

1 HB187  
2 197015-3  
3 By Representatives Fridy, Drummond and Treadaway  
4 RFD: Ways and Means General Fund  
5 First Read: 19-MAR-19

1  
2 ENROLLED, An Act,

3 To amend Sections 25-5-60, 25-5-66, 25-5-68,  
4 25-5-69, and 36-29A-9, Code of Alabama 1975, as added to the  
5 Code of Alabama 1975, by Act 2018-523, 2018 Regular Session,  
6 relating to workers' compensation; to provide retroactive  
7 effect for the surviving spouse and dependents of a law  
8 enforcement officer or firefighter who dies on or after  
9 January 1, 2018, as a result of injuries received while  
10 engaged in the performance of his or her duties.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. Sections 25-5-60, 25-5-66, 25-5-68, and  
13 25-5-69, Code of Alabama 1975, as amended by Act 2018-523,  
14 2018 Regular Session, and Section 36-29A-9, Code of Alabama  
15 1975, as added to the Code of Alabama 1975, by Act 2018-523,  
16 2018 Regular Session, are amended to read as follows:

17 "§25-5-60.

18 "In death cases, where the death results proximately  
19 from the accident within three years, compensation payable to  
20 dependents shall be computed on the following basis and shall  
21 be paid to the persons entitled thereto without  
22 administration, or to a guardian or other person as the court  
23 may direct, for the use and benefit of the person entitled  
24 thereto.

1           "(1) PERSONS ENTITLED TO BENEFITS; AMOUNT OF  
2 BENEFITS.

3           "a. If the deceased employee leaves one dependent,  
4 there shall be paid to the dependent 50 percent of the average  
5 weekly earnings of the deceased.

6           "b. If the deceased employee leaves two or more  
7 dependents, there shall be paid to the dependents  $66 \frac{2}{3}$   
8 percent of the average weekly earnings of the deceased.

9           "c. If one of two or more dependents is a widow or  
10 widower, the compensation may be paid to the widow or widower  
11 for the benefit of herself or himself and the dependent child  
12 or children. In its discretion and when it considers  
13 appropriate to do so, the court shall at any time have the  
14 power to determine, without the appointment of any guardian or  
15 guardians, what portion of the compensation shall be applied  
16 for the benefit of any child or children and may order the  
17 same paid to a guardian or custodian of the child or children.

18           "d. Partial dependents shall be entitled to receive  
19 only that proportion of the benefits provided for total  
20 dependents which the average amount of the earnings regularly  
21 contributed by the deceased employee to the partial dependent,  
22 at and for a reasonable time immediately prior to the injury,  
23 bore to the total income of the dependent during the same  
24 time. If there is one dependent and one or more partial  
25 dependents and the dependent is not entitled to the maximum

1 amount of compensation provided in Section 25-5-68, there  
2 shall be paid to the partial dependent or partial dependents  
3 that percentage of the benefit paid to a full dependent which  
4 the contribution of the decedent to the partial dependent's  
5 support bears to the total income of the partial dependent.  
6 Notwithstanding the foregoing, the compensation payable to the  
7 partial dependent or dependents shall not exceed the lesser of  
8 16 2/3 percent of the decedent's average weekly wage or the  
9 difference between the compensation payable to the full  
10 dependent and the maximum weekly compensation benefit payable  
11 as provided in Section 25-5-68.

12 "e. Except as provided in subdivision (3), if  
13 compensation is being paid under this article to any  
14 dependent, the compensation shall cease upon the death or  
15 marriage of the dependent, unless otherwise provided in this  
16 article.

17 "f. Upon the cessation of compensation to or for any  
18 dependent, for any cause, the compensation of the remaining  
19 dependents entitled to compensation shall, for the unexpired  
20 period during which their compensation is payable, be that  
21 which would have been payable to them had they been the only  
22 persons entitled to compensation at the time of death of the  
23 deceased employee.

24 "g. If, however, the deceased employee at the time  
25 of his or her death has no dependents as herein defined, then

1 within 60 days of his or her death, the employer shall pay a  
2 one-time lump sum payment of seven thousand five hundred  
3 dollars (\$7,500) to the deceased worker's estate.

4 "h. If a dependent is the surviving spouse of a law  
5 enforcement officer or firefighter ~~killed~~ who dies on or after  
6 January 1, 2018, as a result of injuries received while  
7 engaged in the performance of his or her duties, the  
8 compensation does not cease upon remarriage.

9 "(2) MAXIMUM AND MINIMUM COMPENSATION AWARDS. The  
10 compensation payable in case of death to persons wholly  
11 dependent shall be subject to a maximum and minimum weekly  
12 compensation as stated in Section 25-5-68, but if at the time  
13 of injury the employee receives earnings of less than the  
14 minimum stated in Section 25-5-68, then the compensation shall  
15 be the full amount of such earnings per week. The compensation  
16 payable to partial dependents shall be subject to a maximum  
17 and minimum weekly compensation as stated in Section 25-5-68,  
18 but if the income loss of the partial dependents by the death  
19 is less than the minimum weekly compensation stated in Section  
20 25-5-68, then the dependents shall receive the full amount of  
21 their income loss. This compensation shall be paid during  
22 dependency, not exceeding 500 weeks, except as provided in  
23 subsection (f) of Section 25-5-68. Payments shall be made at  
24 the intervals when the earnings were payable, as nearly as may  
25 be, unless the parties otherwise agree.

