

1-1 By: Solomons (Senate Sponsor - Lucio) H.B. No. 1058  
1-2 (In the Senate - Received from the House May 4, 2009;  
1-3 May 5, 2009, read first time and referred to Committee on State  
1-4 Affairs; May 13, 2009, reported favorably by the following vote:  
1-5 Yeas 9, Nays 0; May 13, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to the receipt of death benefits in the workers'  
1-9 compensation system.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Sections 408.182(d-1), (d-2), and (f), Labor  
1-12 Code, are amended to read as follows:

1-13 (d-1) If there is no eligible spouse, no eligible child, and  
1-14 no eligible grandchild, and there are no surviving dependents of  
1-15 the deceased employee who are parents, siblings, or grandparents of  
1-16 the deceased, the death benefits shall be paid in equal shares to  
1-17 surviving eligible parents of the deceased. A payment of death  
1-18 benefits made under this subsection may not exceed one payment per  
1-19 household. Total payments under this section [and] may not exceed  
1-20 104 weeks regardless of the number of surviving eligible parents.

1-21 (d-2) Except as otherwise provided by this subsection, to  
1-22 be eligible to receive death benefits under Subsection (d-1), an  
1-23 eligible parent must file with the division a claim for those  
1-24 benefits not later than the first anniversary of the date of the  
1-25 injured employee's death from the compensable injury. The claim  
1-26 must designate all eligible parents and necessary information for  
1-27 payment to the eligible parents. The insurance carrier is not  
1-28 liable for payment to any eligible parent not designated on the  
1-29 claim. Failure to file a claim in the time required bars the claim  
1-30 unless good cause exists for the failure to file a claim under this  
1-31 section [The commissioner may extend the time for filing a claim  
1-32 under this subsection only if the eligible parent submits proof  
1-33 satisfactory to the commissioner of a compelling reason for the  
1-34 delay].

1-35 (f) In this section:

1-36 (1) "Eligible child" means a child of a deceased  
1-37 employee if the child is:

1-38 (A) a minor;

1-39 (B) enrolled as a full-time student in an  
1-40 accredited educational institution and is less than 25 years of  
1-41 age; or

1-42 (C) a dependent of the deceased employee at the  
1-43 time of the employee's death.

1-44 (2) "Eligible grandchild" means a grandchild of a  
1-45 deceased employee who is a dependent of the deceased employee and  
1-46 whose parent is not an eligible child.

1-47 (3) "Eligible spouse" means the surviving spouse of a  
1-48 deceased employee unless the spouse abandoned the employee for  
1-49 longer than the year immediately preceding the death without good  
1-50 cause, as determined by the division.

1-51 (4) "Eligible parent" means the mother or the father  
1-52 of a deceased employee, including an adoptive parent or a  
1-53 stepparent[~~, who receives burial benefits under Section~~  
1-54 ~~408.186]. The term does not include a parent whose parental rights~~  
1-55 ~~have been terminated.~~

1-56 SECTION 2. The change in law made by this Act applies only  
1-57 to a claim for workers' compensation benefits based on a  
1-58 compensable injury that occurs on or after the effective date of  
1-59 this Act. A claim based on a compensable injury that occurs before  
1-60 that date is governed by the law in effect on the date that the  
1-61 compensable injury occurred, and the former law is continued in  
1-62 effect for that purpose.

1-63 SECTION 3. This Act takes effect September 1, 2009.

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