

ASSEMBLY BILL NO. 217—COMMITTEE ON COMMERCE AND LABOR

FEBRUARY 22, 2001

Referred to Committee on Commerce and Labor

SUMMARY—Repeals certain provisions that prohibit payment of death benefit under industrial insurance to surviving spouse who remarries. (BDR 53-1251)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to industrial insurance; repealing certain provisions that prohibit the payment of a death benefit under industrial insurance to a surviving spouse who remarries; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1     **Section 1.** NRS 616C.070 is hereby amended to read as follows:  
2     616C.070 1. A person is conclusively presumed to be totally  
3     dependent upon an injured or deceased employee if the person is a natural,  
4     posthumous or adopted child, whether legitimate or illegitimate, under the  
5     age of 18 years, or over that age if physically or mentally incapacitated  
6     from wage earning, and there is no surviving parent. Stepparents may be  
7     regarded in chapters 616A to 616D, inclusive, or chapter 617 of NRS as  
8     parents if the fact of dependency is shown, and a stepchild or stepchildren  
9     may be regarded in chapters 616A to 616D, inclusive, or chapter 617 of  
10    NRS as a natural child or children if the existence and fact of dependency  
11    are shown.  
12    2. Except as otherwise provided in ~~subsection 13 of~~ NRS 616C.505,  
13    questions as to who constitute dependents and the extent of their  
14    dependency must be determined as of the date of the accident or injury to  
15    the employee, and their right to any benefit becomes fixed at that time,  
16    irrespective of any subsequent change in conditions, and the benefits are  
17    directly recoverable by and payable to the dependent or dependents entitled  
18    thereto or to their legal guardians or trustees.  
19    3. The presumptions of this section do not apply in favor of aliens who  
20    are nonresidents of the United States at the time of the accident, injury to,  
21    or death of the employee.



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1     **Sec. 2.** NRS 616C.410 is hereby amended to read as follows:  
2     616C.410 Except as otherwise provided ~~by~~ **in** NRS 616C.380,  
3     616C.495, ~~616C.505,~~ 616C.580 and 616C.595, the insurer shall not make  
4     or allow any lump-sum settlements.

5     **Sec. 3.** NRS 616C.505 is hereby amended to read as follows:  
6     616C.505 If an injury by accident arising out of and in the course of  
7     employment causes the death of an employee in the employ of an  
8     employer, within the provisions of chapters 616A to 616D, inclusive, of  
9     NRS, the compensation is known as a death benefit, and is payable as  
10    follows:

11    1. In addition to any other compensation payable pursuant to chapters  
12    616A to 616D, inclusive, of NRS, burial expenses are payable in an  
13    amount not to exceed \$5,000. ~~When~~ **If** the remains of the deceased  
14    employee and the person accompanying the remains are to be transported  
15    to a mortuary, ~~for mortuaries,~~ the charge of transportation must be borne  
16    by the insurer.

17    2. To the surviving spouse of the deceased employee, 66 2/3 percent of  
18    the average monthly wage is payable until his death. ~~for remarriage, with 2~~  
19    ~~years' compensation payable in one lump sum upon remarriage.~~

20    3. In the event of the subsequent death of the surviving spouse:

21    (a) Each surviving child of the deceased employee must share equally  
22    the compensation theretofore paid to the surviving spouse but not in excess  
23    thereof, and it is payable until the youngest child reaches the age of 18  
24    years.

25    (b) Except as otherwise provided in subsection ~~11,~~ **10**, if the children  
26    have a guardian, the compensation they are entitled to receive may be paid  
27    to the guardian.

28    4. ~~Upon the remarriage of a surviving spouse with children:~~

29    ~~—(a) The surviving spouse must be paid 2 years' compensation in one~~  
30    ~~lump sum and further benefits must cease; and~~

31    ~~—(b) Each child must be paid 15 percent of the average monthly wage, up~~  
32    ~~to a maximum family benefit of 66 2/3 percent of the average monthly~~  
33    ~~wage.~~

34    ~~5.~~ **5.** If there are any surviving children of the deceased employee under  
35    the age of 18 years, but no surviving spouse, then each such child is  
36    entitled to his proportionate share of 66 2/3 percent of the average monthly  
37    wage for his support.

38    ~~6.~~ **5.** Except as otherwise provided in subsection ~~7,~~ **6**, if there is no  
39    surviving spouse or child under the age of 18 years, there must be paid:

40    (a) To a parent, if wholly dependent for support upon the deceased  
41    employee at the time of the injury causing his death, 33 1/3 percent of the  
42    average monthly wage.

43    (b) To both parents, if wholly dependent for support upon the deceased  
44    employee at the time of the injury causing his death, 66 2/3 percent of the  
45    average monthly wage.

46    (c) To each brother or sister until he or she reaches the age of 18 years,  
47    if wholly dependent for support upon the deceased employee at the time of  
48    the injury causing his death, his proportionate share of 66 2/3 percent of the  
49    average monthly wage.



1 ~~17-1~~ 6. The aggregate compensation payable pursuant to subsection ~~16~~  
2 5 must not exceed 66 2/3 percent of the average monthly wage.

3 ~~18-1~~ 7. In all other cases involving a question of total or partial  
4 dependency:

5 (a) The extent of the dependency must be determined in accordance  
6 with the facts existing at the time of the injury.

