

1 **SB 5399** - H COMM AMDS **ADOPTED 4/6/95**

2 By Committee on Commerce & Labor

3 On page 10, after line 19, insert the following:

4 "Sec. 6. RCW 51.32.050 and 1993 c 521 s 1 are each amended to
5 read as follows:

6 (1) Where death results from the injury the expenses of burial
7 not to exceed two (~~thousand dollars~~) hundred percent of the
8 average monthly wage in the state as defined in RCW 51.08.018 shall
9 be paid.

10 (2)(a) Where death results from the injury, a surviving spouse
11 of a deceased worker eligible for benefits under this title shall
12 receive monthly for life or until remarriage payments according to
13 the following schedule:

14 (i) If there are no children of the deceased worker, sixty
15 percent of the wages of the deceased worker but not less than one
16 hundred eighty-five dollars;

17 (ii) If there is one child of the deceased worker and in the
18 legal custody of such spouse, sixty-two percent of the wages of the
19 deceased worker but not less than two hundred twenty-two dollars;

20 (iii) If there are two children of the deceased worker and in
21 the legal custody of such spouse, sixty-four percent of the wages
22 of the deceased worker but not less than two hundred fifty-three
23 dollars;

24 (iv) If there are three children of the deceased worker and in
25 the legal custody of such spouse, sixty-six percent of the wages of
26 the deceased worker but not less than two hundred seventy-six
27 dollars;

28 (v) If there are four children of the deceased worker and in
29 the legal custody of such spouse, sixty-eight percent of the wages

1 of the deceased worker but not less than two hundred ninety-nine
2 dollars; or

3 (vi) If there are five or more children of the deceased worker
4 and in the legal custody of such spouse, seventy percent of the
5 wages of the deceased worker but not less than three hundred
6 twenty-two dollars.

7 (b) Where the surviving spouse does not have legal custody of
8 any child or children of the deceased worker or where after the
9 death of the worker legal custody of such child or children passes
10 from such surviving spouse to another, any payment on account of
11 such child or children not in the legal custody of the surviving
12 spouse shall be made to the person or persons having legal custody
13 of such child or children. The amount of such payments shall be
14 five percent of the monthly benefits payable as a result of the
15 worker's death for each such child but such payments shall not
16 exceed twenty-five percent. Such payments on account of such child
17 or children shall be subtracted from the amount to which such
18 surviving spouse would have been entitled had such surviving spouse
19 had legal custody of all of the children and the surviving spouse
20 shall receive the remainder after such payments on account of such
21 child or children have been subtracted. Such payments on account
22 of a child or children not in the legal custody of such surviving
23 spouse shall be apportioned equally among such children.

24 (c) Payments to the surviving spouse of the deceased worker
25 shall cease at the end of the month in which remarriage occurs:
26 PROVIDED, That a monthly payment shall be made to the child or
27 children of the deceased worker from the month following such
28 remarriage in a sum equal to five percent of the wages of the
29 deceased worker for one child and a sum equal to five percent for
30 each additional child up to a maximum of five such children.
31 Payments to such child or children shall be apportioned equally
32 among such children. Such sum shall be in place of any payments
33 theretofore made for the benefit of or on account of any such child

1 or children. If the surviving spouse does not have legal custody
2 of any child or children of the deceased worker, or if after the
3 death of the worker, legal custody of such child or children passes
4 from such surviving spouse to another, any payment on account of
5 such child or children not in the legal custody of the surviving
6 spouse shall be made to the person or persons having legal custody
7 of such child or children.

8 (d) In no event shall the monthly payments provided in
9 subsection (2) of this section exceed the applicable percentage of
10 the average monthly wage in the state as computed under RCW
11 51.08.018 as follows:

12	AFTER	PERCENTAGE
13	June 30, 1993	105%
14	June 30, 1994	110%
15	June 30, 1995	115%
16	June 30, 1996	120%

17 (e) In addition to the monthly payments provided for in
18 subsection (2) (a) through ((+2))(c) of this section, a surviving
19 spouse or child or children of such worker if there is no surviving
20 spouse, or dependent parent or parents, if there is no surviving
21 spouse or child or children of any such deceased worker shall be
22 forthwith paid ~~((the))~~ a sum ((of one thousand six hundred
23 dollars)) equal to one hundred percent of the average monthly wage
24 in the state as defined in RCW 51.08.018, any such children, or
25 parents to share and share alike in said sum.

