

HOUSE BILL No. 2249

By Committee on Commerce, Labor and Economic Development

2-2

1 AN ACT concerning workers compensation; relating to death benefits for
2 children over the age of 18 enrolled in high school; amending K.S.A.
3 2016 Supp. 44-510b and repealing the existing section.
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2016 Supp. 44-510b is hereby amended to read as
7 follows: 44-510b. Where death results from injury, compensation shall be
8 paid as provided in K.S.A. 44-510h and 44-510i, and amendments thereto,
9 and as follows:

10 (a) If an employee leaves any dependents wholly dependent upon the
11 employee's earnings at the time of the accident or injury, all compensation
12 benefits under this section shall be paid to such dependent persons. There
13 shall be an initial payment of \$40,000 to the surviving legal spouse or a
14 wholly dependent child or children or both. The initial payment shall not
15 be subject to the 8% discount as provided in K.S.A. 44-531, and
16 amendments thereto. The initial payment shall be immediately due and
17 payable and apportioned 50% to the surviving legal spouse and 50% to the
18 dependent children. Thereafter, such dependents shall be paid weekly
19 compensation, except as otherwise provided in this section, in a total sum
20 to all such dependents, equal to $66\frac{2}{3}\%$ of the average weekly wage of the
21 employee at the time of the accident or injury, computed as provided in
22 K.S.A. 44-511, and amendments thereto, but in no event shall such weekly
23 benefits exceed the maximum weekly benefits provided in K.S.A. 44-
24 510c, and amendments thereto, nor be less than a minimum weekly benefit
25 of the dollar amount nearest to 50% of the state's average weekly wage as
26 determined pursuant to K.S.A. 44-511, and amendments thereto, subject to
27 the following:

28 (1) If the employee leaves a surviving legal spouse or a wholly
29 dependent child or children, or both, who are eligible for benefits under
30 this section, then all death benefits shall be paid to such surviving spouse
31 or children, or both, and no benefits shall be paid to any other wholly or
32 partially dependent persons.

33 (2) A surviving legal spouse shall be paid compensation benefits for
34 life, except as otherwise provided in this section.

35 (3) Any wholly dependent child of the employee shall be paid
36 compensation, except as otherwise provided in this section, until such

1 dependent child becomes 18 years of age. A wholly dependent child of the
2 employee shall be paid compensation, except as otherwise provided in this
3 section, until such dependent child becomes 23 years of age during any
4 period of time that one of the following conditions is met:

5 (A) The wholly dependent child is not physically or mentally capable
6 of earning wages in any type of substantial and gainful employment; ~~or~~

7 (B) *the wholly dependent child is: (1) A student enrolled in grades*
8 *nine through 12 in a unified school district; (2) enrolled in substantially*
9 *similar coursework in an accredited nonpublic school or private*
10 *secondary school registered pursuant to K.S.A. 72-53,101, and*
11 *amendments thereto; or (3) enrolled in a program to obtain a general*
12 *educational development (GED) credential; or*

13 ~~(B)~~(C) the wholly dependent child is a student enrolled full-time in an
14 accredited institution of higher education or vocational education.

15 (4) If the employee leaves no legal spouse or dependent children
16 eligible for benefits under this section but leaves other dependents wholly
17 dependent upon the employee's earnings, such other dependents shall
18 receive weekly compensation benefits as provided in this subsection until
19 death, remarriage or so long as such other dependents do not receive more
20 than 50% of their support from any other earnings or income or from any
21 other source, except that the maximum benefits payable to all such other
22 dependents, regardless of the number of such other dependents, shall not
23 exceed a maximum amount of \$18,500.

24 (b) Where the employee leaves a surviving legal spouse and
25 dependent children who were wholly dependent upon the employee's
26 earnings and are eligible for benefits under this section 50% of the
27 maximum weekly benefits payable shall be apportioned to such spouse
28 and 50% to such dependent children.