7 (b) If the deceased employee leaves dependents only partially  
8 dependent upon his earnings for support at the time of the injury causing  
9 his death, the monthly compensation to be paid must be equal to the same  
10 proportion of the monthly payments for the benefit of persons totally  
11 dependent as the amount contributed by the deceased employee to the  
12 partial dependents bears to the average monthly wage of the deceased  
13 employee at the time of the injury resulting in his death.

14 (c) The duration of compensation to partial dependents must be fixed in  
15 accordance with the facts shown, but may not exceed compensation for 100  
16 months.

17 ~~19-1~~ 8. Compensation payable to a surviving spouse is for the use and  
18 benefit of the surviving spouse and the dependent children, and the insurer  
19 may, from time to time, apportion such compensation between them in  
20 such a way as it deems best for the interest of all dependents.

21 ~~10-1~~ 9. In the event of the death of any dependent specified in this  
22 section before the expiration of the time during which compensation is  
23 payable to him, funeral expenses are payable in an amount not to exceed  
24 \$5,000.

25 ~~11-1~~ 10. If a dependent is entitled to receive a death benefit pursuant  
26 to this section and is less than 18 years of age or incompetent, the legal  
27 representative of the dependent shall petition for a guardian to be appointed  
28 for that dependent pursuant to NRS 159.044. An insurer shall not pay any  
29 compensation in excess of \$3,000, other than burial expenses, to the  
30 dependent until a guardian is appointed and legally qualified. Upon receipt  
31 of a certified letter of guardianship, the insurer shall make all payments  
32 required by this section to the guardian of the dependent until the  
33 dependent is emancipated, the guardianship terminates or the dependent  
34 reaches the age of 18 years, whichever occurs first, unless paragraph (a) of  
35 subsection ~~112 is applicable.~~ 11 applies. The fees and costs related to the  
36 guardianship must be paid from the estate of the dependent. A guardianship  
37 established pursuant to this subsection must be administered in accordance  
38 with chapter 159 of NRS, except that after the first annual review required  
39 pursuant to NRS 159.176, a court may elect not to review the guardianship  
40 annually. The court shall review the guardianship at least once every 3  
41 years. As used in this subsection, "incompetent" has the meaning ascribed  
42 to it in NRS 159.019.

43 ~~112-1~~ 11. Except as otherwise provided in paragraphs (a) and (b), the  
44 entitlement of any child to receive his proportionate share of compensation  
45 pursuant to this section ceases when he dies, marries or reaches the age of  
46 18 years. A child is entitled to continue to receive compensation pursuant  
47 to this section if he is:

48 (a) Over 18 years of age and incapable of supporting himself, until such  
49 time as he becomes capable of supporting himself; or



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1 (b) Over 18 years of age and enrolled as a full-time student in an  
2 accredited vocational or educational institution, until he reaches the age of  
3 22 years.

4 ~~13.1~~ 12. As used in this section, "surviving spouse" means a  
5 surviving husband or wife who was married to the employee at the time of  
6 the employee's death.

7 **Sec. 4.** NRS 617.460 is hereby amended to read as follows:

8 617.460 1. Except as otherwise provided in NRS 617.366, silicosis  
9 and diseases related to asbestos are occupational diseases and are  
10 compensable as such when contracted by an employee and when arising  
11 out of and in the course of the employment.

12 2. Claims for compensation on account of silicosis or a disease related  
13 to asbestos are forever barred unless application is made to the insurer  
14 within 1 year after the date of disability or death and within 1 year after the  
15 claimant knew or should have known of the relationship between the  
16 disease and the employment.

17 3. ~~Nothing in~~ *The provisions of* this chapter ~~entitles~~ *do not entitle*  
18 an employee or his dependents to compensation, medical, hospital and  
19 nursing expenses or payment of funeral expenses for disability or death  
20 because of silicosis or a disease related to asbestos in the event of the  
21 failure or omission on the part of the employee truthfully to state, when  
22 seeking employment, the place, duration and nature of previous  
23 employment in answer to an inquiry made by the employer.

24 4. No compensation may be paid in case of silicosis or a disease  
25 related to asbestos unless the injured employee has been exposed to  
26 harmful quantities of silicon dioxide dust or fibers of asbestos for not less  
27 than 1 year in employment in this state covered by this chapter and  
28 chapters 616A to 616D, inclusive, of NRS.

29 5. Compensation on account of silicosis or a disease related to asbestos  
30 is payable only in the event of a temporary or permanent disability, or  
31 death, in accordance with the provisions of chapters 616A to 616D,  
32 inclusive, of NRS. ~~Except as otherwise provided in NRS 616C.505, the~~  
33 *The* insurer shall not allow the conversion of the compensation benefits  
34 provided for in this section into the payment of a lump sum. Payment of  
35 benefits and compensation is limited to the claimant and his dependents.

36 6. Any claimant who has been disabled by silicosis or a disease related  
37 to asbestos before July 1, 1973, or his dependents, upon receiving the  
38 maximum sum payable, \$14,250, to which they are entitled, are not entitled  
39 to compensation from the insurer, but are entitled to continue to receive the  
40 same amount of compensation from the account for pensions for silicosis,  
41 diseases related to asbestos and other disabilities.

42 **Sec. 5.** This act becomes effective on July 1, 2001.

