

AMENDMENTS TO LB415

(Amendments to Standing Committee amendments, AM545)

Introduced by Strommen, 47.

1 1. Strike sections 1 and 4 and insert the following new sections:

2 **Section 1.** Section 2, Initiative Law 2024, No. 436, is amended to
3 read:

4 Sec. 2. For purposes of the Nebraska Healthy Families and Workplaces
5 Act:

6 (1) Department means the Department of Labor;

7 (2) Employ means to permit to work by an employer pursuant to an
8 employment relationship;

9 (3) ~~(3)(a)~~ Employee means any individual employed by an employer,
10 but does not include:

11 (a) An ~~an~~ individual who works in Nebraska for fewer than eighty
12 hours in a calendar year; -

13 (b) An individual owner-operator;

14 (c) An independent contractor;

15 (d) An individual who is employed in agricultural employment of a
16 seasonal or other temporary nature;

17 (e) An ~~(b) Employee does not include an~~ "employee" as defined by 45
18 U.S.C. 351(d) who is subject to the federal Railroad Unemployment
19 Insurance Act, 45 U.S.C. 351 et seq.; or

20 (f) An individual under sixteen years of age so long as such
21 individual:

22 (i) Is not an emancipated minor;

23 (ii) Is not the parent of a child; and

24 (iii) Does not have a dependent;

25 (4)(a) Employer means any individual, partnership, limited liability
26 company, association, corporation, business trust, legal representative,

1 or organized group of persons ~~that who~~ employs ~~six one~~ or more employees.

2 (b) Employer does not include the United States or the State of
3 Nebraska or its agencies, departments, or political subdivisions;

4 (5) Family member means:

5 (a) Any of the following, regardless of age: A biological, adopted,
6 or foster child, a stepchild, a legal ward, or a child to whom the
7 employee stands in loco parentis;

8 (b) A biological, foster, step, or adoptive parent or a legal
9 guardian of an employee or an employee's spouse;

10 (c) A person who stood in loco parentis to the employee or the
11 employee's spouse when the employee or employee's spouse was a minor
12 child;

13 (d) A person to whom the employee is legally married under the laws
14 of any state;

15 (e) A grandparent, grandchild, or sibling, whether of a biological,
16 foster, adoptive, or step relationship, of the employee or the employee's
17 spouse; or

18 (f) Any other individual related by blood to the employee or whose
19 close association with the employee is the equivalent of a family
20 relationship;

21 (6) Health care professional means any person licensed under any
22 federal or state law to provide medical or emergency services;

23 (7) Paid sick time means time that is compensated at the same hourly
24 rate and with the same benefits, including health care benefits, as the
25 employee typically earns during hours worked and that is provided by an
26 employer to an employee for the purposes described in section 4 of this
27 act, and in no case shall the amount of this hourly rate be less than
28 that provided under section 48-1203. Notwithstanding the foregoing, for
29 employees paid on a commission, piece-rate, mileage, or fee-for-service
30 basis, paid sick time means time that is compensated at an hourly rate
31 determined by the employer using the average weekly rate calculation

1 under section 48-126, which shall then be reduced to an hourly rate based
2 on a forty-hour workweek, and that is provided by an employer to an
3 employee for the purposes described in section 3 of this act. Paid sick
4 time includes time made available to employees for purposes including,
5 but not limited to, the purposes described in section 3 of this act under
6 a paid leave policy described in subsection (7) of section 2 of this act;

7 (8) Public health emergency means a declaration or proclamation
8 related to a public health threat, risk, disaster, or emergency that is
9 made or issued by a federal, state, or local official with the authority
10 to make or issue such a declaration or proclamation;

11 (9) Retaliatory personnel action means a denial of any right
12 guaranteed under the Nebraska Healthy Families and Workplaces Act and any
13 threat, discharge, suspension, demotion, reduction of hours or pay, or
14 other adverse action against an employee for exercising or attempting to
15 exercise any right guaranteed in the Nebraska Healthy Families and
16 Workplaces Act;

17 (10)(a) Small business means an employer with at least six but fewer
18 than twenty employees during a given week, including full-time, part-
19 time, or temporary employees.

20 (b) Small business does not include an employer that maintained
21 twenty or more employees on its payroll in each of twenty or more
22 calendar weeks in the current or preceding calendar year; and

23 (11) Year means a regular and consecutive twelve-month period as
24 determined by the employer.

25 **Sec. 4.** Section 8, Initiative Law 2024, No. 436, is amended to
26 read:

27 Sec. 8. (1) The Commissioner of Labor shall issue a citation to an
28 employer when an investigation reveals that the employer may have
29 violated the Nebraska Healthy Families and Workplaces Act.

30 (2) When a citation is issued, the commissioner shall notify the
31 employer of the proposed administrative penalty, if any, by certified

1 mail, by any other manner of delivery by which the United States Postal
2 Service can verify delivery, or by any method of service recognized under
3 Chapter 25, article 5. The administrative penalty shall not be more than
4 five hundred dollars in the case of a first violation and not more than
5 five thousand dollars in the case of a second or subsequent violation.

6 (3) The employer has fifteen working days after the date of the
7 citation or penalty to contest such citation or penalty. Notice of
8 contest shall be sent to the commissioner who shall provide a hearing in
9 accordance with the Administrative Procedure Act.

10 (4) Any employer who has an unpaid citation for a violation of the
11 Nebraska Healthy Families and Workplaces Act shall be barred from
12 contracting with the state or any political subdivision until such
13 citation is paid. If a citation has been contested as described in
14 subsection (3) of this section, it shall not be considered an unpaid
15 citation under this subsection until after such contest has been
16 resolved.

17 (5) Citations issued under this section and the names of employers
18 who have been issued a citation shall be made available to the public
19 upon request, except that this subsection shall not apply to any
20 citations that are being contested as described in subsection (3) of this
21 section.

22 (6) An employee having a claim for a violation of the Nebraska
23 Healthy Families and Workplaces Act may institute suit for legal and
24 equitable relief in the proper court. In any action brought to enforce
25 the Nebraska Healthy Families and Workplaces Act, the court shall have
26 jurisdiction to grant such legal or equitable relief as the court deems
27 appropriate to effectuate the purposes of the act. If an employee
28 establishes a claim and secures judgment on the claim, such employee
29 shall also be entitled to recover the full amount of the judgment and all
30 costs of such suit, including reasonable attorney's fees.

31 (7) If an employee institutes suit against an employer under

1 subsection (6) of this section, any citation that is issued against an
2 employer under subsection (1) of this section and that relates directly
3 to the facts in dispute shall be admitted into evidence unless
4 specifically excluded by the court. If a citation has been contested as
5 described in subsection (3) of this section, it shall not be admitted
6 into evidence under this subsection until such contest has been resolved.

7 (8) A civil action brought under this section shall be commenced no
8 later than one ~~four~~ calendar year ~~years~~ after the cause of action
9 accrues.