

1 ENGROSSED SENATE AMENDMENTS
TO
2 ENGROSSED HOUSE
BILL NO. 1738

By: Townley of the House

and

Alvord of the Senate

[workers' compensation - death benefits for
survivors - death benefit amount - effective date]

10 AMENDMENT NO. 1. Page 2, line 18, insert after the word "wage" and
11 before the period "." the words "for claims with a
12 date of accident occurring on or after the
effective date of this act"

13 AMENDMENT NO. 2. Page 2, line 22, insert after the word "wage" and
14 before the semicolon ";" the words "for claims
with a date of accident occurring on or after the
effective date of this act"

15 AMENDMENT NO. 3. Page 5, line 3, insert a new Section 2 to read

16 "SECTION 2. This act shall become effective January 1, 2024."

17 and amend the title to conform

18 AMENDMENT NO. 4. Page 1, restore the amended title

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1 Passed the Senate the 18th day of April, 2023.

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3 _____
4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2023.

7
8 _____
9 Presiding Officer of the House
10 of Representatives

1 ENGROSSED HOUSE
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6 [workers' compensation - death benefits for
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8

9 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

10 SECTION 1. AMENDATORY 85A O.S. 2021, Section 47, is
11 amended to read as follows:

12 Section 47. A. Time of death. If death does not result within
13 one (1) year from the date of the accident or within the first three
14 (3) years of the period for compensation payments fixed by the
15 compensation judgment, a rebuttable presumption shall arise that the
16 death did not result from the injury.

17 B. Common law spouse. A common law spouse shall not be
18 entitled to benefits under this section unless he or she obtains an
19 order from the Workers' Compensation Commission ruling that a common
20 law marriage existed between the decedent and the surviving spouse.
21 The ruling by the Commission shall be exclusive in regard to
22 benefits under this section regardless of any district court
23 decision regarding the probate of the decedent's estate.

24

1 C. Beneficiaries - Amounts. If an injury or occupational
2 illness causes death, weekly income benefits shall be payable as
3 follows:

4 1. If there is a surviving spouse, a lump-sum payment of One
5 Hundred Thousand Dollars (\$100,000.00) and seventy percent (70%) of
6 the lesser of the deceased employee's average weekly wage and the
7 state average weekly wage. In addition to the benefits theretofore
8 paid or due, two (2) years' indemnity benefit in one lump sum shall
9 be payable to a surviving spouse upon remarriage;

10 2. If there is a surviving spouse and a one (1) child ~~or~~
11 ~~children, the child shall receive~~ a lump-sum payment of Twenty-five
12 Thousand Dollars (\$25,000.00) and fifteen percent (15%) of the
13 lesser of the deceased employee's average weekly wage and the state
14 average weekly wage ~~to each child~~. If there is more than one (1)
15 child but less than five (5) children, each child shall receive a
16 lump-sum payment of Twenty-five Thousand Dollars (\$25,000.00) and a
17 pro rata share of thirty percent (30%) of the deceased employee's
18 average weekly wage. If there are five (5) or more ~~than two~~
19 children, each child shall receive a pro rata share of ~~Fifty~~
20 ~~Thousand Dollars (\$50,000.00)~~ One Hundred Thousand Dollars
21 (\$100,000.00) and a pro rata share of thirty percent (30%) of the
22 deceased employee's average weekly wage;

23 3. If there is a child or children and no surviving spouse, a
24 lump-sum payment of Twenty-five Thousand Dollars (\$25,000.00) and

1 fifty percent (50%) of the lesser of the deceased employee's average
2 weekly wage and the state average weekly wage to each child. If
3 there are more than two children, each child shall receive a pro
4 rata share of one hundred percent (100%) of the lesser of the
5 deceased employee's average weekly wage and the state average weekly
6 wage. With respect to the lump-sum payment, if there are more than
7 six children, each child shall receive a pro rata share of One
8 Hundred Fifty Thousand Dollars (\$150,000.00);

9 4. If there is no surviving spouse or children, each legal
10 guardian, if financially dependent on the employee at the time of
11 death, shall receive twenty-five percent (25%) of the lesser of the
12 deceased employee's average weekly wage and the state average weekly
13 wage until the earlier of death, becoming eligible for Social
14 Security, obtaining full-time employment, or five (5) years from the
15 date benefits under this section begin; and

16 5. The employer shall pay the actual funeral expenses, not
17 exceeding the sum of Ten Thousand Dollars (\$10,000.00).

18 D. The weekly income benefits payable to the surviving spouse
19 under this section shall continue while the surviving spouse remains
20 unmarried. In no event shall this spousal weekly income benefit be
21 diminished by the award to other beneficiaries. The weekly income
22 benefits payable to any child under this section shall terminate on
23 the earlier of death, marriage, or reaching the age of eighteen
24 (18). However, if the child turns eighteen (18) and is:

1 1. Enrolled as a full-time student in high school or is being
2 schooled by other means pursuant to the Oklahoma Constitution;

3 2. Enrolled as a full-time student in any accredited
4 institution of higher education or vocational or technology
5 education; or

6 3. Physically or mentally incapable of self-support,
7 then he or she may continue to receive weekly income benefits under
8 this section until the earlier of reaching the age of twenty-three
9 (23) or, with respect to paragraphs 1 and 2 of this subsection, no
10 longer being enrolled as a student, and with respect to paragraph 3
11 of this subsection, becoming capable of self-support.

12 E. If any member of the class of beneficiaries who receive a
13 pro rata share of weekly income benefits becomes ineligible to
14 continue to receive benefits, the remaining members of the class
15 shall receive adjusted weekly income benefits equal to the new class
16 size.

17 F. To receive benefits under this section, a beneficiary or his
18 or her guardian, if applicable, shall file a proof of loss form with
19 the Commission. All questions of dependency shall be determined as
20 of the time of the injury. The employer shall initiate payment of
21 benefits within fifteen (15) days of the Commission's determination
22 of the proper beneficiaries. The Commission shall appoint a
23 guardian ad litem to represent known and unknown minor children and
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