

## LEGISLATIVE BILL 418

Approved by the Governor April 2, 2003

Introduced by Speaker Bromm, 23; Connealy, 16; Aguilar, 35;  
at the request of the Governor

AN ACT relating to labor; to amend sections 48-2201 to 48-2206, Reissue Revised Statutes of Nebraska, and sections 48-1702 and 81-404, Revised Statutes Supplement, 2002; to name the Non-English-Speaking Workers Protection Act; to define terms; to eliminate a termination date; to harmonize provisions; and to repeal the original sections.  
Be it enacted by the people of the State of Nebraska,

Section 1. Sections 1 to 8 of this act shall be known and may be cited as the Non-English-Speaking Workers Protection Act.

Sec. 2. Section 48-2201, Reissue Revised Statutes of Nebraska, is amended to read:

~~48-2201.~~ For purposes of sections 48-2201 to 48-2206 the Non-English-Speaking Workers Protection Act, unless the context otherwise requires:

(1) Actively recruit means any affirmative act, as defined by the Department of Labor department, done by or on behalf of an employer for the purpose of recruitment or hiring of non-English-speaking employees who reside more than five hundred miles from the place of employment;

(2) Commissioner means the Commissioner of Labor;

(3) Coordinator means the meatpacking industry worker rights coordinator appointed pursuant to section 7 of this act;

(4) Department means the Department of Labor;

(5) Employ means to permit to work;

~~(4)~~ (6) Employee means any individual employed by any employer but does not include:

(a) Any individual employed in agriculture; or

(b) Any individual employed as a child care provider in or for a private home;

~~(5)~~ (7) Employer means any individual, partnership, limited liability company, association, corporation, business trust, legal representative, or organized group of persons employing one hundred or more employees at any one time, except for seasonal employment of not more than twenty weeks in any calendar year, or person acting directly or indirectly in the interest of an employer in relation to an employee but does not include the United States, the state, or any political subdivision thereof; and

(8) Meatpacking operation means a business in which slaughtering, butchering, meat canning, meat packing, meat manufacturing, poultry canning, poultry packing, poultry manufacturing, pet food manufacturing, processing of meatpacking products, or rendering is carried on;

(9) Meatpacking products includes livestock products and poultry products as such terms are defined in section 54-1902; and

~~(6)~~ (10) Non-English-speaking employee means an employee who does not speak, read, or understand English to the degree necessary for comprehension of the terms, conditions, and daily responsibilities of employment.

Sec. 3. Section 48-2202, Reissue Revised Statutes of Nebraska, is amended to read:

~~48-2202.~~ If an employer or a representative of an employer actively recruits any non-English-speaking persons who reside more than five hundred miles from the place of employment for employment as employees in this state and if more than ten percent of the employees of an employer are non-English-speaking employees and speak the same non-English language, the employer shall provide a bilingual employee who is conversant in the identified non-English language and available at the worksite for each shift during which a non-English-speaking employee is employed to (1) explain and respond to questions regarding the terms, conditions, and daily responsibilities of employment and (2) serve as a referral agent to community services for the non-English-speaking employees.

Sec. 4. Section 48-2203, Reissue Revised Statutes of Nebraska, is amended to read:

~~48-2203.~~ (1) An employer or a representative of an employer who actively recruits any non-English-speaking persons who reside more than five hundred miles from the place of employment for employment as employees in this state and whose work force is more than ten percent non-English-speaking

employees who speak the same non-English language shall file with the commissioner a written statement signed by the employer and each such employee which provides relevant information regarding the position of employment, including:

(a) The minimum number of hours the employee can expect to work on a weekly basis;

(b) The hourly wages of the position of employment including the starting hourly wage;

(c) A description of the responsibilities and tasks of the position of employment;

(d) ~~The A description of the transportation and housing to be provided, if any, including any costs to be charged for housing or transportation, how long the length of time such housing is to be provided, and that whether or not such housing is in compliance with all applicable state and local housing standards; and~~

(e) ~~The Any occupational physical demands and hazards of the position of employment which are known to the employer.~~

The statement shall be written in English and in the identified language of the non-English-speaking employee, and the employer or the representative shall explain in detail the contents of the statement prior to obtaining the employee's signature. A copy of the statement shall be given to the employee.

It is a violation of this subsection if an employer or representative knowingly and willfully provides false or misleading information on the statement or regarding the contents of the statement.

(2) An employer shall provide transportation for a recruited employee, at no cost to the employee, to the location from which the employee was recruited if the employee:

(a) Resigns from employment within four weeks after the initial date of employment; and

(b) Requests transportation within not more than three days after the employee's last day of employment with the employer which recruited the employee.

