

AMENDMENTS TO LB 1082

Introduced by Cornett, 45.

1 1. Strike the original sections and all amendments
2 thereto and insert the following sections:

3 Section 1. Section 48-106, Revised Statutes Cumulative
4 Supplement, 2006, is amended to read:

5 48-106 (1) The Nebraska Workers' Compensation Act shall
6 apply to the State of Nebraska, to every governmental agency
7 created by the state, and, except as provided in this section,
8 to every resident employer in this state and nonresident employer
9 performing work in this state who employs one or more employees
10 in the regular trade, business, profession, or vocation of such
11 employer.

12 (2) The act shall not apply to:

13 (a) A railroad company engaged in interstate or foreign
14 commerce;

15 (b) Service performed by a worker who is a household
16 domestic servant in a private residence;

17 (c) Service performed by a worker when performed for an
18 employer who is engaged in an agricultural operation and employs
19 only related employees;

20 (d) Service performed by a worker when performed for
21 an employer who is engaged in an agricultural operation and
22 employs unrelated employees unless such service is performed for
23 an employer who during any calendar year employs ten or more

1 unrelated, full-time employees, whether in one or more locations,
2 on each working day for thirteen calendar weeks, whether or not
3 such weeks are consecutive. The act shall apply to an employer
4 thirty days after the thirteenth such week; ~~and~~

5 (e) Service performed by a person who is engaged in
6 an agricultural operation, or performed by his or her related
7 employees, when the service performed is (i) occasional and (ii)
8 for another person who is engaged in an agricultural operation who
9 has provided or will provide reciprocal or similar service; ~~and-~~

10 (f) Mental injuries and mental illness of a worker
11 unaccompanied by physical injury when such injury is incurred
12 during the time of employment.

13 (3) If the employer is the state or any governmental
14 agency created by the state, the exemption from the act under
15 subdivision (2)(d) of this section does not apply.

16 (4) If the act applies to an employer because the
17 employer meets the requirements of subdivision (2)(d) of this
18 section, all unrelated employees shall be covered under the act and
19 such employees' wages shall be considered for premium purposes.

20 (5) If an employer to whom the act applies because the
21 employer meets the requirements of subdivision (2)(d) of this
22 section subsequently does not employ ten or more unrelated,
23 full-time employees, such employer shall continue to provide
24 workers' compensation insurance coverage for the employees for
25 the remainder of the calendar year and for the next full
26 calendar year. When the required coverage period has expired,
27 such employer may elect to return to exempt status by (a) posting,

1 continuously in a conspicuous place at the employment locations
2 of the employees for a period of at least ninety days, a written
3 or printed notice stating that the employer will no longer carry
4 workers' compensation insurance for the employees and the date such
5 insurance will cease and (b) thereafter no longer carrying a policy
6 of workers' compensation insurance. Failure to provide notice in
7 accordance with this subsection voids an employer's attempt to
8 return to exempt status.

9 (6) An employer who is exempt from the act under
10 subsection (2) of this section may elect to bring the employees of
11 such employer under the act. Such election is made by the employer
12 obtaining a policy of workers' compensation insurance covering
13 such employees. Such policy shall be obtained from a corporation,
14 association, or organization authorized and licensed to transact
15 the business of workers' compensation insurance in this state. If
16 such an exempt employer procures a policy of workers' compensation
17 insurance which is in full force and effect at the time of an
18 accident to an employee of such employer, such procurement is
19 conclusive proof of the employer's and employee's election to be
20 bound by the act. Such an exempt employer who has procured a policy
21 of workers' compensation insurance may elect to return to exempt
22 status by (a) posting, continuously in a conspicuous place at the
23 employment locations of the employees for a period of at least
24 ninety days, a written or printed notice stating that the employer
25 will no longer carry workers' compensation insurance for the
26 employees and the date such insurance will cease and (b) thereafter
27 no longer carrying a policy of workers' compensation insurance.

1 Failure to provide notice in accordance with this subsection voids
2 an employer's attempt to return to exempt status.

3 (7) Every employer exempted under subdivision (2)(d) of
4 this section who does not elect to provide workers' compensation
5 insurance under subsection (6) of this section shall give all
6 unrelated employees at the time of hiring the following written
7 notice which shall be signed by the unrelated employee and retained
8 by the employer: "In this employment you will not be covered
9 by the Nebraska Workers' Compensation Act and you will not be
10 compensated under the act if you are injured on the job or suffer
11 an occupational disease. You should plan accordingly." Failure to
12 provide the notice required by this subsection subjects an employer
13 to liability under and inclusion in the act for all unrelated
14 employees on the basis of failure to give such notice.

15 (8) An exclusion from coverage in any health, accident,
16 or other insurance policy covering a person employed by an employer
17 who is exempt from the act under this section which provides that
18 coverage under the health, accident, or other insurance policy
19 does not apply if such person is entitled to workers' compensation
20 coverage is void as to such person if such employer has not elected
21 to bring the employees of such employer within the act as provided
22 in subsection (6) of this section.

23 (9) For purposes of this section:

24 (a) Agricultural operation means (i) the cultivation of
25 land for the production of agricultural crops, fruit, or other
26 horticultural products or (ii) the ownership, keeping, or feeding
27 of animals for the production of livestock or livestock products;

1 (b) Full-time employee means a person who is employed to
2 work one-half or more of the regularly scheduled hours during each
3 pay period; and

4 (c) Related employee means a spouse of an employer and
5 an employee related to the employer within the third degree by
6 blood or marriage. Relationship by blood or marriage within the
7 third degree includes parents, grandparents, great grandparents,
8 children, grandchildren, great grandchildren, brothers, sisters,
9 uncles, aunts, nephews, nieces, and spouses of the same. If
10 the employer is a partnership, limited liability company, or
11 corporation in which all of the partners, members, or shareholders
12 are related within the third degree by blood or marriage, then
13 related employee means any employee related to any such partner,
14 member, or shareholder within the third degree by blood or
15 marriage.

16 Sec. 2. Original section 48-106, Revised Statutes
17 Cumulative Supplement, 2006, is repealed.