29 (c) If an employee does not leave any dependents who were wholly
30 dependent upon the employee's earnings at the time of the injury but
31 leaves dependents, other than a spouse or children, in part dependent on
32 the employee's earnings, such percentage of a sum equal to three times the
33 employee's average yearly earnings but not exceeding \$18,500 but not less
34 than \$2,500, as such employee's average annual contributions which the
35 employee made to the support of such dependents during the two years
36 preceding the date of the injury, bears to the employee's average yearly
37 earnings during the contemporaneous two-year period, shall be paid in
38 compensation to such dependents, in weekly payments as provided in
39 subsection (a), not to exceed \$18,500 to all such dependents.

40 (d) If an employee does not leave any dependents, either wholly or
41 partially dependent upon the employee, a lump-sum payment of \$25,000
42 shall be made to the legal heirs of such employee in accordance with
43 Kansas law. However under no circumstances shall such payment escheat

1 to the state. Notwithstanding the provisions of this subsection, no such
2 payment shall be required if the employer has procured a life insurance
3 policy, with beneficiaries designated by the employee, providing coverage
4 in an amount not less than \$18,500.

5 (e) The administrative law judge, except as otherwise provided in this
6 section, shall have the power and authority to apportion and reapportion
7 the compensation allowed under this section, either to wholly dependent
8 persons or partially dependent persons, in accordance with the degree of
9 dependency as of the date of the injury, except that the weekly payment of
10 compensation to any and all dependents shall not exceed the maximum nor
11 be less than the minimum weekly benefits provided in subsection (a).

12 (f) In all cases of death compensable under this section, the employer
13 shall pay the reasonable expense of burial not exceeding \$5,000. Where
14 required, the employer shall pay the costs of a court-appointed conservator
15 not to exceed \$1,000.

16 (g) The marriage or death of any dependent shall terminate all
17 compensation, under this section, to such dependent except the marriage of
18 the surviving legal spouse shall not terminate benefits to such spouse.
19 Upon the death of the surviving legal spouse or the marriage or death of a
20 dependent child, the compensation payable to such spouse or child shall be
21 reapportioned to those, among the surviving legal spouse and dependent
22 children, who remain eligible to receive compensation under this section.

23 (h) Notwithstanding any other provision in this section to the
24 contrary, the maximum amount of compensation benefits payable under
25 this section, including the initial payment in subsection (a) to any and all
26 dependents by the employer shall not exceed a total amount of \$300,000
27 and when such total amount has been paid the liability of the employer for
28 any further compensation under this section to dependents, other than
29 minor children of the employee, shall cease except that the payment of
30 compensation under this section to any minor child of the employee shall
31 continue for the period of the child's minority at the weekly rate in effect
32 when the employer's liability is otherwise terminated under this subsection
33 and shall not be subject to termination under this subsection until such
34 child becomes 18 years of age.

35 (i) Persons receiving benefits under this section shall submit an
36 annual statement to the insurance carrier, self-insured employer or group-
37 funded workers compensation pool paying the benefits, in such form and
38 containing such information relating to eligibility for compensation under
39 this section as may be required by rules and regulations of the director. If
40 the person receiving benefits under this section is a surviving spouse or a
41 dependent child who has reached the age of majority, such person shall
42 personally submit an annual statement. If the person receiving benefits
43 under this section is a dependent child subject to a conservator, the

1 conservator of such child shall submit the annual statement. If such person
2 fails to submit an annual statement, the payer of benefits may notify the
3 director of such failure and the director shall notify the person of the
4 failure by certified mail with return receipt. If such person fails to submit
5 the annual statement or fails to reasonably provide the required
6 information within 30 days after receipt of the notice from the director, all
7 compensation benefits paid under this section to such person shall be
8 suspended until the annual statement is submitted in proper form to the
9 payer of benefits.

10 Sec. 2. K.S.A. 2016 Supp. 44-510b is hereby repealed.

11 Sec. 3. This act shall take effect and be in force from and after its
12 publication in the statute book.