

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
SECOND SESSION
LEGISLATIVE BILL 1082

Introduced by Cornett, 45; Howard, 9; Kruse, 13; Lathrop, 12;
McGill, 26; Nantkes, 46; Pedersen, 39; Rogert, 16;
Synowiecki, 7; Wallman, 30; White, 8.

Read first time January 22, 2008

Committee: Business and Labor

A BILL

1 FOR AN ACT relating to the Nebraska Workers' Compensation Act;
2 to amend section 48-151, Reissue Revised Statutes of
3 Nebraska, and section 48-1, 110, Revised Statutes Supplement
4 2007; to describe covered personal injuries for the first responders
5 as prescribed; to define and redefine terms; to provide for
6 applicability; to harmonize provisions; and to repeal the original
7 sections.

8 Be it enacted by the people of the State of Nebraska,

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1 1. Strike the original sections and insert the following

2 new sections:

3 Section 1. (1) Personal injury includes mental injuries
4 and mental illness unaccompanied by physical injury for an employee
5 who is a first responder if such first responder:

6 (a) Establishes, by a preponderance of the evidence, that
7 the employee's employment conditions causing the mental injury or
8 mental illness were extraordinary and unusual in comparison to the
9 normal conditions of the particular employment; and

10 (b) Establishes, by a preponderance of the evidence, the
11 medical causation between the mental injury or mental illness and
12 the employment conditions by medical evidence.

13 (2) For purposes of this section, mental injuries and
14 mental illness arising out of and in the course of employment
15 unaccompanied by physical injury are not considered compensable if
16 they result from any event or series of events which are incidental
17 to normal employer and employee relations, including, but not
18 limited to, personnel actions by the employer such as disciplinary
19 actions, work evaluations, transfers, promotions, demotions, salary
20 reviews, or terminations.

21 (3) For purposes of this section, first responder means a
22 firefighter, a law enforcement officer, a crime scene investigator,
23 or an out-of-hospital emergency care provider as defined in section

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1 38-1208.

2 Section 2. Section 48-151, Reissue Revised Statutes of

3 Nebraska, is amended to read:

4 48-151 Throughout the Nebraska Workers' Compensation Act,
5 the following words and phrases shall be considered to have
6 the following meaning, respectively, unless the context clearly
7 indicates a different meaning in the construction used:

8 (1) Physician means any person licensed to practice
9 medicine and surgery, osteopathic medicine, chiropractic, podiatry,
10 or dentistry in the State of Nebraska or in the state in which the
12 physician is practicing;

12 (2) Accident means an unexpected or unforeseen injury
13 happening suddenly and violently, with or without human fault, and
14 producing at the time objective symptoms of an injury. The claimant
15 has the burden of proof to establish by a preponderance of the
16 evidence that such unexpected or unforeseen injury was in fact
17 caused by the employment. There is no presumption from the mere
18 occurrence of such unexpected or unforeseen injury that the injury
19 was in fact caused by the employment;

20 (3) Occupational disease means only a disease which is
21 due to causes and conditions which are characteristic of and
22 peculiar to a particular trade, occupation, process, or employment
23 and excludes all ordinary diseases of life to which the general
24 public is exposed;

25 (4) Injury and personal injuries mean only violence to
26 the physical structure of the body and such disease or infection
27 as naturally results therefrom and personal injuries described in

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1 section 1 of this act. The terms include disablement resulting
2 from occupational disease arising out of and in the course of
3 the employment in which the employee was engaged and which was
4 contracted in such employment. The terms include an aggravation
5 of a preexisting occupational disease, the employer being liable
6 only for the degree of aggravation of the preexisting occupational
7 disease. The terms do not include disability or death due to
8 natural causes but occurring while the employee is at work and do
9 not include an injury, disability, or death that is the result of a
10 natural progression of any preexisting condition;

11 (5) Death, when mentioned as a basis for the right to
12 compensation, means only death resulting from such violence and its
13 resultant effects or from occupational disease;

14 (6) Without otherwise affecting either the meaning or the
15 interpretation of the abridged clause, personal injuries arising
16 out of and in the course of employment, it is hereby declared
17 not to cover workers except while engaged in, on, or about the
18 premises where their duties are being performed or where their
19 service requires their presence as a part of such service at the
20 time of the injury and during the hours of service as such workers,

21 and not to cover workers who on their own initiative leave their
22 line of duty or hours of employment for purposes of their own.
23 Property maintained by an employer is considered the premises of
24 such employer for purposes of determining whether the injury arose
25 out of employment;

26 (7) Willful negligence consists of (a) a deliberate act,
27 (b) such conduct as evidences reckless indifference to safety, or

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1 (c) intoxication at the time of the injury, such intoxication being
2 without the consent, knowledge, or acquiescence of the employer or
3 the employer's agent;

4 (8) Intoxication includes, but is not limited to, being
5 under the influence of a controlled substance not prescribed by a
6 physician;

7 (9) Prospective loss costs means prospective loss costs
8 as defined in section 44-7504 and prepared, filed, or distributed
9 by an advisory organization which has been issued a certificate of
10 authority pursuant to section 44-7518; and

11 (10) Whenever in the Nebraska Workers' Compensation Act
12 the singular is used, the plural is considered included; when the
13 masculine gender is used, the feminine is considered included.

14 Sec. 3. Section 48-1,110, Revised Statutes Supplement,
15 2007, is amended to read:

16 48-1,110 Sections 48-101 to 48-1,117 and sections 1 and
17 4 of this act shall be known and may be cited as the Nebraska
18 Workers' Compensation Act.

19 Sec. 4. The changes made by this legislative bill to the
20 Nebraska Workers' Compensation Act apply only to personal injuries
21 that occurred on or after the effective date of this act.

22 Sec. 5. Original section 48-151, Reissue Revised Statutes
23 of Nebraska, and section 48-1,110, Revised Statutes Supplement,
24 2007, are repealed.