1           "§25-5-66.

2           "(a) In case of the remarriage of the surviving  
3 spouse of an employee who has another dependent, the unpaid  
4 balance of compensation, which would otherwise become due,  
5 shall be paid to the dependent or may, on approval by the  
6 court, be paid to some suitable person designated by the court  
7 for the use and benefit of the dependent. Payment to that  
8 person shall discharge the employer from any further  
9 liability.

10           "(b) Subsection (a) does not apply to the surviving  
11 spouse of a law enforcement officer or firefighter who ~~was~~  
12 ~~killed~~ dies on or after January 1, 2018, as a result of  
13 injuries received while engaged in the performance of his or  
14 her duties.

15           "§25-5-68.

16           "(a) The compensation paid under this article shall  
17 be not less than, except as otherwise provided in this  
18 article, 27 1/2 percent of the average weekly wage of the  
19 state as determined by the secretary, rounded to the nearest  
20 dollar, pursuant to subsection (b) of this section and, in any  
21 event, no more than 100 percent of the average weekly wage.  
22 Notwithstanding the foregoing, the maximum compensation  
23 payable for permanent partial disability shall be no more than  
24 the lesser of \$220.00 per week or 100 percent of the average  
25 weekly wage.

1           "(b) For the purpose of this section, the average  
2 weekly wage of the state shall be determined by the secretary  
3 as follows: On or before June 1 of each year, the total wages  
4 reported on contribution reports to the unemployment  
5 compensation division of the department for the preceding  
6 calendar year shall be divided by the average monthly number  
7 of insured workers, which shall be determined by dividing the  
8 sum of the number of insured workers reported for each month  
9 of the preceding year by 12. The average annual wage thus  
10 obtained shall be divided by 52, and the average weekly wage  
11 thus determined rounded to the nearest cent. The average  
12 weekly wage as so determined shall be applicable for the  
13 12-month period beginning July 1 following the June 1  
14 determination. If the determination shall not be made on or  
15 before June 1, the effective date of the average weekly wage  
16 when determined shall be the first day of the month next  
17 following 30 days after the determination is made.

18           "(c) The maximum and minimum weekly benefit shall  
19 not be changed on any July 1 or as a result of any annual  
20 determination, unless the computation provided for in  
21 subsection (b) results in an increase or decrease of two  
22 dollars (\$2) or more in the amount of either the maximum or  
23 minimum benefit.

24           "(d) In no event, except as provided for permanent  
25 total disability in subdivision (a)(4) of Section 25-5-57 or

1       except for compensation benefits payable for permanent partial  
2       and temporary total disability in connection with a disability  
3       scheduled in subdivisions (1) and (3) of subsection (a) of  
4       Section 25-5-57 or except as provided in subsection (f), shall  
5       the total amount of compensation payable for an accident or an  
6       occupational disease exceed the product of 500 times the  
7       maximum weekly benefit applicable on the date of the accident.

8               "(e) The minimum and maximum benefits that are in  
9       effect on the date of the accident which results in injury or  
10      death shall be applicable for the full period during which  
11      compensation is payable.

12              "(f) Notwithstanding any other provision of this  
13      article, the compensation benefits payable to a surviving  
14      dependent child of a law enforcement officer or firefighter  
15      who ~~was killed~~ dies on or after January 1, 2018, as a result  
16      of injuries received while engaged in the performance of his  
17      or her duties shall not discontinue at least until the  
18      dependent child reaches the age of 18 years.

19              "§25-5-69.

20              "~~Except when the dependent is the surviving spouse~~  
21      ~~of a law enforcement officer or firefighter who was killed as~~  
22      ~~a result of injuries received while engaged in the performance~~  
23      ~~of his or her duties, if (a) If~~ compensation is being paid  
24      under this article to any dependent, such compensation shall  
25      cease upon the death or marriage of such dependent. Where



1 compensation is being paid under this chapter to any  
 2 dependent, in no event shall such dependent receive more than  
 3 the proportion which the amount received of the deceased  
 4 employee's income during his or her life bears to the  
 5 compensation provided under this article.

6 "(b) Subsection (a) does not apply if the dependent  
 7 is the surviving spouse of a law enforcement officer or  
 8 firefighter who dies on or after January 1, 2018, as a result  
 9 of injuries received in the performance of his or her duties.

10 "§36-29A-9.

11 "(a) The compensation payable under this chapter to  
 12 the surviving spouse of a law enforcement officer or  
 13 firefighter who ~~was killed~~ dies on or after January 1, 2018,  
 14 as a result of injuries received while engaged in the  
 15 performance of his or her duties shall continue upon  
 16 remarriage.

17 "(b) The compensation payable under this chapter to  
 18 a surviving dependent child of a law enforcement officer or  
 19 firefighter who ~~was killed~~ dies on or after January 1, 2018,  
 20 as a result of injuries received while engaged in the  
 21 performance of his or her duties shall not discontinue at  
 22 least until the dependent child reaches the age of 18 years."

23 Section 2. This act shall become effective on the  
 24 first day of the third month following its passage and  
 25 approval by the Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

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President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in  
and was passed by the House 25-APR-19.

Jeff Woodard  
Clerk

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Senate

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29-MAY-19

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Passed