedent's household at the time of the decedent's death. Every
28 provision of this article applying to one class shall be equally
29 applicable to the other. Should any dependent of a deceased
30 employee die during the period covered by such weekly payments
31 the right of such dependent to compensation under this section shall
32 cease, but should the surviving spouse of a deceased employee
33 remarry during **[such]** the period **[and before the total**
34 **compensation is paid]** of survivorship, the spouse shall be entitled
35 to receive **[the remainder of the compensation which would have**
36 **been due the spouse had the spouse not remarried, or]** 100 times the
37 amount of weekly compensation paid immediately preceding the
38 remarriage**[, whichever is the lesser]**. The foregoing schedule
39 applies only to persons wholly dependent, and in the case of
40 persons only partially dependent, except in the case of the surviving
41 spouse and children who were actually a part of the decedent's
42 household at the time of death, the compensation shall be such
43 proportion of the scheduled percentage as the amounts actually
44 contributed to them by the deceased for their support constituted of

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 his total wages and the provision as to a minimum of 20% of the
2 average weekly wage as set forth in subsection a. of R.S.34:15-12
3 shall not apply to such compensation. In determining the number of
4 dependents, where the deceased employee was a minor, the number
5 of persons dependent upon the deceased employee shall be
6 determined in the same way as if the deceased employee were an
7 adult, notwithstanding any rule of law as to the person entitled to a
8 minor's wages.

9 g. Compensation shall be computed upon the foregoing basis.
10 Distribution shall be made among dependents, if more than one,
11 according to the order of the Division of Workers' Compensation,
12 which shall, when applied to for that purpose, determine, upon the
13 facts being presented to it, the proportion to be paid to or on behalf
14 of each dependent according to the relative-dependency. Payment
15 on behalf of infants shall be made to the surviving parent, if any, or
16 to the statutory or testamentary guardian.

17 h. If death results from the accident or occupational disease,
18 whether there be dependents or not, expenses of the last sickness of
19 the deceased employee shall be paid in accordance with the
20 provisions for medical and hospital service as set forth in
21 R.S.34:15-15. In addition, the cost of burial and of a funeral, not to
22 exceed \$3,500 shall be paid to the dependent or other person having
23 paid the costs of burial and the funeral. In the event that the
24 dependent or other person has paid less than \$3,500 for the costs of
25 burial and the funeral, the dependent or other person shall be
26 reimbursed in the amount paid and, if the costs of burial and the
27 funeral exceed the amount so paid, the difference between the said
28 amount and \$3,500 or so much thereof as may be necessary to pay
29 the cost of burial and the funeral, shall be paid to the undertaker or
30 embalmer or the dependent or other person having paid the costs of
31 burial and the funeral. In the event that no part of the costs of
32 burial and the funeral have been paid, the amount of such cost of
33 burial and the funeral, not to exceed \$3,500, shall be paid to the
34 undertaker or embalmer or the dependent or other person who is to
35 pay the costs of burial and the funeral.

36 i. In computing compensation to those named in this section,
37 except husband, wife, parents and stepparents, and except as
38 otherwise provided in this section, only those under 18 or over 40
39 years of age shall be included and then only for that period in which
40 they are under 18 or over 40; provided, however, that payments to
41 such physically or mentally deficient persons **[as]** who are for such
42 reason dependent shall be made during the full compensation period
43 of 450 weeks.

44 j. The maximum weekly compensation in case of death shall
45 be subject to the maximum weekly compensation as stated in
46 subsection a. of R.S.34:15-12 and a minimum of 20% of average
47 weekly wages per week as set forth in subsection a. of R.S.34:15-
48 12, except in the case of partial dependency as provided in this

1 section. This compensation shall be paid, in the case of a surviving
2 spouse, during the entire period of survivorship or until such
3 surviving spouse shall remarry and, in the case of other dependents,
4 during 450 weeks and if at the expiration of 450 weeks there shall
5 be one or more dependents under 18 years of age, compensation
6 shall be continued for such dependents until they reach 18 years of
7 age, or 23 years of age while enrolled as a full-time student, at the
8 schedule provided under subsection a. of this section.

9 (cf: P.L.2003, c.253, s.1)

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11 2. This act shall take effect immediately and apply to all claims
12 accruing on or after the effective date.

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STATEMENT

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17 This bill increases the weekly workers' compensation benefit
18 amount for the dependents of a worker who dies from workplace
19 illness or injury from 70% to 100% of the worker's weekly wages
20 received at the time of the death.

21 The bill also expressly stipulates that a surviving spouse of a
22 deceased worker who remarries during the period of survivorship is
23 entitled to receive a lump sum of 100 times the amount of weekly
24 compensation paid immediately preceding the remarriage.
25 Currently, the Department of Labor and Workforce Development
26 interprets the law that the surviving spouse who remarries receives
27 a lump sum only during the first 450 weeks after the death of the
28 worker, even though the law currently provides that a surviving
29 spouse receives the compensation for the duration of the spouse's
30 life if there is no remarriage.