

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 408

Introduced by Quick, 35.

Read first time January 18, 2019

Committee: Business and Labor

- 1 A BILL FOR AN ACT relating to the Nebraska Workers' Compensation Act; to
- 2 amend section 48-122.01, Reissue Revised Statutes of Nebraska; to
- 3 change provisions relating to compensation paid upon the death of an
- 4 employee; and to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 48-122.01, Reissue Revised Statutes of Nebraska,
2 is amended to read:

3 48-122.01 Compensation under section 48-122 shall be payable in the
4 amount and to the following persons subject to the maximum limits
5 specified in sections 48-122 and 48-122.03:

6 (1) If there is a widow or widower and no children of the deceased,
7 as defined in section 48-124, to such widow or widower, sixty-six and
8 two-thirds percent of the average weekly wage of the deceased, during
9 widowhood or widowerhood;

10 (2) To the widow or widower, if there is a child or children living
11 with the widow or widower, sixty percent of the average weekly wage of
12 the deceased, or fifty-five percent, if such child is not or such
13 children are not living with a widow or widower, and, in addition
14 thereto, fifteen percent for each child. When there are two or more such
15 children, the indemnity benefits payable on account of such children
16 shall be divided among such children, share and share alike;

17 (3) Two years' indemnity benefits in one lump sum shall be payable
18 to a widow or widower upon remarriage;

19 (4) To the children, if there is no widow or widower, sixty-six and
20 two-thirds percent of such wage for one child, and fifteen percent for
21 each additional child, divided among such children, share and share
22 alike;

23 (5) The income benefits payable on account of any child under this
24 section shall cease when he or she dies, marries, or reaches the age of
25 nineteen, or when a child over such age ceases to be physically or
26 mentally incapable of self-support, or if actually dependent ceases to be
27 actually dependent, or, if enrolled as a full-time student in any
28 accredited educational institution, ceases to be so enrolled or reaches
29 the age of twenty-five. A child who originally qualified as a dependent
30 by virtue of being less than nineteen years of age may, upon reaching age
31 nineteen, continue to qualify if he or she satisfies the tests of being

1 physically or mentally incapable of self-support, actual dependency, or
2 enrollment in an educational institution;

3 (6) To each parent, if actually dependent, twenty-five percent;

4 (7) To the brothers, sisters, grandparents, and grandchildren, if
5 actually dependent, twenty-five percent to each such dependent. If there
6 should be more than one of such dependents, the total income benefits
7 payable on account of such dependents shall be divided share and share
8 alike;

9 (8) The income benefits of each beneficiary under subdivisions (6)
10 and (7) of this section shall be paid until he or she, if a parent or
11 grandparent, dies, marries, or ceases to be actually dependent, or, if a
12 brother, sister, or grandchild, dies, marries, or reaches the age of
13 nineteen or if over that age ceases to be physically or mentally
14 incapable of self-support, or ceases to be actually dependent;~~and~~

15 (9) A person ceases to be actually dependent when his or her income
16 from all sources exclusive of workers' compensation income benefits is
17 such that, if it had existed at the time as of which the original
18 determination of actual dependency was made, it would not have supported
19 a finding of dependency. In any event, if the present annual income of an
20 actual dependent person including workers' compensation income benefits
21 at any time exceeds the total annual support received by the person from
22 the deceased employee, the workers' compensation benefits shall be
23 reduced so that the total annual income is no greater than such amount of
24 annual support received from the deceased employee. In all cases, a
25 person found to be actually dependent shall be presumed to be no longer
26 actually dependent three years after each time as of which the person was
27 found to be actually dependent. This presumption may be overcome by proof
28 of continued actual dependency as defined in this subdivision and section
29 48-124; and -

30 (10) If there is no spouse, child, or other dependent entitled to
31 benefits under this section, twenty-five thousand dollars to the personal

1 representative of the estate of the deceased.

2 Sec. 2. Original section 48-122.01, Reissue Revised Statutes of
3 Nebraska, is repealed.