

AMENDMENTS TO LB 819

(Amendments to Final Reading copy)

Introduced by Cornett, 45.

1 1. Insert the following sections:

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

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

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

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

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

1 38-1208.

2 (4) This section terminates on January 1, 2014.

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

5 48-151 Throughout the Nebraska Workers' Compensation Act,
6 the following words and phrases shall be considered to have
7 the following meaning, respectively, unless the context clearly
8 indicates a different meaning in the construction used:

9 (1) Physician means any person licensed to practice
10 medicine and surgery, osteopathic medicine, chiropractic, podiatry,
11 or dentistry in the State of Nebraska or in the state in which the
12 physician is practicing;

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

21 (3) Occupational disease means only a disease which is
22 due to causes and conditions which are characteristic of and
23 peculiar to a particular trade, occupation, process, or employment
24 and excludes all ordinary diseases of life to which the general
25 public is exposed;

26 (4) Injury and personal injuries mean only violence to
27 the physical structure of the body and such disease or infection

1 as naturally results therefrom and personal injuries described in
2 section 1 of this act. The terms include disablement resulting
3 from occupational disease arising out of and in the course of
4 the employment in which the employee was engaged and which was
5 contracted in such employment. The terms include an aggravation
6 of a preexisting occupational disease, the employer being liable
7 only for the degree of aggravation of the preexisting occupational
8 disease. The terms do not include disability or death due to
9 natural causes but occurring while the employee is at work and do
10 not include an injury, disability, or death that is the result of a
11 natural progression of any preexisting condition;

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

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

27 (7) Willful negligence consists of (a) a deliberate act,

1 (b) such conduct as evidences reckless indifference to safety, or
2 (c) intoxication at the time of the injury, such intoxication being
3 without the consent, knowledge, or acquiescence of the employer or
4 the employer's agent;

5 (8) Intoxication includes, but is not limited to, being
6 under the influence of a controlled substance not prescribed by a
7 physician;

8 (9) Prospective loss costs means prospective loss costs
9 as defined in section 44-7504 and prepared, filed, or distributed
10 by an advisory organization which has been issued a certificate of
11 authority pursuant to section 44-7518; and

12 (10) Whenever in the Nebraska Workers' Compensation Act
13 the singular is used, the plural is considered included; when the
14 masculine gender is used, the feminine is considered included.

15 Sec. 3. Section 48-1,110, Revised Statutes Supplement,
16 2007, is amended to read:

17 48-1,110 Sections 48-101 to 48-1,117 and sections 1 and
18 4 of this act shall be known and may be cited as the Nebraska
19 Workers' Compensation Act.

20 Sec. 4. The changes made by this legislative bill to the
21 Nebraska Workers' Compensation Act apply only to personal injuries
22 that occurred on or after the operative date of this section.

23 Sec. 13. Sections 1 to 4 and 14 of this act become
24 operative on January 1, 2009. The other sections of this act become
25 operative on their effective date.

26 Sec. 14. Original section 48-151, Reissue Revised
27 Statutes of Nebraska, and section 48-1,110, Revised Statutes

1 Supplement, 2007, are repealed.

2 2. On page 1, line 2, strike "48-668" and insert "48-151,
3 48-668,".

4 3. On page 1, line 5, after "sections" insert
5 "48-1,110,".

6 4. On page 1, line 1, strike "the" through "Law" and
7 insert "labor"; in line 8 after "compensation" insert "of the
8 Employment Security Law and provisions relating to certain mental
9 injuries in the Nebraska Workers' Compensation Act"; and in line 9
10 after the first semicolon insert "to provide operative dates;".

11 5. Renumber the remaining sections accordingly.