

AMENDMENTS TO LB415
(Amendments to Final Reading copy)

Introduced by Cavanaugh, J., 9.

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;

8 (3) ~~(3)(a)~~ Employee means any individual employed by an employer,
9 but does not include:

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

12 (b) An individual owner-operator;

13 (c) An independent contractor;

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

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

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

21 (i) Is not an emancipated minor;

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

23 (iii) Does not have a dependent;

24 (4)(a) Employer means any individual, partnership, limited liability
25 company, association, corporation, business trust, legal representative,
26 or organized group of persons that who employs six or more employees.

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

3 (5) Family member means:

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

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

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

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

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

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

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

22 (7) Paid sick time means time that is compensated at the same hourly
23 rate and with the same benefits, including health care benefits, as the
24 employee typically earns during hours worked and that is provided by an
25 employer to an employee for the purposes described in section 4 of this
26 act, and in no case shall the amount of this hourly rate be less than
27 that provided under section 48-1203. Notwithstanding the foregoing, for
28 employees paid on a commission, piece-rate, mileage, or fee-for-service
29 basis, paid sick time means time that is compensated at an hourly rate
30 determined by the employer using the average weekly rate calculation
31 under section 48-126, which shall then be reduced to an hourly rate based

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

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

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

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

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

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

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

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

29 (2) When a citation is issued, the commissioner shall notify the
30 employer of the proposed administrative penalty, if any, by certified
31 mail, by any other manner of delivery by which the United States Postal

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

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

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

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

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

30 (7) If an employee institutes suit against an employer under
31 subsection (6) of this section, any citation that is issued against an

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

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