

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 556

Introduced by Kolowski, 31.

Read first time January 21, 2015

Committee: Business and Labor

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

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

3 48-103 If an employer, as defined in section 48-106, does not carry
4 a policy of workers' compensation insurance nor qualify as a self-insurer
5 or, in the case of an employer who is a lessor of one or more commercial
6 motor vehicles leased to a self-insured motor carrier, is not a party to
7 an effective agreement pursuant to section 48-115.02 or if it is
8 determined that an employer is guilty of willful negligence pursuant to
9 section 48-127, he or she loses the right to interpose the three defenses
10 mentioned in section 48-102 in any action brought against him or her for
11 personal injury or death of an employee.

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

14 48-127 If the employee is injured by reason of his or her
15 intentional willful negligence, or by reason of being in a state of
16 intoxication, neither he or she nor his or her beneficiaries shall
17 receive any compensation under the Nebraska Workers' Compensation Act. If
18 the employee is found by the Nebraska Workers' Compensation Court or any
19 judge thereof to have been injured by reason of the willful negligence of
20 the employer, the employee shall be entitled to bring an action at law
21 for his or her damages. The filing of the workers' compensation petition
22 shall toll the applicable limitations period for the employee's claim for
23 damages while the determination of the employer's willful negligence is
24 pending before the Nebraska Workers' Compensation Court. The
25 determination of the compensation court, or any judge thereof, as to the
26 willful negligence of the defendant shall be determinative and binding on
27 the parties in any subsequent action for damages at law. In such case,
28 the finder of fact in any subsequent action for damages at law shall be
29 instructed that the defendant has been found to be willfully negligent in
30 causing the plaintiff's injuries and that such determination is binding
31 on the parties.

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

3 48-148 Except as provided in section 48-127, if ~~If~~ any employee, or
4 his or her dependents in case of death, of any employer subject to the
5 Nebraska Workers' Compensation Act files any claim with, or accepts any
6 payment from such employer, or from any insurance company carrying such
7 risk, on account of personal injury, or makes any agreement, or submits
8 any question to the Nebraska Workers' Compensation Court under such act,
9 such action shall constitute a release to such employer of all claims or
10 demands at law, if any, arising from such injury.

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