

E AND R AMENDMENTS TO LB 448

Introduced by Slama, 1, Chairman Enrollment and Review

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

3 Section 1. Section 48-122, Revised Statutes Supplement, 2019, is
4 amended to read:

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

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

25 (3) Upon the death of an employee, resulting through personal
26 injuries as defined in section 48-151, whether or not there are
27 dependents entitled to compensation, the reasonable expenses of burial,

1 not exceeding an amount equal to twelve times the state average weekly
2 wage determined pursuant to section 48-121.02 for the calendar year in
3 which the death occurred ~~ten thousand dollars~~, without deduction of any
4 amount previously paid or to be paid for compensation or for medical
5 expenses, shall be paid to his or her dependents, or if there are no
6 dependents, then to his or her personal representative.

7 (4) Compensation under the Nebraska Workers' Compensation Act to
8 alien dependents who are not residents of the United States shall be the
9 same in amount as is provided in each case for residents, except that at
10 any time within one year after the death of the injured employee the
11 employer may at his or her option commute all future installments of
12 compensation to be paid to such alien dependents. The amount of the
13 commuted payment shall be determined as provided in section 48-138.

14 (5)(a)(i) Except as provided in subdivision (5)(a)(ii) of this
15 section, the consular officer of the nation of which the employee, whose
16 injury results in death, is a citizen shall be regarded as the sole legal
17 representative of any alien dependents of the employee residing outside
18 of the United States and representing the nationality of the employee.

19 (ii) At any time prior to the final settlement, a nonresident alien
20 dependent may file with the Nebraska Workers' Compensation Court a power
21 of attorney designating any suitable person residing in this state to act
22 as attorney in fact in proceedings under the Nebraska Workers'
23 Compensation Act. If the compensation court determines that the interests
24 of the nonresident alien dependent will be better served by such person
25 than by the consular officer, the compensation court shall appoint such
26 person to act as attorney in fact in such proceedings. In making such
27 determination the court shall consider, among other things, whether a
28 consular officer's jurisdiction includes Nebraska and the responsiveness
29 of the consular officer to attempts made by an attorney representing the
30 employee to engage such consular officer in the proceedings.

31 (b) Such consular officer or appointed person shall have in behalf

1 of such nonresident alien dependents the exclusive right to institute
2 proceedings for, adjust, and settle all claims for compensation provided
3 by the Nebraska Workers' Compensation Act and to receive the distribution
4 to such nonresident alien dependents of all compensation arising
5 thereunder.

6 (c) A person appointed under subdivision (5)(a)(ii) of this section
7 shall furnish a bond satisfactory to the compensation court conditioned
8 upon the proper application of any money received as compensation under
9 the Nebraska Workers' Compensation Act. Before the bond is discharged,
10 such appointed person shall file with the compensation court a verified
11 account of receipts and disbursements of such money.

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

15 (6) The changes made to this section by Laws 2019, LB418, apply to
16 cases under the Nebraska Workers' Compensation Act that are pending on
17 September 1, 2019, and to cases filed on or after such date.

18 Sec. 2. Original section 48-122, Revised Statutes Supplement, 2019,
19 is repealed.

20 2. On page 1, line 2, strike "Revised Statutes Cumulative
21 Supplement, 2018" and insert "Revised Statutes Supplement, 2019".