

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 405

Introduced by Vargas, 7.

Read first time January 12, 2023

Committee: Business and Labor

1 A BILL FOR AN ACT relating to the Non-English-Speaking Workers Protection
2 Act; to amend sections 48-2207, 48-2208, 48-2213, and 48-2214,
3 Reissue Revised Statutes of Nebraska; to define a term; to change
4 provisions relating to a report, the powers and duties of the
5 meatpacking industry worker rights coordinator and the Commissioner
6 of Labor; to require certain disclosures by meatpacking operations;
7 to provide for confidentiality; to harmonize provisions; to provide
8 severability; and to repeal the original sections.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 48-2207, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 48-2207 Sections 48-2207 to 48-2214 and sections 4 and 6 of this act
4 shall be known and may be cited as the Non-English-Speaking Workers
5 Protection Act.

6 Sec. 2. Section 48-2208, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 48-2208 For purposes of the Non-English-Speaking Workers Protection
9 Act, unless the context otherwise requires:

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

14 (2) Commissioner means the Commissioner of Labor;

15 (3) Coordinator means the meatpacking industry worker rights
16 coordinator appointed pursuant to section 48-2213;

17 (4) Department means the Department of Labor;

18 (5) Employ means to permit to work;

19 (6) Employee means any individual employed by any employer but does
20 not include:

21 (a) Any individual employed in agriculture; or

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

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

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

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

7 (10) NAICS means the North American Industry Classification System
8 established by the United States Department of Commerce; and

9 (11) ~~(10)~~ Non-English-speaking employee means an employee who does
10 not speak, read, or understand English to the degree necessary for
11 comprehension of the terms, conditions, and daily responsibilities of
12 employment.

13 Sec. 3. Section 48-2213, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 48-2213 (1) The position of meatpacking industry worker rights
16 coordinator is established within the department. The coordinator shall
17 be appointed by the commissioner.

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

23 (a) The right to organize;

24 (b) The right to a safe workplace;

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

27 (d) The right to complete information;

28 (e) The right to understand the information provided;

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

30 (g) The right to be free from discrimination;

31 (h) The right to continuing training, including training of

1 supervisors;

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

3 (j) The right to seek state help.

4 (3) The coordinator and his or her designated representatives shall
5 have access to all meatpacking operations in the State of Nebraska at any
6 time meatpacking products are being processed and industry workers are on
7 the job.

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

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

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

19 Sec. 4. (1) The coordinator shall, on or before June 30 of each
20 year, submit a report to the members of the Legislature and the Governor.
21 The report shall include, but not be limited to, the matters required by
22 this section and any recommended actions the coordinator deems necessary
23 or appropriate to provide for the fair treatment of workers in the
24 meatpacking industry.

25 (2) The report submitted to the members of the Legislature shall be
26 submitted electronically. The report shall be publicly available on the
27 department's website.

28 (3)(a) For any meatpacking operation or its contractee, regardless
29 of the number of persons employed, operating under a NAICS code of
30 311111, 311119, 311611, 311612, 311613, 311615, 316110, 493120, or 561720
31 or any other code deemed appropriate by the coordinator, the report shall

1 include a compilation of the following publicly available information for
2 the most recently available year, after any amendment period of the
3 federal Occupational Safety and Health Administration has closed,
4 organized by company name and NAICS code:

5 (i) The total number of the following in each category experienced
6 by employees as a result of activities in a meatpacking facility: Deaths;
7 cases of injuries and illnesses resulting in days away from work; cases
8 of injuries and illnesses resulting in job transfer or job restriction;
9 total other cases; and total injuries, poisonings, respiratory
10 conditions, skin disorders, hearing loss, and other illnesses;

11 (ii) The total number of days away from work and days on which an
12 employee was working under a job transfer or job restriction as a result
13 of activities in a meatpacking operation;

14 (iii) The average annual number of employees at each meatpacking
15 operation; and

16 (iv) The total number of hours worked in each meatpacking operation.

17 (b) In collecting information required to be reported under this
18 subsection, the coordinator shall rely on information publicly available
19 and released by the federal Occupational Safety and Health Administration
20 or the federal Bureau of Labor Statistics. The collected data should be
21 from the most recently available year after any amendment period has
22 closed.

23 (c) The coordinator shall organize the information required by this
24 subsection according to the NAICS codes as they existed on January 1,
25 2023.

26 (4) Each meatpacking operation with more than five hundred employees
27 shall make the following information available to the coordinator, who
28 shall include it in the report, organized by company name:

29 (a) The total number of employees who do not speak, read, or
30 understand English to the degree necessary for the comprehension of the
31 terms, conditions, and daily responsibilities of employment;

1 (b) A list identifying the services provided to all employees
2 described in subdivision (4)(a) of this section;

3 (c) A list identifying all languages other than English spoken by
4 ten percent or more of the meatpacking operation's employees; and

5 (d) The procedures used to ensure that children and minors are not
6 being employed by a meatpacking operation or its contractor.

7 (5) In compiling the information required to be reported, the
8 coordinator shall visit each meatpacking operation with more than five
9 hundred employees at least once per year. The coordinator shall include
10 in the report the total number of visits the coordinator made in the
11 preceding year to each meatpacking operation, regardless of size.

12 Sec. 5. Section 48-2214, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 48-2214 (1) The commissioner shall adopt and promulgate rules and
15 regulations necessary to carry out the Non-English-Speaking Workers
16 Protection Act.

17 (2) The commissioner or a representative of the commissioner,
18 including the coordinator, may:

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

23 (b) ~~(2)~~ Interview an employer, any representative, any agent, or an
24 employee of the employer during working hours or at other reasonable
25 times. An interview with an employee shall be conducted privately and
26 without the employee's supervisor present; and

27 (c) Obtain an inspection warrant in the manner prescribed in
28 sections 29-830 to 29-835 from a court of record if any person refuses to
29 allow an inspection pursuant to this section.

30 (3) The commissioner and any representative of the commissioner,
31 including the coordinator, shall maintain the confidentiality of the name

1 and identity of any employee communicating with the commissioner or
2 representative unless disclosure is expressly authorized by the employee.

3 Sec. 6. (1) If the commissioner or any representative of the
4 commissioner, including the coordinator, learns of a violation of any
5 worker protection law, whether through an employee or otherwise, the
6 commissioner or representative shall make a referral to the proper state
7 or federal enforcement agency.

8 (2) The coordinator or a representative of the coordinator shall be
9 available to deliver presentations that explain basic rights under worker
10 protection laws and any other topic deemed appropriate by the
11 coordinator.

12 (3) For purposes of this section, worker protection law means the
13 federal Occupational Safety and Health Act of 1970, the federal Fair
14 Labor Standards Act of 1938, the federal Family and Medical Leave Act of
15 1993, the National Labor Relations Act, the Nebraska Workers'
16 Compensation Act, any state or federal law relating to worker safety,
17 child labor, collective bargaining, whistleblower protection, or
18 protection from retaliation, or any other state or federal labor or
19 worker protection law.

20 Sec. 7. If any section in this act or any part of any section is
21 declared invalid or unconstitutional, the declaration shall not affect
22 the validity or constitutionality of the remaining portions.

23 Sec. 8. Original sections 48-2207, 48-2208, 48-2213, and 48-2214,
24 Reissue Revised Statutes of Nebraska, are repealed.