WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1972

ENROLLED

HOUSE BILL No. 839

(By Mr. Perry J. McCracken)

PASSED March 10, 1972

In Effect 90 days from Passage

FILED IN THE OFFICE
JOHN D. ROCKEFELLER, IV
SECRETARY OF STATE
THIS DATE 3-28-72
ENROLLED

House Bill No. 839
(By MR. PERRY and MR. COOKMAN)

[Passed March 10, 1972; in effect ninety days from passage.]

AN ACT to amend and reenact sections ten and fifteen-a, article four, chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to awarding workmen’s compensation benefits to nonresident beneficiaries.

Be it enacted by the Legislature of West Virginia:

That sections ten and fifteen-a, article four, chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 4. DISABILITY AND DEATH BENEFITS.

§23-4-10. Classification of death benefits; “dependent” defined.

1 In case a personal injury other than occupational pneumoconiosis or other occupational disease, suffered by an employee in the course of and resulting from his employment, causes death within the period of ten years and disability is continuous from date of such injury until date of death, or if death results from occupational pneumoconiosis or from any other occupational disease within ten years from the date of the last exposure to the hazards of occupational pneumoconiosis or to the other particular occupational hazard involved, as the case may be, the benefits shall be in the amounts and to the persons as follows:
(a) If there be no dependents, the disbursements shall be limited to the expense provided for in sections three and four of this article.

(b) If the deceased employee leaves a dependent widow or invalid widower, the payment shall be one hundred sixty dollars a month until death or remarriage of such widow or widower, and in addition fifty dollars a month for each child under eighteen years of age, to be paid until such child reaches such age, or where such child after reaching eighteen years of age continues as a full-time student in an accredited high school, college, university, business or trade school, to be paid until such child reaches the age of twenty-two years, or if an invalid child, fifty dollars a month, to continue as long as such child remains an invalid to be increased to one hundred sixty dollars per month upon the death of the surviving dependent parent: Provided, That if such widow or invalid widower shall remarry within ten years from the date of the death of such employee, such widow or widower shall be paid at the time of remarriage twenty percent of the amount that would be due for the period remaining between the date of such remarriage and the end of ten years from the date of death of such employee, and such widow or widower shall be advised in writing by the commissioner of his or her rights under this proviso at the time of making the original award: Provided, however, That if upon investigation and hearing, as provided in article five of this chapter, it shall be ascertained that such widow or widower is living with a man or woman, as the case may be, as man and wife and not married, or that the widow is living a life of prostitution, the commissioner shall stop payment of the benefits herein provided to such widow or widower.

If the deceased employee be a widow or widower and leaves a child or children under the age of eighteen years, the payments shall be one hundred dollars a month to each child until he or she reaches the age of eighteen years, or where such child after reaching eighteen years of age continues as a full-time student in an accredited high school, college, university, business or trade school to be paid until such child reaches the age of twenty-two years.
In all awards of compensation to children, unless otherwise provided herein, the award shall be until they reach the age of eighteen years or until their death prior there-to.

(c) If the deceased employee leaves no dependent widow or widower and leaves a wholly dependent father or mother, he or she shall be paid the sum of eighty dollars a month, payments to continue until death, and if there be no widow or widower and both the father and mother are wholly dependent, then a joint award shall be made to the father and mother in the sum of eighty dollars a month until death.

Upon the death of either the father or mother in any case in which a joint award has been made to them, the full award of eighty dollars a month shall be paid to the survivor until his or her death.

(d) If the deceased employee leaves no dependent widow or widower or wholly dependent father or mother but there are other wholly dependent persons, as defined in subdivision (f) of this section, the payment shall be sixty-five dollars a month, to continue for six years after the death of the deceased, except as otherwise provided herein.

(e) If the deceased employee leaves no dependent widow or widower, child under eighteen years of age, or wholly dependent person, but there are partially dependent persons at the time of death, the payment shall be thirty-five dollars a month, to continue for such portion of the period of six years after the death, as the commissioner may determine, but no such partially dependent person shall receive compensation payments as a result of the death of more than one employee.

Compensation under subdivisions (b), (c), (d) and (e) hereof shall, except as may be specifically provided to the contrary therein, cease upon the death of the dependent, and the right thereto shall not vest in his or her estate.

(f) Dependent, as used in this chapter, shall mean a widow, invalid widower, child under eighteen years of age, or under twenty-two years of age when a full-time student as provided herein, invalid child or posthumous child, who, at the time of the injury causing death, is de-
pendent in whole or in part for his or her support upon
the earnings of the employee, stepchild under eighteen
years of age, or under twenty-two years of age when a
full-time student as provided herein, child under eighteen
years of age legally adopted prior to the injury causing
death, or under twenty-two years of age when a full-time
student as provided herein, father, mother, grandfather
or grandmother, who at the time of the injury causing
death, is dependent in whole or in part for his or her sup-
port upon the earnings of the employee; and invalid
brother or sister wholly dependent for his or her support
upon the earnings of the employee at the time of the in-
jury causing death.

§23-4-15a. Nonresident alien beneficiaries.

Notwithstanding any other provisions of this chapter,
nonresident alien beneficiaries shall be entitled to the
same benefits as citizens of the United States: Provided,
however, That the commissioner in his discretion may
make, and such beneficiary shall be required to accept,
commutation of such benefits into a lump sum settlement
and payment. Nonresident alien beneficiaries within the
meaning hereof shall mean persons not citizens of the
United States residing outside of the territorial limits of
the United States at the time of the injury with respect to
which benefits are awarded.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the House.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within bill appeared on this the 27th day of March, 1972.

Governor