

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 820

Introduced by Business and Labor Committee: Cornett, 45,
Chairperson; McGill, 26; Rogert, 16; Wallman,
30.

Read first time January 10, 2008

Committee: Business and Labor

A BILL

1 FOR AN ACT relating to labor; to amend sections 48-1202, 48-1802,
2 48-1804, 48-1805, and 48-1806, Reissue Revised Statutes
3 of Nebraska, and section 48-1809, Revised Statutes
4 Supplement, 2007; to redefine a term in the Wage and
5 Hour Act; to change provisions of the Nebraska Amusement
6 Ride Act; to harmonize provisions; and to repeal the
7 original sections.

8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 48-1202, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 48-1202 For purposes of the Wage and Hour Act, unless the
4 context otherwise requires:

5 (1) Employ shall include to permit to work;

6 (2) Employer shall include any individual, partnership,
7 limited liability company, association, corporation, business
8 trust, legal representative, or organized group of persons
9 employing four or more employees at any one time except for
10 seasonal employment of not more than twenty weeks in any calendar
11 year, acting directly or indirectly in the interest of an employer
12 in relation to an employee, but shall not include the United
13 States, the state, or any political subdivision thereof;

14 (3) Employee shall include any individual employed by any
15 employer but shall not include:

16 (a) Any individual employed in agriculture;

17 (b) Any individual employed as a baby-sitter in or about
18 a private home;

19 (c) Any individual employed in a bona fide executive,
20 administrative, or professional capacity or as a superintendent or
21 supervisor;

22 (d) Any individual employed by the United States or by
23 the state or any political subdivision thereof;

24 (e) Any individual engaged in the activities of an
25 educational, charitable, religious, or nonprofit organization when

1 the employer-employee relationship does not in fact exist or when
2 the services rendered to such organization are on a voluntary
3 basis;

4 (f) Apprentices and learners otherwise provided by law;

5 (g) Veterans in training under supervision of the United
6 States Department of Veterans Affairs;

7 (h) A child in the employment of his or her parent or a
8 parent in the employment of his or her child; or

9 (i) Any person who, directly or indirectly, is receiving
10 any form of federal, state, county, or local aid or welfare and
11 who is physically or mentally disabled and employed in a program of
12 rehabilitation, who shall receive a wage at a level consistent with
13 his or her health, efficiency, and general well-being;

14 (4) Occupational classification shall mean a
15 classification established by the ~~Dictionary of Occupational~~
16 ~~Titles~~ Standard Occupational Classification Codes prepared by the
17 United States Department of Labor; and

18 (5) Wages shall mean all remuneration for personal
19 services, including commissions and bonuses and the cash value
20 of all remunerations in any medium other than cash.

21 Sec. 2. Section 48-1802, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 48-1802 For purposes of the Nebraska Amusement Ride Act,
24 unless the context otherwise requires:

25 (1) Amusement ride shall mean any mechanical device that

1 carries or conveys passengers along, around, or over a fixed or
2 restricted route or course or within a defined area for the purpose
3 of giving its passengers amusement, pleasure, or excitement, but
4 such term shall not include (a) any single-passenger coin-operated
5 ride that is manually, mechanically, or electrically operated
6 and customarily placed in a public location and that does not
7 normally require the supervision or services of an operator or
8 (b) nonmechanized playground equipment, including, but not limited
9 to, swings, seesaws, stationary spring-mounted animal features,
10 rider-propelled merry-go-rounds, climbers, slides, trampolines, and
11 physical fitness devices. Bungee jumping is specifically designated
12 as an amusement ride for purposes of the act and shall mean the
13 sport, activity, or other practice of jumping, diving, stepping
14 out, dropping, or otherwise being released into the air while
15 attached to a bungee cord, whereby the cord stretches, stops the
16 fall, lengthens, and shortens allowing the person to bounce up and
17 down, and is intended to finally bring the person to a stop at a
18 point above a surface or the ground;

19 (2) Bungee cord shall mean a cord made of rubber, latex,
20 or other elastic-type material, whether natural or synthetic;

21 (3) Commissioner shall mean the Commissioner of Labor or
22 his or her designee;

23 (4) Fixed amusement ride shall mean an amusement ride
24 intended for use at a single site within the state of Nebraska
25 for more than fourteen days in a single calendar year, including

1 any portable amusement ride used at a single site for more than
2 fourteen days in a single calendar year;

3 ~~(4)~~ (5) Operator shall mean a person actually engaged in
4 or directly controlling the operations of an amusement ride;

5 ~~(5)~~ (6) Owner shall mean a person who owns, leases,
6 controls, or manages the operations of an amusement ride and may
7 include the state or any political subdivision of the state;

