

LEGISLATURE OF NEBRASKA
NINETY-NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 436

Introduced by Combs, 32; Connealy, 16; Preister, 5

Read first time January 13, 2005

Committee: Business and Labor

A BILL

1 FOR AN ACT relating to workers' compensation; to amend section
2 48-121, Reissue Revised Statutes of Nebraska; to provide
3 for compensation for permanent disfigurement or scarring
4 as prescribed; and to repeal the original section.
5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 48-121, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 48-121. The following schedule of compensation is hereby
4 established for injuries resulting in disability:

5 (1) For total disability, the compensation during such
6 disability shall be sixty-six and two-thirds percent of the wages
7 received at the time of injury, but such compensation shall not be
8 more than the maximum weekly income benefit specified in section
9 48-121.01 nor less than the minimum weekly income benefit specified
10 in section 48-121.01, except that if at the time of injury the
11 employee receives wages of less than the minimum weekly income
12 benefit specified in section 48-121.01, then he or she shall
13 receive the full amount of such wages per week as compensation.
14 Nothing in this subdivision shall require payment of compensation
15 after disability shall cease.

16 (2) For disability partial in character, except the
17 particular cases mentioned in subdivision (3) of this section, the
18 compensation shall be sixty-six and two-thirds percent of the
19 difference between the wages received at the time of the injury and
20 the earning power of the employee thereafter, but such compensation
21 shall not be more than the maximum weekly income benefit specified
22 in section 48-121.01. This compensation shall be paid during the
23 period of such partial disability but not beyond three hundred
24 weeks. Should total disability be followed by partial disability,
25 the period of three hundred weeks mentioned in this subdivision
26 shall be reduced by the number of weeks during which compensation
27 was paid for such total disability.

28 (3) For disability resulting from permanent injury of the

1 classes listed in this subdivision, the compensation shall be in
2 addition to the amount paid for temporary disability, except that
3 the compensation for temporary disability shall cease as soon as
4 the extent of the permanent disability is ascertainable. For
5 disability resulting from permanent injury of the following
6 classes, compensation shall be: For the loss of a thumb, sixty-six
7 and two-thirds percent of daily wages during sixty weeks. For the
8 loss of a first finger, commonly called the index finger, sixty-six
9 and two-thirds percent of daily wages during thirty-five weeks.
10 For the loss of a second finger, sixty-six and two-thirds percent
11 of daily wages during thirty weeks. For the loss of a third
12 finger, sixty-six and two-thirds percent of daily wages during
13 twenty weeks. For the loss of a fourth finger, commonly called the
14 little finger, sixty-six and two-thirds percent of daily wages
15 during fifteen weeks. The loss of the first phalange of the thumb
16 or of any finger shall be considered to be equal to the loss of
17 one-half of such thumb or finger and compensation shall be for
18 one-half of the periods of time above specified, and the
19 compensation for the loss of one-half of the first phalange shall
20 be for one-fourth of the periods of time above specified. The loss
21 of more than one phalange shall be considered as the loss of the
22 entire finger or thumb, except that in no case shall the amount
23 received for more than one finger exceed the amount provided in
24 this schedule for the loss of a hand. For the loss of a great toe,
25 sixty-six and two-thirds percent of daily wages during thirty
26 weeks. For the loss of one of the toes other than the great toe,
27 sixty-six and two-thirds percent of daily wages during ten weeks.
28 The loss of the first phalange of any toe shall be considered equal

1 to the loss of one-half of such toe, and compensation shall be for
2 one-half of the periods of time above specified. The loss of more
3 than one phalange shall be considered as the loss of the entire
4 toe. For the loss of a hand, sixty-six and two-thirds percent of
5 daily wages during one hundred seventy-five weeks. For the loss of
6 an arm, sixty-six and two-thirds percent of daily wages during two
7 hundred twenty-five weeks. For the loss of a foot, sixty-six and
8 two-thirds percent of daily wages during one hundred fifty weeks.
9 For the loss of a leg, sixty-six and two-thirds percent of daily
10 wages during two hundred fifteen weeks. For the loss of an eye,
11 sixty-six and two-thirds percent of daily wages during one hundred
12 twenty-five weeks. For the loss of an ear, sixty-six and
13 two-thirds percent of daily wages during twenty-five weeks. For
14 the loss of hearing in one ear, sixty-six and two-thirds percent of
15 daily wages during fifty weeks. For the loss of the nose,
16 sixty-six and two-thirds percent of daily wages during fifty weeks.
17 For permanent disfigurement or scarring of any part of the body
18 that alters personal appearance and impairs the future usefulness
19 or earnings of the employee, sixty-six and two-thirds percent of
20 daily wages during the number of weeks determined by the
21 compensation court to be just but not beyond three hundred weeks.

