

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
SECOND SESSION
LEGISLATIVE BILL 731

Introduced by Kolowski, 31.

Read first time January 09, 2014

Committee: Business and Labor

A BILL

1 FOR AN ACT relating to the Nebraska Workers' Compensation Act; to
2 amend section 48-144.01, Reissue Revised Statutes of
3 Nebraska; to change provisions relating to first injury
4 reports; and to repeal the original section.
5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 48-144.01, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 48-144.01 (1) In every case of reportable injury arising
4 out of and in the course of employment, the employer or workers'
5 compensation insurer shall file a report thereof with the Nebraska
6 Workers' Compensation Court. Such report shall be filed within ten
7 days after the employer or insurer has been given notice of or has
8 knowledge of the injury.

9 (2) For purposes of this section:

10 (a) Reportable injury means an injury or diagnosed
11 occupational disease which results in: (i) Death, regardless of the
12 time between the death and the injury or onset of disease; (ii) time
13 away from work; (iii) restricted work or termination of employment;
14 (iv) loss of consciousness; or (v) medical treatment other than first
15 aid;

16 (b) Restricted work means the inability of the employee
17 to perform one or more of the duties of his or her normal job
18 assignment. Restricted work does not occur if the employee is able to
19 perform all of the duties of his or her normal job assignment, but a
20 work restriction is assigned because the employee is experiencing
21 minor musculoskeletal discomfort and for the purpose of preventing a
22 more serious condition from developing;

23 (c) Medical treatment means treatment administered by a
24 physician or other licensed health care professional; and

25 (d) First aid means:

1 (i) Using a nonprescription medication at nonprescription
2 strength. For medications available in both prescription and
3 nonprescription form, a recommendation by a physician or other
4 licensed health care professional to use a nonprescription medication
5 at prescription strength is not first aid;

6 (ii) Administering tetanus immunizations. Administering
7 other immunizations, such as hepatitis B vaccine and rabies vaccine,
8 is not first aid;

9 (iii) Cleaning, flushing, or soaking wounds on the
10 surface of the skin;

11 (iv) Using wound coverings, such as bandages and gauze
12 pads, and superficial wound closing devices, such as butterfly
13 bandages and steri-strips. Using other wound closing devices, such as
14 sutures and staples, is not first aid;

15 (v) Using hot or cold therapy;

16 (vi) Using any nonrigid means of support, such as elastic
17 bandages, wraps, and nonrigid back belts. Using devices with rigid
18 stays or other systems designed to immobilize parts of the body is
19 not first aid;

20 (vii) Using temporary immobilization devices, such as
21 splints, slings, neck collars, and back boards, while transporting
22 accident victims;

23 (viii) Drilling of a fingernail or toenail to relieve
24 pressure or draining fluid from a blister;

25 (ix) Using eye patches;

1 (x) Removing foreign bodies from the eye using only
2 irrigation or a cotton swab;

3 (xi) Removing splinters or foreign material from areas
4 other than the eye by irrigation, tweezers, cotton swabs, or other
5 simple means;

6 (xii) Using finger guards;

7 (xiii) Using massages. Using physical therapy or
8 chiropractic treatment is not first aid; and

9 (xiv) Drinking fluids for relief of heat stress.

10 (3)(a) Information identifying an employee in a report
11 filed under subsection (1) of this section shall be confidential and
12 not open to public inspection or copying, except as otherwise
13 provided in this section and as necessary for the Nebraska Workers'
14 Compensation Court to administer and enforce other provisions of the
15 Nebraska Workers' Compensation Act.

16 (b) An employee may elect to waive confidentiality for
17 reports involving such employee under subsection (1) of this section,
18 and such reports shall be open to public inspection or copying. An
19 election, once made, shall remain in effect notwithstanding any
20 change in employment by such employee, unless the election is revoked
21 by the employee. An election or revocation shall be made in a form
22 and manner established by the compensation court.

23 (c) The compensation court shall deny any request to
24 inspect or copy a report filed under subsection (1) of this section
25 unless an election to waive confidentiality has been made by the

1 employee under this subsection or:

2 (i) The requester is the employee who is the subject of
3 the report or an attorney or authorized agent of that employee. An
4 attorney or authorized agent of the employee shall provide a written
5 authorization for inspection or copying from the employee if
6 requested by the compensation court;

7 (ii) The requester is the employer, workers' compensation
8 insurer, risk management pool, or third-party administrator that is a
9 party to the report or an attorney or authorized agent of such party.
10 An attorney or authorized agent of a party shall provide a written
11 authorization for inspection or copying from the party if requested
12 by the compensation court;

13 (iii) The requester is (A) an attorney or an authorized
14 agent of an insurer or a third-party administrator who is involved in
15 administering any claim for insurance benefits related to any injury
16 of the employee whose report is filed with the compensation court or
17 (B) an attorney representing a party to a lawsuit filed by or on
18 behalf of the employee whose report is filed with the compensation
19 court. An attorney or authorized agent of such insurer or third-party
20 administrator or an attorney representing a party to such a lawsuit
21 shall provide a written authorization for inspection or copying from
22 the insurer, third-party administrator, or party, as applicable, if
23 requested by the compensation court;

24 (iv) The report will be used for the purpose of state or
25 federal investigations or examinations or for the state or federal

1 government to compile statistical information;

2 (v) The report requested is sought for the purpose of
3 identifying the number and nature of any injuries to any employees of
4 an employer identified in the request and the compensation court is
5 able to and does redact any information revealing the identity of the
6 employee prior to releasing the report or if the identity of the
7 employee is requested the compensation court or another court of
8 competent jurisdiction orders the release of the report;

9 (vi) The report requested is a pleading filed with the
10 compensation court or an exhibit submitted with a pleading filed with
11 the compensation court; or

12 (vii) Release of the report is ordered by a court of
13 competent jurisdiction.

14 (d) Any request to inspect or copy a report filed under
15 subsection (1) of this section shall be submitted to the compensation
16 court on a form prescribed by the compensation court.

17 Sec. 2. Original section 48-144.01, Reissue Revised
18 Statutes of Nebraska, is repealed.