

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 360

Introduced by Hansen, M., 26.

Read first time January 16, 2019

Committee:

- 1 A BILL FOR AN ACT relating to the Nebraska Workers' Compensation Act; to
- 2 amend section 48-122, Revised Statutes Cumulative Supplement, 2018;
- 3 to provide for settlement of claims of alien dependents; to provide
- 4 for applicability of changes; and to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 48-122, Revised Statutes Cumulative Supplement,
2 2018, is amended to read:

3 48-122 (1) If death results from injuries and the deceased employee
4 leaves one or more dependents dependent upon his or her earnings for
5 support at the time of injury, the compensation, subject to section
6 48-123, shall be not more than the maximum weekly income benefit
7 specified in section 48-121.01 nor less than the minimum weekly income
8 benefit specified in section 48-121.01, except that if at the time of
9 injury the employee receives wages of less than the minimum weekly income
10 benefit specified in section 48-121.01, then the compensation shall be
11 the full amount of such wages per week, payable in the amount and to the
12 persons enumerated in section 48-122.01 subject to the maximum limits
13 specified in this section and section 48-122.03.

14 (2) When death results from injuries suffered in employment, if
15 immediately prior to the accident the rate of wages was fixed by the day
16 or hour, or by the output of the employee, the weekly wages shall be
17 taken to be computed upon the basis of a workweek of a minimum of five
18 days, if the wages are paid by the day, or upon the basis of a workweek
19 of a minimum of forty hours, if the wages are paid by the hour, or upon
20 the basis of a workweek of a minimum of five days or forty hours,
21 whichever results in the higher weekly wage, if the wages are based on
22 the output of the employee.

23 (3) Upon the death of an employee, resulting through personal
24 injuries as defined in section 48-151, whether or not there are
25 dependents entitled to compensation, the reasonable expenses of burial,
26 not exceeding ten thousand dollars, without deduction of any amount
27 previously paid or to be paid for compensation or for medical expenses,
28 shall be paid to his or her dependents, or if there are no dependents,
29 then to his or her personal representative.

30 (4) Compensation under the Nebraska Workers' Compensation Act to
31 alien dependents who are not residents of the United States shall be the

1 same in amount as is provided in each case for residents, except that at
2 any time within one year after the death of the injured employee the
3 employer may at his or her option commute all future installments of
4 compensation to be paid to such alien dependents. The amount of the
5 commuted payment shall be determined as provided in section 48-138.

6 (5)(a)(i) Except as provided in subdivision (5)(a)(ii) of this
7 section, the consular officer ~~(5) The consul general, consul, vice consul~~
8 ~~general, or vice consul~~ of the nation of which the employee, whose injury
9 results in death, is a citizen, ~~or the representative of such consul~~
10 ~~general, consul, vice consul general, or vice consul~~ residing within the
11 State of Nebraska shall be regarded as the sole legal representative of
12 any alien dependents of the employee residing outside of the United
13 States and representing the nationality of the employee.

14 (ii) At any time prior to the final settlement, a nonresident alien
15 dependent may file with the Nebraska Workers' Compensation Court a power
16 of attorney designating any suitable person residing in this state to act
17 as attorney in fact in proceedings under the Nebraska Workers'
18 Compensation Act. If the compensation court determines that the interests
19 of the nonresident alien dependent will be better served by such person
20 than by the consular officer, the compensation court shall appoint such
21 person to act as attorney in fact in such proceedings.

22 (b) Such consular officer, or appointed person ~~his or her~~
23 ~~representative, residing in the State of Nebraska,~~ shall have in behalf
24 of such nonresident alien dependents, the exclusive right to institute
25 proceedings for, adjust, and settle all claims for compensation provided
26 by the Nebraska Workers' Compensation Act, and to receive the
27 distribution to such nonresident alien dependents of all compensation
28 arising thereunder.

29 (c) A person appointed under subdivision (5)(a)(ii) of this section
30 shall furnish a bond satisfactory to the compensation court conditioned
31 upon the proper application of any money received as compensation under

1 the Nebraska Workers' Compensation Act. Before the bond is discharged,
2 such appointed person shall file with the compensation court a verified
3 account of receipts and disbursements of such money.

4 (d) For purposes of this section, consular officer means a consul
5 general, vice consul general, or vice consul or the representative of any
6 such official residing within the State of Nebraska.

7 (6) The changes made to this section by this legislative bill apply
8 to cases under the Nebraska Workers' Compensation Act that are pending on
9 the effective date of this act and to cases filed on or after such date.

10 Sec. 2. Original section 48-122, Revised Statutes Cumulative
11 Supplement, 2018, is repealed.