

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1082

Introduced by Cornett, 45; Howard, 9; Kruse, 13; Lathrop, 12;
McGill, 26; Nantkes, 46; Pedersen, 39; Rogert, 16;
Synowiecki, 7; Wallman, 30; White, 8.

Read first time January 22, 2008

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 of
3 Nebraska; to redefine injury and personal injuries; and
4 to repeal the original section.
5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 48-151, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 48-151 Throughout the Nebraska Workers' Compensation Act,
4 the following words and phrases shall be considered to have
5 the following meaning, respectively, unless the context clearly
6 indicates a different meaning in the construction used:

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

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

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

24 (4) Injury and personal injuries mean ~~only~~ violence
25 to the physical structure of the body and such disease or

1 infection as naturally results therefrom and, with respect to
2 first responders and persons who in the scope and course of their
3 employment are victims of or witnesses to a violent criminal act,
4 injury and personal injuries shall also mean mental conditions
5 or illness, accompanied or unaccompanied by physical injury, as
6 limited in this subdivision. Injury and personal injuries only
7 include mental conditions or illness when the employee establishes,
8 by a preponderance of the evidence, that the employee's employment
9 conditions, accident or accidents, events or series of events, or
10 injury or injuries causing the mental condition or illness were
11 unexpected, unforeseen, extraordinary, or unusual in comparison to
12 the normal conditions of, or incident to, a particular employment,
13 accident, occupational disease, or injury or injuries. Mental
14 conditions or illness does not include mental conditions or illness
15 resulting from any event or series of events which are incidental
16 to normal employer and employee relations, including personnel
17 actions by the employer such as disciplinary actions, work
18 evaluations, transfers, promotions, salary reviews, or termination.
19 The terms include disablement resulting from occupational disease
20 arising out of and in the course of the employment in which the
21 employee was engaged and which was contracted in such employment.
22 The terms include an aggravation of a preexisting occupational
23 disease, the employer being liable only for the degree of
24 aggravation of the preexisting occupational disease. The terms
25 do not include disability or death due to natural causes but

1 occurring while the employee is at work and do not include an
2 injury, disability, or death that is the result of a natural
3 progression of any preexisting condition;

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

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

19 (7) Willful negligence consists of (a) a deliberate act,
20 (b) such conduct as evidences reckless indifference to safety, or
21 (c) intoxication at the time of the injury, such intoxication being
22 without the consent, knowledge, or acquiescence of the employer or
23 the employer's agent;

24 (8) Intoxication includes, but is not limited to, being
25 under the influence of a controlled substance not prescribed by a

1 physician;

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

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

9 Sec. 2. Original section 48-151, Reissue Revised Statutes
10 of Nebraska, is repealed.