

## HOUSE BILL No. 2320

By Committee on Commerce and Labor

1-31

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9 AN ACT concerning workers compensation; relating to burial expenses;  
10 increasing limitation on amount employer shall pay; amending K.S.A.  
11 2006 Supp. 44-510b and repealing the existing section.  
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13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 2006 Supp. 44-510b is hereby amended to read as  
15 follows: 44-510b. Where death results from injury, compensation shall be  
16 paid as provided in K.S.A. 44-510h and 44-510i and amendments thereto,  
17 and as follows:

18 (a) If an employee leaves any dependents wholly dependent upon the  
19 employee's earnings at the time of the accident, all compensation benefits  
20 under this section shall be paid to such dependent persons. There shall  
21 be an initial payment of \$40,000 to the surviving legal spouse or a wholly  
22 dependent child or children or both. The initial payment shall not be  
23 subject to the 8% discount as provided in K.S.A. 44-531 and amendments  
24 thereto. The initial payment shall be immediately due and payable and  
25 apportioned 50% to the surviving legal spouse and 50% to the dependent  
26 children. Thereafter, such dependents shall be paid weekly compensa-  
27 tion, except as otherwise provided in this section, in a total sum to all  
28 such dependents, equal to 66 2/3% of the average gross weekly wage of  
29 the employee at the time of the accident, computed as provided in K.S.A.  
30 44-511 and amendments thereto, but in no event shall such weekly ben-  
31 efits exceed the maximum weekly benefits provided in K.S.A. 44-510c  
32 and amendments thereto, nor be less than a minimum weekly benefit of  
33 the dollar amount nearest to 50% of the state's average weekly wage as  
34 determined pursuant to K.S.A. 44-511 and amendments thereto subject  
35 to the following:

36 (1) If the employee leaves a surviving legal spouse or a wholly de-  
37 pendent child or children, or both, who are eligible for benefits under  
38 this section, then all death benefits shall be paid to such surviving spouse  
39 or children, or both, and no benefits shall be paid to any other wholly or  
40 partially dependent persons.

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

43 (3) Any wholly dependent child of the employee shall be paid com-

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

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

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

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

19   (b) Where the employee leaves a surviving legal spouse and depend-  
20   ent children who were wholly dependent upon the employee's earnings  
21   and are eligible for benefits under this section 50% of the maximum  
22   weekly benefits payable shall be apportioned to such spouse and 50% to  
23   such dependent children.

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

35   (d) If an employee does not leave any dependents, either wholly or  
36   partially dependent upon the employee, a lump-sum payment of \$25,000  
37   shall be made to the legal heirs of such employee in accordance with  
38   Kansas law. However under no circumstances shall such payment escheat  
39   to the state. Notwithstanding the provisions of this subsection, no such  
40   payment shall be required if the employer has procured a life insurance  
41   policy, with beneficiaries designated by the employee, providing coverage  
42   in an amount not less than \$18,500.

43   (e) The administrative law judge, except as otherwise provided in this

1 section, shall have the power and authority to apportion and reapportion  
2 the compensation allowed under this section, either to wholly dependent  
3 persons or partially dependent persons, in accordance with the degree of  
4 dependency as of the date of the accident, except that the weekly payment  
5 of compensation to any and all dependents shall not exceed the maximum  
6 nor be less than the minimum weekly benefits provided in subsection (a).

7 (f) In all cases of death compensable under this section, the employer  
8 shall pay the reasonable expense of burial not exceeding ~~\$5,000~~ \$10,000.

9 (g) The marriage or death of any dependent shall terminate all com-  
10 pensation, under this section, to such dependent except the marriage of  
11 the surviving legal spouse shall not terminate benefits to such spouse.  
12 Upon the death of the surviving legal spouse or the marriage or death of  
13 a dependent child, the compensation payable to such spouse or child shall  
14 be reapportioned to those, among the surviving legal spouse and de-  
15 pendent children, who remain eligible to receive compensation under this  
16 section.

17 (h) Notwithstanding any other provision in this section to the con-  
18 trary, the maximum amount of compensation benefits payable under this  
19 section, including the initial payment in subsection (a) to any and all  
20 dependents by the employer shall not exceed a total amount of \$250,000  
21 and when such total amount has been paid the liability of the employer  
22 for any further compensation under this section to dependents, other than  
23 minor children of the employee, shall cease except that the payment of  
24 compensation under this section to any minor child of the employee shall  
25 continue for the period of the child's minority at the weekly rate in effect  
26 when the employer's liability is otherwise terminated under this subsec-  
27 tion and shall not be subject to termination under this subsection until  
28 such child becomes 18 years of age.

29 (i) Persons receiving benefits under this section shall submit an an-  
30 nual statement to the insurance carrier, self-insured employer or group-  
31 funded workers compensation pool paying the benefits, in such form and  
32 containing such information relating to eligibility for compensation under  
33 this section as may be required by rules and regulations of the director.  
34 If the person receiving benefits under this section is a surviving spouse  
35 or a dependent child who has reached the age of majority, such person  
36 shall personally submit an annual statement. If the person receiving ben-  
37 efits under this section is a dependent child subject to a conservator, the  
38 conservator of such child shall submit the annual statement. If such per-  
39 son fails to submit an annual statement, the payer of benefits may notify  
40 the director of such failure and the director shall notify the person of the  
41 failure by certified mail with return receipt. If such person fails to submit  
42 the annual statement or fails to reasonably provide the required infor-  
43 mation within 30 days after receipt of the notice from the director, all

1 compensation benefits paid under this section to such person shall be  
2 suspended until the annual statement is submitted in proper form to the  
3 payer of benefits.

4 Sec. 2. K.S.A. 2006 Supp. 44-510b is hereby repealed.

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