26 (f) Upon remarriage of a surviving spouse the monthly payments
27 for the child or children shall continue as provided in this
28 section, but the monthly payments to such surviving spouse shall
29 cease at the end of the month during which remarriage occurs.
30 However, after September 8, 1975, an otherwise eligible surviving
31 spouse of a worker who died at any time prior to or after September
32 8, 1975, shall have an option of:

1 (i) Receiving, once and for all, a lump sum of twenty-four
2 times the monthly compensation rate in effect on the date of
3 remarriage allocable to the spouse for himself or herself pursuant
4 to subsection (2)(a)(i) of this section and subject to any
5 modifications specified under subsection (2)(d) of this section and
6 RCW 51.32.075(3) or fifty percent of the then remaining annuity
7 value of his or her pension, whichever is the lesser: PROVIDED,
8 That if the injury occurred prior to July 28, 1991, the remarriage
9 benefit lump sum available shall be as provided in the remarriage
10 benefit schedules then in effect; or

11 (ii) If a surviving spouse does not choose the option
12 specified in subsection (2)(f)(i) of this section to accept the
13 lump sum payment, the remarriage of the surviving spouse of a
14 worker shall not bar him or her from claiming the lump sum payment
15 authorized in subsection (2)(f)(i) of this section during the life
16 of the remarriage, or shall not prevent subsequent monthly payments
17 to him or to her if the remarriage has been terminated by death or
18 has been dissolved or annulled by valid court decree provided he or
19 she has not previously accepted the lump sum payment.

20 (g) If the surviving spouse during the remarriage should die
21 without having previously received the lump sum payment provided in
22 subsection (2)(f)(i) of this section, his or her estate shall be
23 entitled to receive the sum specified under subsection (2)(f)(i) of
24 this section or fifty percent of the then remaining annuity value
25 of his or her pension whichever is the lesser.

26 (h) The effective date of resumption of payments under
27 subsection (2)(f)(ii) of this section to a surviving spouse based
28 upon termination of a remarriage by death, annulment, or
29 dissolution shall be the date of the death or the date the judicial
30 decree of annulment or dissolution becomes final and when
31 application for the payments has been received.

32 (i) If it should be necessary to increase the reserves in the
33 reserve fund or to create a new pension reserve fund as a result of

1 the amendments in chapter 45, Laws of 1975-'76 2nd ex. sess., the
2 amount of such increase in pension reserve in any such case shall
3 be transferred to the reserve fund from the supplemental pension
4 fund.

5 (3) If there is a child or children and no surviving spouse of
6 the deceased worker or the surviving spouse is not eligible for
7 benefits under this title, a sum equal to thirty-five percent of
8 the wages of the deceased worker shall be paid monthly for one
9 child and a sum equivalent to fifteen percent of such wage shall be
10 paid monthly for each additional child, the total of such sum to be
11 divided among such children, share and share alike: PROVIDED, That
12 benefits under this subsection or subsection (4) of this section
13 shall not exceed the lesser of sixty-five percent of the wages of
14 the deceased worker at the time of his or her death or the
15 applicable percentage of the average monthly wage in the state as
16 defined in RCW 51.08.018, as follows:

17	AFTER	PERCENTAGE
18	June 30, 1993	105%
19	June 30, 1994	110%
20	June 30, 1995	115%
21	June 30, 1996	120%

22 (4) In the event a surviving spouse receiving monthly payments
23 dies, the child or children of the deceased worker shall receive
24 the same payment as provided in subsection (3) of this section.

25 (5) If the worker leaves no surviving spouse or child, but
26 leaves a dependent or dependents, a monthly payment shall be made
27 to each dependent equal to fifty percent of the average monthly
28 support actually received by such dependent from the worker during
29 the twelve months next preceding the occurrence of the injury, but
30 the total payment to all dependents in any case shall not exceed
31 the lesser of sixty-five percent of the wages of the deceased
32 worker at the time of his or her death or the applicable percentage

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1 of the average monthly wage in the state as defined in RCW
2 51.08.018 as follows:

3	AFTER	PERCENTAGE
4	June 30, 1993	105%
5	June 30, 1994	110%
6	June 30, 1995	115%
7	June 30, 1996	120%

8 If any dependent is under the age of eighteen years at the time of
9 the occurrence of the injury, the payment to such dependent shall
10 cease when such dependent reaches the age of eighteen years except
11 such payments shall continue until the dependent reaches age
12 twenty-three while permanently enrolled at a full time course in an
13 accredited school. The payment to any dependent shall cease if and
14 when, under the same circumstances, the necessity creating the
15 dependency would have ceased if the injury had not happened.

16 (6) For claims filed prior to July 1, 1986, if the injured
17 worker dies during the period of permanent total disability,
18 whatever the cause of death, leaving a surviving spouse, or child,
19 or children, the surviving spouse or child or children shall
20 receive benefits as if death resulted from the injury as provided
21 in subsections (2) through (4) of this section. Upon remarriage or
22 death of such surviving spouse, the payments to such child or
23 children shall be made as provided in subsection (2) of this
24 section when the surviving spouse of a deceased worker remarries.

25 (7) For claims filed on or after July 1, 1986, every worker
26 who becomes eligible for permanent total disability benefits shall
27 elect an option as provided in RCW 51.32.067."

28 On page 11, after line 35, insert the following:

29 "NEW SECTION. **Sec. 7.** If any provision of this act or its
30 application to any person or circumstance is held invalid, the

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1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected."

3 Renumber the sections consecutively, correct internal references
4 accordingly, and correct the title.

EFFECT: Adds provisions that (1) increase the award granted to an injured worker's beneficiaries upon the death of the worker, from \$2,000 to twice the state average monthly wage and, the award for immediate family expenses from \$1,600 to the state average monthly wage; and (2) state legislative intent that if any provision is held invalid the remainder of the act is not affected.