

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FIFTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 319**

Introduced by Halloran, 33.

Read first time January 12, 2017

Committee: Business and Labor

- 1 A BILL FOR AN ACT relating to the Nebraska Workers' Compensation Act; to
- 2 amend section 48-144.01, Reissue Revised Statutes of Nebraska; to
- 3 provide for confidentiality of and access to certain injury reports;
- 4 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 Nebraska,  
2 is amended to read:

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

9 (2) For purposes of this section:

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

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

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

23 (d) First aid means:

24 (i) Using a nonprescription medication at nonprescription strength.  
25 For medications available in both prescription and nonprescription form,  
26 a recommendation by a physician or other licensed health care  
27 professional to use a nonprescription medication at prescription strength  
28 is not first aid;

29 (ii) Administering tetanus immunizations. Administering other  
30 immunizations, such as hepatitis B vaccine and rabies vaccine, is not  
31 first aid;

1 (iii) Cleaning, flushing, or soaking wounds on the surface of the  
2 skin;

3 (iv) Using wound coverings, such as bandages and gauze pads, and  
4 superficial wound closing devices, such as butterfly bandages and steri-  
5 strips. Using other wound closing devices, such as sutures and staples,  
6 is not first aid;

7 (v) Using hot or cold therapy;

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

11 (vii) Using temporary immobilization devices, such as splints,  
12 slings, neck collars, and back boards, while transporting accident  
13 victims;

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

16 (ix) Using eye patches;

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

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

21 (xii) Using finger guards;

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

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

25 (3)(a) A report filed under subsection (1) of this section shall be  
26 confidential and not open to public inspection or copying, except as  
27 otherwise provided in this section and as necessary for the Nebraska  
28 Workers' Compensation Court to administer and enforce other provisions of  
29 the Nebraska Workers' Compensation Act.

30 (b) An employee may elect to waive confidentiality for reports  
31 involving such employee under subsection (1) of this section, and such

1 reports shall be open to public inspection or copying. An election, once  
2 made, shall remain in effect notwithstanding any change in employment by  
3 such employee unless the election is revoked by the employee. An election  
4 or revocation shall be made in a form and manner prescribed by the  
5 administrator of the compensation court.

6 (c) The compensation court shall deny any request to inspect or copy  
7 a report filed under subsection (1) of this section unless an election to  
8 waive confidentiality has been made by the employee under this subsection  
9 or:

10 (i) The requester is the employee who is the subject of the report  
11 or an attorney or authorized agent of that employee. An attorney or  
12 authorized agent of the employee shall provide a written authorization  
13 for inspection or copying from the employee if requested by the  
14 compensation court;

15 (ii) The requester is the employer, workers' compensation insurer,  
16 risk management pool, or third-party administrator that is a party to the  
17 report or an attorney or authorized agent of such party. An attorney or  
18 authorized agent of a party shall provide a written authorization for  
19 inspection or copying from the party if requested by the compensation  
20 court;

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

1        (iv) The report requested will be used for the purpose of state or  
2 federal investigations or examinations or for the state or federal  
3 government to compile statistical information;

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

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

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

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

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