22 In any case in which there is a loss or loss of use of
23 more than one member or parts of more than one member set forth in
24 this subdivision, but not amounting to total and permanent
25 disability, compensation benefits shall be paid for the loss or
26 loss of use of each such member or part thereof, with the periods
27 of benefits to run consecutively. The total loss or permanent
28 total loss of use of both hands, or both arms, or both feet, or

1 both legs, or both eyes, or hearing in both ears, or of any two
2 thereof, in one accident, shall constitute total and permanent
3 disability and be compensated for according to subdivision (1) of
4 this section. In all other cases involving a loss or loss of use
5 of both hands, both arms, both feet, both legs, both eyes, or
6 hearing in both ears, or of any two thereof, total and permanent
7 disability shall be determined in accordance with the facts.
8 Amputation between the elbow and the wrist shall be considered as
9 the equivalent of the loss of a hand, and amputation between the
10 knee and the ankle shall be considered as the equivalent of the
11 loss of a foot. Amputation at or above the elbow shall be
12 considered as the loss of an arm, and amputation at or above the
13 knee shall be considered as the loss of a leg. Permanent total
14 loss of the use of a finger, hand, arm, foot, leg, or eye shall be
15 considered as the equivalent of the loss of such finger, hand, arm,
16 foot, leg, or eye. In all cases involving a permanent partial loss
17 of the use or function of any of the members mentioned in this
18 subdivision, the compensation shall bear such relation to the
19 amounts named in such subdivision as the disabilities bear to those
20 produced by the injuries named therein.

21 In any case in which there is permanent disfigurement or
22 scarring that alters personal appearance and impairs the future
23 usefulness or earnings of the employee, in addition to a permanent
24 loss of the use or function of any of the members mentioned in this
25 subdivision, the compensation court may allow such additional
26 compensation on account thereof as it deems just for sixty-six and
27 two-thirds percent of daily wages during one hundred weeks. If the
28 employer and the employee are unable to agree upon the amount of

1 compensation to be paid in cases not covered by the schedule, the
2 amount of compensation shall be settled according to sections
3 48-173 to 48-185. Compensation under this subdivision shall not be
4 more than the maximum weekly income benefit specified in section
5 48-121.01 nor less than the minimum weekly income benefit specified
6 in section 48-121.01, except that if at the time of the injury the
7 employee received wages of less than the minimum weekly income
8 benefit specified in section 48-121.01, then he or she shall
9 receive the full amount of such wages per week as compensation.

10 (4) For disability resulting from permanent disability,
11 if immediately prior to the accident the rate of wages was fixed by
12 the day or hour, or by the output of the employee, the weekly wages
13 shall be taken to be computed upon the basis of a workweek of a
14 minimum of five days, if the wages are paid by the day, or upon the
15 basis of a workweek of a minimum of forty hours, if the wages are
16 paid by the hour, or upon the basis of a workweek of a minimum of
17 five days or forty hours, whichever results in the higher weekly
18 wage, if the wages are based on the output of the employee.

19 (5) The employee shall be entitled to compensation from
20 his or her employer for temporary disability while undergoing
21 physical or medical rehabilitation and while undergoing vocational
22 rehabilitation whether such vocational rehabilitation is
23 voluntarily offered by the employer and accepted by the employee or
24 is ordered by the Nebraska Workers' Compensation Court or any judge
25 of the compensation court.

26 Sec. 2. Original section 48-121, Reissue Revised
27 Statutes of Nebraska, is repealed.