Sec. 5. Section 48-2205, Reissue Revised Statutes of Nebraska, is amended to read:

~~48-2205.~~ Any employer who violates section 3 or 4 of this act or the rules and regulations adopted and promulgated pursuant thereto ~~any provision of section 48-2202 or 48-2203~~ is guilty of a Class IV misdemeanor.

Sec. 6. Section 48-2206, Reissue Revised Statutes of Nebraska, is amended to read:

~~48-2206.~~ Any person aggrieved as a result of a violation of ~~sections 48-2202 to 48-2204~~ section 3 or 4 of this act or the rules and regulations adopted and promulgated pursuant thereto may file suit in any district court of this state. If the court finds that the respondent has intentionally violated ~~any provision of sections 48-2202 to 48-2204~~ section 3 or 4 of this act or the rules and regulations adopted and promulgated pursuant thereto, the court may award damages up to and including an amount equal to the original damages and provide injunctive relief.

Sec. 7. Section 81-404, Revised Statutes Supplement, 2002, is amended to read:

~~81-404.~~ (1) The position of ~~Meatpacking Industry Worker Rights Coordinator~~ meatpacking industry worker rights coordinator is established within the ~~Department of Labor~~ department. The coordinator shall be appointed by the Governor.

(2) The duties of the coordinator shall be to inspect and review the practices and procedures of meatpacking operations in the State of Nebraska as they relate to the provisions of the Governor's Nebraska Meatpacking Industry Workers Bill of Rights, which rights are outlined as follows:

(a) The right to organize;

(b) The right to a safe workplace;

(c) The right to adequate facilities and the opportunity to use them;

(d) The right to complete information;

(e) The right to understand the information provided;

(f) The right to existing state and federal benefits and rights;

(g) The right to be free from discrimination;

(h) The right to continuing training, including ~~supervisor's training~~ training of supervisors;

(i) The right to compensation for work performed; and

(j) The right to seek state help.

(3) The coordinator and his or her designated representatives shall have access to all meatpacking operations in the State of Nebraska at any time

meatpacking products are being processed and industry workers are on the job.

(4) Necessary office space, furniture, equipment, and supplies as well as necessary assistance for the coordinator shall be provided by the ~~department~~ commissioner.

(5) Preference shall be given to applicants for the coordinator position who are fluent in the Spanish language.

(6) The coordinator shall, ~~annually~~, on or before December 1 of each year, submit a report to the members of the Legislature and the Governor regarding any recommended actions the coordinator deems necessary or appropriate to provide for the fair treatment of workers in the meatpacking industry.

~~(7) For purposes of this section:~~

~~(a) Meatpacking operations means a business in which slaughtering, butchering, meat canning, meat packing, meat manufacturing, poultry canning, poultry packing, poultry manufacturing, pet feed manufacturing, processing of meatpacking products, or rendering is carried on; and~~

~~(b) Meatpacking products include livestock products and poultry products as such terms are defined in section 54-1902.~~

~~(8) This section terminates on June 30, 2004.~~

Sec. 8. Section 48-2204, Reissue Revised Statutes of Nebraska, is amended to read:

~~48-2204.~~ The commissioner shall adopt and promulgate rules and regulations necessary to carry out ~~sections 48-2201 to 48-2206~~ the Non-English-Speaking Workers Protection Act. The commissioner or a representative of the commissioner, including the coordinator, may:

(1) Inspect employment records of an employer relating to the total number of employees, the total number of non-English-speaking employees, and the services provided to non-English-speaking employees; and

(2) Interview an employer, any representative, any agent, or an employee of the employer during working hours or at other reasonable times.

Sec. 9. Section 48-1702, Revised Statutes Supplement, 2002, is amended to read:

48-1702. For purposes of the Farm Labor Contractors Act, unless the context otherwise requires:

(1) Department means the Department of Labor;

(2) Farm labor contractor means any individual, partnership, limited liability company, corporation, or cooperative association, other than an agricultural employer, an agricultural association, or an employee of an agricultural employer or agricultural association, who for any money or other valuable consideration paid or promised to be paid performs any farm labor contracting activity;

(3) Farm labor contracting activity means recruiting, soliciting, hiring, employing, furnishing, or transporting any migrant or seasonal agricultural worker;

(4) Non-English-speaking worker has the same meaning as non-English-speaking employee in section ~~48-2201~~ 2 of this act; and

(5) Worker means a person who is employed or recruited by or who subcontracts with a farm labor contractor.

Sec. 10. Original sections 48-2201 to 48-2206, Reissue Revised Statutes of Nebraska, and sections 48-1702 and 81-404, Revised Statutes Supplement, 2002, are repealed.