

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 222

Introduced by McGill, 26

Read first time January 9, 2007

Committee: Business and Labor

A BILL

1 FOR AN ACT relating to the Nebraska Workers' Compensation Act;
2 to amend section 48-121, Reissue Revised Statutes of
3 Nebraska; to provide for compensation for permanent
4 disfigurement or scarring as prescribed; and to repeal
5 the original section.
6 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,
18 the 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

1 shall be reduced by the number of weeks during which compensation
2 was paid for such total disability.

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

1 than one finger exceed the amount provided in this schedule for
2 the loss of a hand. For the loss of a great toe, sixty-six and
3 two-thirds percent of daily wages during thirty weeks. For the
4 loss of one of the toes other than the great toe, sixty-six and
5 two-thirds percent of daily wages during ten weeks. The loss of the
6 first phalange of any toe shall be considered equal to the loss of
7 one-half of such toe, and compensation shall be for one-half of the
8 periods of time above specified. The loss of more than one phalange
9 shall be considered as the loss of the entire toe. For the loss of
10 a hand, sixty-six and two-thirds percent of daily wages during one
11 hundred seventy-five weeks. For the loss of an arm, sixty-six and
12 two-thirds percent of daily wages during two hundred twenty-five
13 weeks. For the loss of a foot, sixty-six and two-thirds percent of
14 daily wages during one hundred fifty weeks. For the loss of a leg,
15 sixty-six and two-thirds percent of daily wages during two hundred
16 fifteen weeks. For the loss of an eye, sixty-six and two-thirds
17 percent of daily wages during one hundred twenty-five weeks. For
18 the loss of an ear, sixty-six and two-thirds percent of daily
19 wages during twenty-five weeks. For the loss of hearing in one ear,
20 sixty-six and two-thirds percent of daily wages during fifty weeks.
21 For the loss of the nose, sixty-six and two-thirds percent of daily
22 wages during fifty weeks. For permanent disfigurement or scarring
23 of any part of the body, sixty-six and two-thirds percent of daily
24 wages during the number of weeks determined by the compensation
25 court to be just but not beyond three hundred weeks.

1 In any case in which there is a loss or loss of use
2 of more than one member or parts of more than one member set
3 forth in this subdivision, but not amounting to total and permanent
4 disability, compensation benefits shall be paid for the loss or
5 loss of use of each such member or part thereof, with the periods
6 of benefits to run consecutively. The total loss or permanent
7 total loss of use of both hands, or both arms, or both feet,
8 or both legs, or both eyes, or hearing in both ears, or of any
9 two thereof, in one accident, shall constitute total and permanent
10 disability and be compensated for according to subdivision (1) of
11 this section. In all other cases involving a loss or loss of use
12 of both hands, both arms, both feet, both legs, both eyes, or
13 hearing in both ears, or of any two thereof, total and permanent
14 disability shall be determined in accordance with the facts.
15 Amputation between the elbow and the wrist shall be considered
16 as the equivalent of the loss of a hand, and amputation between
17 the knee and the ankle shall be considered as the equivalent of
18 the loss of a foot. Amputation at or above the elbow shall be
19 considered as the loss of an arm, and amputation at or above the
20 knee shall be considered as the loss of a leg. Permanent total
21 loss of the use of a finger, hand, arm, foot, leg, or eye shall
22 be considered as the equivalent of the loss of such finger, hand,
23 arm, foot, leg, or eye. In all cases involving a permanent partial
24 loss of the use or function of any of the members mentioned in
25 this subdivision, the compensation shall bear such relation to the

1 amounts named in such subdivision as the disabilities bear to those
2 produced by the injuries named therein.

3 In any case in which there is permanent disfigurement
4 or scarring that alters personal appearance and impairs the future
5 usefulness or earnings of the employee, in addition to a permanent
6 loss of the use or function of any of the members mentioned in
7 this subdivision, the compensation court may allow such additional
8 compensation on account thereof as it deems just for sixty-six and
9 two-thirds percent of daily wages during one hundred weeks.

10 If the employer and the employee are unable to agree upon
11 the amount of compensation to be paid in cases not covered by the
12 schedule, the amount of compensation shall be settled according
13 to sections 48-173 to 48-185. Compensation under this subdivision
14 shall not be more than the maximum weekly income benefit specified
15 in section 48-121.01 nor less than the minimum weekly income
16 benefit specified in section 48-121.01, except that if at the
17 time of the injury the employee received wages of less than the
18 minimum weekly income benefit specified in section 48-121.01, then
19 he or she shall receive the full amount of such wages per week as
20 compensation.

21 (4) For disability resulting from permanent disability,
22 if immediately prior to the accident the rate of wages was fixed
23 by the day or hour, or by the output of the employee, the weekly
24 wages shall be taken to be computed upon the basis of a workweek of
25 a minimum of five days, if the wages are paid by the day, or upon

1 the basis of a workweek of a minimum of forty hours, if the wages
2 are paid by the hour, or upon the basis of a workweek of a minimum
3 of five days or forty hours, whichever results in the higher weekly
4 wage, if the wages are based on the output of the employee.

5 (5) The employee shall be entitled to compensation
6 from his or her employer for temporary disability while
7 undergoing physical or medical rehabilitation and while undergoing
8 vocational rehabilitation whether such vocational rehabilitation is
9 voluntarily offered by the employer and accepted by the employee or
10 is ordered by the Nebraska Workers' Compensation Court or any judge
11 of the compensation court.

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