

## No. 2006-68

## AN ACT

## HB 30

Amending the act of June 2, 1915 (P.L.736, No.338), entitled, as reenacted and amended, "An act defining the liability of an employer to pay damages for injuries received by an employe in the course of employment; establishing an elective schedule of compensation; providing procedure for the determination of liability and compensation thereunder; and prescribing penalties," further providing for the payment of compensation to widows, widowers and children.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 307 of the act of June 2, 1915 (P.L.736, No.338), known as the Workers' Compensation Act, reenacted and amended June 21, 1939 (P.L.520, No.281) and amended July 2, 1993 (P.L.190, No.44), is amended to read:

Section 307. In case of death, compensation shall be computed on the following basis, and distributed to the following persons: Provided, That in no case shall the wages of the deceased be taken to be less than fifty per centum of the Statewide average weekly wage for purposes of this section:

[1.] (1) If there be no widow nor widower entitled to compensation, compensation shall be paid to the guardian of the child or children, or, if there be no guardian, to such other persons as may be designated by the board as hereinafter provided as follows:

(a) If there be one child, thirty-two per centum of wages of deceased, but not in excess of the Statewide average weekly wage.

(b) If there be two children, forty-two per centum of wages of deceased, but not in excess of the Statewide average weekly wage.

(c) If there be three children, fifty-two per centum of wages of deceased, but not in excess of the Statewide average weekly wage.

(d) If there be four children, sixty-two per centum of wages of deceased, but not in excess of the Statewide average weekly wage.

(e) If there be five children, sixty-four per centum of wages of deceased, but not in excess of the Statewide average weekly wage.

(f) If there be six or more children, sixty-six and two-thirds per centum of wages of deceased, but not in excess of the Statewide average weekly wage.

*The amounts payable under (b), (c), (d), (e) and (f) of clause (1) of this section shall be divided equally among the children if those children are with different guardians.*

[2.] (2) To the widow or widower, if there be no children, fifty-one per centum of wages, but not in excess of the Statewide average weekly wage.

[3. To the widow or widower, if there be one child, sixty per centum of wages, but not in excess of the Statewide average weekly wage.

4. To the widow or widower, if there be two children, sixty-six and two-thirds per centum of wages but not in excess of the Statewide average weekly wage.

4 1/2. To the widow or widower, if there be three or more children, sixty-six and two thirds per centum of wages, but not in excess of the Statewide average weekly wage.

5.] (3) *To the widow or widower who is the guardian of all of the deceased's children, payment shall be as follows:*

*(a) If there is one child, sixty per centum of wages, but not in excess of the Statewide average weekly wage.*

*(b) If there are two or more children, sixty-six and two-thirds per centum of wages, but not in excess of the Statewide average weekly wage.*

*(4) If there is a widow or widower who is not the guardian of all of the deceased's children, the widow or widower and to the respective guardians as follows:*

*(a) If there is one child, a total of sixty per centum of wages, but not in excess of the Statewide average weekly wage, to be divided equally between the widow or widower and the child.*

*(b) If there are two or more children, a total of sixty-six and two-thirds per centum of wages, but not in excess of the Statewide average weekly wage, to be divided as follows: thirty-three and one-third per centum to the widow or widower and the remainder to be divided equally among the children.*

(5) If there be neither widow, widower, nor children entitled to compensation, then to the father or mother, if dependent to any extent upon the employe at the time of the injury, thirty-two per centum of wages but not in excess of the Statewide average weekly wage: Provided, however, That in the case of a minor child who has been contributing to his parents, the dependency of said parents shall be presumed: And provided further, That if the father or mother was totally dependent upon the deceased employe at the time of the injury, the compensation payable to such father or mother shall be fifty-two per centum of wages, but not in excess of the Statewide average weekly wage.

[6.] (6) If there be neither widow, widower, children, nor dependent parent, entitled to compensation, then to the brothers and sisters, if actually dependent upon the decedent for support at the time of his death, twenty-two per centum of wages for one brother or sister, and five per centum additional for each additional brother or sister, with a maximum of thirty-two per centum of wages of deceased, but not in excess of the Statewide average wage, such compensation to be paid to their guardian, or if there be no guardian, to such other person as may be designated by the board, as hereinafter provided.

[7.] (7) Whether or not there be dependents as aforesaid, the reasonable expense of burial, not exceeding three thousand dollars (\$3,000), which shall be paid by the employer or insurer directly to the undertaker (without

deduction of any amounts theretofore paid for compensation or for medical expenses).

Compensation shall be payable under this section to or on account of any child, brother, or sister, only if and while such child, brother, or sister, is under the age of eighteen unless such child, brother or sister is dependent because of disability when compensation shall continue or be paid during such disability of a child, brother or sister over eighteen years of age or unless such child is enrolled as a full-time student in any accredited educational institution when compensation shall continue until such student becomes twenty-three. No compensation shall be payable under this section to a widow, unless she was living with her deceased husband at the time of his death, or was then actually dependent upon him and receiving from him a substantial portion of her support. No compensation shall be payable under this section to a widower, unless he be incapable of self-support at the time of his wife's death and be at such time dependent upon her for support. If members of decedent's household at the time of his death, the terms "child" and "children" shall include step-children, adopted children and children to whom he stood in loco parentis, and children of the deceased and shall include posthumous children. Should any dependent of a deceased employe die or remarry, or should the widower become capable of self-support, the right of such dependent or widower to compensation under this section shall cease except that if a widow remarries, she shall receive one hundred four weeks compensation at a rate computed in accordance with clause **[2. of section 307] (2)** in a lump sum after which compensation shall cease: Provided, however, That if, upon investigation and hearing, it shall be ascertained that the widow or widower is living with a man or woman, as the case may be, in meretricious relationship and not married, or the widow living a life of prostitution, the board may order the termination of compensation payable to such widow or widower. If the compensation payable under this section to any person shall, for any cause, cease, the compensation to the remaining persons entitled thereunder shall thereafter be the same as would have been payable to them had they been the only persons entitled to compensation at the time of the death of the deceased.

The board may, if the best interest of a child or children shall so require, at any time order and direct the compensation payable to a child or children, or to a widow or widower on account of any child or children, to be paid to the guardian of such child or children, or, if there be no guardian, to such other person as the board as hereinafter provided may direct. If there be no guardian or committee of any minor, dependent, or insane employe, or dependent, on whose account compensation is payable, the amount payable on account of such minor, dependent, or insane employe, or dependent may be paid to any surviving parent, or such other person as the board may order and direct, and the board may require any person, other than a guardian or committee, to whom it has directed compensation for a minor, dependent, or insane employe, or dependent to be paid, to render, as and when it shall so

order, accounts of the receipts and disbursements of such person, and to file with it a satisfactory bond in a sum sufficient to secure the proper application of the moneys received by such person.

Section 2. This act shall apply to all claims arising on or after the effective date of this act.

Section 3. This act shall take effect immediately.

APPROVED—The 7th day of July, A.D. 2006.

EDWARD G. RENDELL