

1-1 By: Lucio S.B. No. 442  
1-2 (In the Senate - Filed January 9, 2009; February 17, 2009,  
1-3 read first time and referred to Committee on State Affairs;  
1-4 April 22, 2009, reported favorably by the following vote: Yeas 8,  
1-5 Nays 0; April 22, 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. Subsections (d-2) and (f), Section 408.182,  
1-12 Labor Code, are amended to read as follows:

1-13 (d-2) Except as otherwise provided by this subsection, to be  
1-14 eligible to receive death benefits under Subsection (d-1), an  
1-15 eligible parent must file with the division a claim for those  
1-16 benefits not later than the first anniversary of the date of the  
1-17 injured employee's death from the compensable injury. The claim  
1-18 must designate all eligible parents and necessary information for  
1-19 payment to the eligible parents. The insurance carrier is not  
1-20 liable for payment to any eligible parent not designated on the  
1-21 claim. Failure to file a claim in the time required bars the claim  
1-22 unless good cause exists for the failure to file a claim under this  
1-23 section [The commissioner may extend the time for filing a claim  
1-24 under this subsection only if the eligible parent submits proof  
1-25 satisfactory to the commissioner of a compelling reason for the  
1-26 delay].

1-27 (f) In this section:

1-28 (1) "Eligible child" means a child of a deceased  
1-29 employee if the child is:

1-30 (A) a minor;

1-31 (B) enrolled as a full-time student in an  
1-32 accredited educational institution and is less than 25 years of  
1-33 age; or

1-34 (C) a dependent of the deceased employee at the  
1-35 time of the employee's death.

1-36 (2) "Eligible grandchild" means a grandchild of a  
1-37 deceased employee who is a dependent of the deceased employee and  
1-38 whose parent is not an eligible child.

1-39 (3) "Eligible spouse" means the surviving spouse of a  
1-40 deceased employee unless the spouse abandoned the employee for  
1-41 longer than the year immediately preceding the death without good  
1-42 cause, as determined by the division.

1-43 (4) "Eligible parent" means the mother or the father  
1-44 of a deceased employee, including an adoptive parent or a  
1-45 stepparent~~[, who receives burial benefits under Section 408.186]~~.  
1-46 The term does not include a parent whose parental rights have been  
1-47 terminated.

1-48 SECTION 2. The change in law made by this Act applies only  
1-49 to a claim for workers' compensation benefits based on a  
1-50 compensable injury that occurs on or after the effective date of  
1-51 this Act. A claim based on a compensable injury that occurs before  
1-52 that date is governed by the law in effect on the date that the  
1-53 compensable injury occurred, and the former law is continued in  
1-54 effect for that purpose.

1-55 SECTION 3. This Act takes effect September 1, 2009.

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