

By: Solomons

H.B. No. 1058

A BILL TO BE ENTITLED

AN ACT

relating to the receipt of death benefits in the workers' compensation system.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 408.182(d-1), (d-2), and (f), Labor Code, are amended to read as follows:

(d-1) If there is no eligible spouse, no eligible child, and no eligible grandchild, and there are no surviving dependents of the deceased employee who are parents, siblings, or grandparents of the deceased, the death benefits shall be paid in equal shares to surviving eligible parents of the deceased. A payment of death benefits made under this subsection may not exceed one payment per household. Total payments under this section [and] may not exceed 104 weeks regardless of the number of surviving eligible parents.

(d-2) Except as otherwise provided by this subsection, to be eligible to receive death benefits under Subsection (d-1), an eligible parent must file with the division a claim for those benefits not later than the first anniversary of the date of the injured employee's death from the compensable injury. The claim must designate all eligible parents and necessary information for payment to the eligible parents. The insurance carrier is not liable for payment to any eligible parent not designated on the claim. Failure to file a claim in the time required bars the claim unless good cause exists for the failure to file a claim under this

1 section [~~The commissioner may extend the time for filing a claim~~  
2 ~~under this subsection only if the eligible parent submits proof~~  
3 ~~satisfactory to the commissioner of a compelling reason for the~~  
4 ~~delay~~].

5 (f) In this section:

6 (1) "Eligible child" means a child of a deceased  
7 employee if the child is:

8 (A) a minor;

9 (B) enrolled as a full-time student in an  
10 accredited educational institution and is less than 25 years of  
11 age; or

12 (C) a dependent of the deceased employee at the  
13 time of the employee's death.

14 (2) "Eligible grandchild" means a grandchild of a  
15 deceased employee who is a dependent of the deceased employee and  
16 whose parent is not an eligible child.

17 (3) "Eligible spouse" means the surviving spouse of a  
18 deceased employee unless the spouse abandoned the employee for  
19 longer than the year immediately preceding the death without good  
20 cause, as determined by the division.

21 (4) "Eligible parent" means the mother or the father  
22 of a deceased employee, including an adoptive parent or a  
23 stepparent [~~, who receives burial benefits under Section~~  
24 ~~408.186~~]. The term does not include a parent whose parental rights  
25 have been terminated.

26 SECTION 2. The change in law made by this Act applies only  
27 to a claim for workers' compensation benefits based on a

1 compensable injury that occurs on or after the effective date of  
2 this Act. A claim based on a compensable injury that occurs before  
3 that date is governed by the law in effect on the date that the  
4 compensable injury occurred, and the former law is continued in  
5 effect for that purpose.

6 SECTION 3. This Act takes effect September 1, 2009.