

**PROPOSED AMENDMENTS TO  
HOUSE BILL 4048**

1 On page 1 of the printed bill, line 2, after the first semicolon delete the  
2 rest of the line and line 3 and insert “amending ORS 656.204.”.

3 Delete lines 5 through 30 and delete pages 2 through 4 and insert:

4 **“SECTION 1.** ORS 656.204 is amended to read:

5 “656.204. If death results from the accidental injury, payments shall be  
6 made as follows:

7 “(1)(a) The cost of final disposition of the body and funeral expenses, in-  
8 cluding but not limited to transportation of the body, shall be paid, not to  
9 exceed 20 times the average weekly wage in any case.

10 “(b) The insurer or self-insured employer shall pay bills submitted for  
11 disposition and funeral expenses up to the benefit limit established in para-  
12 graph (a) of this subsection. If any part of the benefit remains unpaid 60 days  
13 after claim acceptance, the insurer or self-insured employer shall pay the  
14 unpaid amount to the estate of the worker.

15 “(2)(a) If the worker is survived by a spouse, monthly benefits shall be  
16 paid in an amount equal to 4.35 times 66-2/3 percent of the average weekly  
17 wage to the surviving spouse until remarriage. The payment shall cease at  
18 the end of the month in which the remarriage occurs.

19 “(b) If the worker is survived by a spouse, monthly benefits also shall be  
20 paid in an amount equal to 4.35 times 10 percent of the average weekly wage  
21 for each child of the deceased who is substantially dependent on the spouse  
22 for support, until such child becomes 18 years of age.

1       “(c) If the worker is survived by a spouse, monthly benefits also shall be  
2 paid in an amount equal to 4.35 times 25 percent of the average weekly wage  
3 for each child of the deceased who is not substantially dependent on the  
4 spouse for support, until such child becomes 18 years of age.

5       “(d) If a surviving spouse receiving monthly payments dies, leaving a  
6 child who is entitled to compensation on account of the death of the worker,  
7 a monthly benefit equal to 4.35 times 25 percent of the average weekly wage  
8 shall be paid to each such child until the child becomes 18 years of age or  
9 the child’s entitlement to benefits under subsection (8) of this section ceases,  
10 whichever is later.

11       “(e) If a child who has become 18 years of age is a full-time high school  
12 student, benefits shall be paid as provided in subsection (8) of this section.

13       “(f) In no event shall the total monthly benefits provided for in this sub-  
14 section exceed 4.35 times 133-1/3 percent of the average weekly wage. If the  
15 sum of the individual benefits exceeds this maximum, the benefit for each  
16 child will be reduced proportionally.

17       “(3)(a) Upon remarriage, a surviving spouse shall be paid 36 times the  
18 monthly benefit in a lump sum as final payment of the claim, but the  
19 monthly payments for each child shall continue as before.

20       “(b) If, after the date of the subject worker’s death, the surviving spouse  
21 cohabits with another person for an aggregate period of more than one year  
22 and a child has resulted from the relationship, the surviving spouse shall be  
23 paid 36 times the monthly benefit in a lump sum as final payment of the  
24 claim, but the monthly payment for any child who is entitled to compen-  
25 sation on account of the death of the worker shall continue as before.

26       “(4)(a) If the worker leaves neither wife nor husband, but a child under  
27 18 years of age, a monthly benefit equal to 4.35 times 25 percent of the av-  
28 erage weekly wage shall be paid to each such child until the child becomes  
29 18 years of age.

30       “(b) If a child who has become 18 years of age is a full-time high school

1 student, benefits shall be paid as provided in subsection (8) of this section.

2 “(c) In no event shall the total benefits provided for in this subsection  
3 exceed 4.35 times 133-1/3 percent of the average weekly wage. If the sum of  
4 the individual benefits exceeds this maximum, the benefit for each child will  
5 be reduced proportionally.

6 “(5)(a) If the worker leaves a dependent other than a surviving spouse or  
7 a child, a monthly payment shall be made to each dependent equal to 50  
8 percent of the average monthly support actually received by such dependent  
9 from the worker during the 12 months next preceding the occurrence of the  
10 accidental injury. If a dependent is under the age of 18 years at the time of  
11 the accidental injury, the payment to the dependent shall cease when such  
12 dependent becomes 18 years of age. The payment to any dependent shall  
13 cease under the same circumstances that would have terminated the de-  
14 pendency had the injury not happened.

15 “(b) If the dependent who has become 18 years of age is a full-time high  
16 school student, benefits shall be paid as provided in subsection (8) of this  
17 section.

18 “(c) In no event shall the total benefits provided for in this subsection  
19 exceed 4.35 times 10 percent of the average weekly wage. If the sum of the  
20 individual benefits exceeds this maximum, the benefit for each dependent will  
21 be reduced proportionally.

22 “(6) If a child is an invalid at the time the child otherwise becomes inel-  
23 igible for benefits under this section, the payment to the child shall continue  
24 while the child remains an invalid. If a person is entitled to payment because  
25 the person is an invalid, payment shall terminate when the person ceases to  
26 be an invalid.

27 “(7) If, at the time of the death of a worker, the child of the worker or  
28 dependent has become 17 years of age but is under 18 years of age, the child  
29 or dependent shall receive the payment provided in this section for a period  
30 of one year from the date of the death. However, if after such period the

1 child is a full-time high school student, benefits shall be paid as provided in  
2 subsection (8) of this section.

3 “(8)(a) Benefits under this section which are to be paid as provided in this  
4 subsection shall be paid for the child or dependent until the child or de-  
5 pendent becomes 19 years of age. If, however, the child or dependent is at-  
6 tending higher education or begins attending higher education within six  
7 months of the date the child or dependent leaves high school, benefits shall  
8 be paid until the child or dependent becomes 23 years of age, ceases attend-  
9 ing higher education or graduates from an approved institute or program,  
10 whichever is earlier.

11 “(b) If a child or dependent who is eligible for benefits under this sub-  
12 section has no surviving parent, the child or dependent shall receive 4.35  
13 times 66-2/3 percent of the average weekly wage until the child or dependent  
14 becomes 23 years of age, ceases attending higher education or graduates from  
15 an approved institute or program, whichever is earlier.

16 “(c) As used in this subsection, ‘attending higher education’ means regu-  
17 larly attending community college, college or university, or regularly at-  
18 tending a course of vocational or technical training designed to prepare the  
19 participant for gainful employment. A child or dependent enrolled in an ed-  
20 ucational course load of less than one-half of that determined by the educa-  
21 tional facility to constitute ‘full-time’ enrollment is not ‘attending higher  
22 education.’

23 **“(9) In addition to any other death benefit payments specified in**  
24 **this section, if the wrongful death of a subject worker occurs in the**  
25 **course and scope of the employment of the decedent and is the result**  
26 **of a criminal act of another person, the estate of the worker shall be**  
27 **awarded a death benefit payment of \$\_\_\_\_\_.**

28 “[9] (10) As used in this section, ‘average weekly wage’ has the meaning  
29 for that term provided in ORS 656.211.”

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