

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 780

Introduced by Lathrop, 12.

Read first time January 07, 2010

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
3 of Nebraska, and section 48-1,110, Revised Statutes
4 Cumulative Supplement, 2008; to change provisions
5 relating to personal injuries; to provide applicability;
6 to harmonize provisions; and to repeal the original
7 sections.

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

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

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

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

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

19 (3) For purposes of this section, first responder means a
20 firefighter, a law enforcement officer, a crime scene investigator,
21 or an out-of-hospital emergency care provider as defined in section
22 38-1208.

23 Sec. 2. Section 48-151, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 48-151 Throughout the Nebraska Workers' Compensation Act,

1 the following words and phrases shall be considered to have
2 the following meaning, respectively, unless the context clearly
3 indicates a different meaning in the construction used:

4 (1) Physician means any person licensed to practice
5 medicine and surgery, osteopathic medicine, chiropractic, podiatry,
6 or dentistry in the State of Nebraska or in the state in which the
7 physician is practicing;

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

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

21 (4) Injury and personal injuries mean only violence to
22 the physical structure of the body and such disease or infection
23 as naturally results therefrom and personal injuries described in
24 section 1 of this act. The terms include disablement resulting
25 from occupational disease arising out of and in the course of

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

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

12 (6) Without otherwise affecting either the meaning or the
13 interpretation of the abridged clause, personal injuries arising
14 out of and in the course of employment, it is hereby declared
15 not to cover workers except while engaged in, on, or about the
16 premises where their duties are being performed or where their
17 service requires their presence as a part of such service at the
18 time of the injury and during the hours of service as such workers,
19 and not to cover workers who on their own initiative leave their
20 line of duty or hours of employment for purposes of their own.
21 Property maintained by an employer is considered the premises of
22 such employer for purposes of determining whether the injury arose
23 out of employment;

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

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 Cumulative
15 Supplement, 2008, 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 Cumulative
24 Supplement, 2008, are repealed.