

ASSEMBLY BILL

No. 1732

**Introduced by Assembly Members Bowler, Ashburn,
Campbell, Cunneen, House, Leach, Margett, Morrissey,
Oller, and Woods**

(Coauthors: Senators Knight, Kopp, Monteith, and Peace)

February 2, 1998

An act to amend Section 4706.5 of the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1732, as introduced, Bowler. Workers' compensation: death benefits.

Under existing law, an employee injured in the course of employment is generally entitled to workers' compensation. When an injury causes death, the employer is liable for a death benefit to be paid to any dependents of an employee. In the event the employee leaves no dependent, a death benefit is payable to the Department of Industrial Relations, for payment of additional compensation for subsequent injuries.

This bill would provide that in the event the employee leaves no dependent, a death benefit is payable to the decedent's parent or parents, or if there is no parent, to the decedent's siblings, and if there are no such persons, then to the Department of Industrial Relations.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4706.5 of the Labor Code is
2 amended to read:

3 4706.5. (a) Whenever any fatal injury is suffered by
4 an employee under ~~such~~ circumstances ~~as to~~ *that* entitle
5 the employee to compensation benefits, but for his or her
6 death, and the employee does not leave surviving any
7 person entitled to a dependency death benefit, the
8 employer shall pay a sum ~~to the Department of Industrial~~
9 ~~Relations~~ equal to the total dependency death benefit
10 that would be payable to a surviving spouse with no
11 dependent minor children *as follows:*

12 (1) *To the parent or parents of the decedent.*

13 (2) *To the siblings of the decedent.*

14 (3) *To the Department of Industrial Relations if there*
15 *is no taker under paragraph (1) or (2).*

16 (b) Where the deceased employee leaves no surviving
17 dependent, personal representative, heir, or other person
18 entitled to the accrued and unpaid compensation
19 referred to in Section 4700, the accrued and unpaid
20 compensation shall be paid by the employer to the
21 Department of Industrial Relations.

22 (c) The payments to be made to the Department of
23 Industrial Relations, as required by ~~subdivisions~~
24 *paragraph (3) of subdivision (a) and subdivision (b)*, shall
25 be deposited in the General Fund and shall be credited,
26 as a reimbursement, to any appropriation to the
27 Department of Industrial Relations for payment of the
28 additional compensation for subsequent injury provided
29 in Article 5 (commencing with Section 4750), in the fiscal
30 year in which the Controller's receipt is issued.

31 (d) The payments to be made to the Department of
32 Industrial Relations, as required by *paragraph (3) of*
33 *subdivision (a)*, shall be paid to the department in a lump
34 sum in the manner provided in subdivision (b) of Section
35 5101.

36 (e) The Department of Industrial Relations shall keep
37 a record of all payments due the state under this section,



1 and shall take ~~such~~ those steps ~~as may be~~ necessary to
2 collect those amounts.

3 (f) Each employer, or the employer's insurance
4 carrier, shall notify the administrative director, in ~~such~~
5 *the form as that* the administrative director may
6 prescribe, of each employee death, except when the
7 employer has actual knowledge or notice that the
8 deceased employee left a surviving dependent.

9 (g) When, after a reasonable search, the employer
10 concludes that the deceased employee left no one
11 surviving who is entitled to a dependency death benefit,
12 *and no person entitled to benefits under paragraph (1)*
13 *or (2) of subdivision (a)* and concludes that the death was
14 under ~~such~~ circumstances ~~as to~~ that entitle the employee
15 to compensation benefits, the employer may voluntarily
16 make the payment referred to in *paragraph (3) of*
17 *subdivision (a)*. Payments so made shall be construed as
18 payments made pursuant to an appeals board findings
19 and award. Thereafter, if the appeals board finds that the
20 deceased employee did in fact leave a person surviving
21 who is entitled to a dependency death benefit, upon that
22 finding, all payments referred to in *paragraph (3) of*
23 *subdivision (a)* which have been made shall be forthwith
24 returned to the employer, or if insured, to the employer's
25 workers' compensation carrier that indemnified the
26 employer for the loss.

