

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 319

Introduced by Halloran, 33.

Read first time January 12, 2017

Committee:

- 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.