

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 961

Introduced by Cook, 13.

Read first time January 16, 2014

Committee: Business and Labor

A BILL

1 FOR AN ACT relating to workers' compensation; to amend sections
2 48-103, 48-127, and 48-148, Reissue Revised Statutes of
3 Nebraska; to waive workers' compensation as the exclusive
4 remedy if an employer is willfully negligent; and to
5 repeal the original sections.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 48-103, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 48-103 If an employer, as defined in section 48-106, does
4 not carry a policy of workers' compensation insurance nor qualify as
5 a self-insurer or, in the case of an employer who is a lessor of one
6 or more commercial motor vehicles leased to a self-insured motor
7 carrier, is not a party to an effective agreement pursuant to section
8 48-115.027, or if it is determined that an employer is guilty of
9 willful negligence pursuant to section 48-127, he or she loses the
10 right to interpose the three defenses mentioned in section 48-102 in
11 any action brought against him or her for personal injury or death of
12 an employee.

13 Sec. 2. Section 48-127, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 48-127 If the employee is injured by reason of his or her
16 intentional willful negligence, or by reason of being in a state of
17 intoxication, neither he or she nor his or her beneficiaries shall
18 receive any compensation under the Nebraska Workers' Compensation
19 Act. If the employee is found by the Nebraska Workers' Compensation
20 Court or any judge thereof to have been injured by reason of the
21 willful negligence of the employer, the employee shall be entitled to
22 bring an action at law for his or her damages. The filing of the
23 workers' compensation petition shall toll the applicable limitations
24 period for the employee's claim for damages while the determination
25 of the employer's willful negligence is pending before the Nebraska

1 Workers' Compensation Court. The determination of the compensation
2 court, or any judge thereof, as to the willful negligence of the
3 defendant shall be determinative and binding on the parties in any
4 subsequent action for damages at law. In such case, the finder of
5 fact in any subsequent action for damages at law shall be instructed
6 that the defendant has been found to be willfully negligent in
7 causing the plaintiff's injuries and that such determination is
8 binding on the parties.

9 Sec. 3. Section 48-148, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 48-148 ~~If~~ Except as provided in section 48-127, if any
12 employee, or his or her dependents in case of death, of any employer
13 subject to the Nebraska Workers' Compensation Act files any claim
14 with, or accepts any payment from such employer, or from any
15 insurance company carrying such risk, on account of personal injury,
16 or makes any agreement, or submits any question to the Nebraska
17 Workers' Compensation Court under such act, such action shall
18 constitute a release to such employer of all claims or demands at
19 law, if any, arising from such injury.

20 Sec. 4. Original sections 48-103, 48-127, and 48-148,
21 Reissue Revised Statutes of Nebraska, are repealed.