8 (7) Portable amusement ride shall mean an amusement ride
9 capable of being readily assembled and disassembled which is not
10 used at any single site within the state of Nebraska for more than
11 fourteen days in a single calendar year;

12 ~~(6)~~ (8) Qualified inspector shall mean any person who is
13 (a) found by the commissioner to possess the requisite training and
14 experience to perform competently the inspections required by the
15 Nebraska Amusement Ride Act and (b) certified by the commissioner
16 to perform inspections of amusement rides; and

17 ~~(7)~~ (9) Reverse bungee jumping shall mean the sport,
18 activity, or practice whereby a person is attached to a bungee
19 cord, the bungee cord is stretched down so that such person is on
20 a fixed catapult, launch, or release position, and such person is
21 catapulted or otherwise launched or released into the air from such
22 fixed position, while attached to a bungee cord, whereby the cord
23 stretches, stops the fall, lengthens, and shortens allowing the
24 person to bounce up and down, and is intended to finally bring the
25 person to a stop at a point above a surface or the ground.

1 Sec. 3. Section 48-1804, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 48-1804 Except for purposes of testing and inspection,
4 no amusement ride shall be operated without a valid permit for
5 the operation issued by the commissioner to the owner of such
6 amusement ride. The owner of an amusement ride shall apply for a
7 permit under section 48-1805 to the commissioner on an application
8 furnished by the commissioner and shall include such information
9 as the commissioner may require. Every fixed amusement ride shall
10 be inspected by a qualified inspector employed by the commissioner
11 before it is originally put into operation for public use and at
12 least once every year after such ride is put into operation for
13 public use. Every portable amusement ride shall be inspected as
14 required by the United States Consumer Product Safety Commission
15 and the manufacturer's specifications for the portable amusement
16 ride.

17 Sec. 4. Section 48-1805, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 48-1805 ~~(1)~~ The commissioner shall issue a permit to
20 operate an amusement ride to the owner of such amusement ride upon
21 presentation by the owner of ~~(a)~~ (1) an application for a permit,
22 ~~(b)~~ (2) (a) if the amusement ride is a fixed amusement ride, a
23 certificate of inspection by a qualified inspector employed by the
24 commissioner or (b) if the amusement ride is a portable amusement
25 ride, proof of inspection in accordance with the requirements

1 of the United States Consumer Product Safety Commission and the
2 manufacturer's specifications for the portable amusement ride.
3 Proof of inspection of a portable amusement ride shall include
4 the results of any nondestructive test performed on the portable
5 amusement ride, (e) (3) proof of liability insurance as required in
6 section 48-1806, and ~~(d)~~ (4) the permit fee. Such permit shall be
7 valid through December 31 of the year in which the inspection is
8 performed.

9 ~~(2) The commissioner may waive the requirement of~~
10 ~~subdivision (1)(b) of this section if the owner of the amusement~~
11 ~~ride gives satisfactory proof to the commissioner that such~~
12 ~~amusement ride has passed an inspection conducted or required by a~~
13 ~~federal agency, any other state, or a governmental subdivision of~~
14 ~~this or of any other state which has standards for the inspection~~
15 ~~of such an amusement ride at least as stringent as those adopted~~
16 ~~and promulgated pursuant to the Nebraska Amusement Ride Act.~~

17 Sec. 5. Section 48-1806, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 48-1806 No amusement ride shall be operated unless at
20 the time of operation the owner has an insurance policy in effect
21 written by an insurance company authorized to do business in this
22 state insuring the owner and operator against liability for injury
23 to persons arising out of the operation of such amusement ride.
24 Such insurance policy shall be in an amount not less than the
25 minimum amount per occurrence as established by the commissioner.

1 Such minimum amount shall be established with due regard to the
2 protection of the general public and the availability of insurance
3 coverage, but such minimum amount shall not be less than one
4 million dollars or greater than one five million dollars per
5 occurrence. The commissioner may require a separate insurance
6 policy from the owner of any equipment used in an amusement ride,
7 subject to the minimums and limitations provided in this section.

8 Sec. 6. Section 48-1809, Revised Statutes Supplement,
9 2007, is amended to read:

10 48-1809 The commissioner shall establish by rules and
11 regulations a schedule of permit fees not to exceed fifty sixty
12 dollars for each amusement ride. Such permit fees shall be
13 established with due regard for the costs of administering the
14 Nebraska Amusement Ride Act and shall be remitted to the State
15 Treasurer for credit to the Mechanical Safety Inspection Fund.

16 Sec. 7. Original sections 48-1202, 48-1802, 48-1804,
17 48-1805, and 48-1806, Reissue Revised Statutes of Nebraska, and
18 section 48-1809, Revised Statutes Supplement, 2007, are repealed.