

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 506

Introduced by Wallman, 30.

Read first time January 18, 2011

Committee: Business and Labor

A BILL

1 FOR AN ACT relating to the Nebraska Workers' Compensation Act; to
2 amend section 48-126, Reissue Revised Statutes of
3 Nebraska; to change the definition of wages; and to
4 repeal the original section.
5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 48-126, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 48-126 ~~Wherever in~~ For purposes of the Nebraska Workers'
4 Compensation Act, ~~the term wages is used, it shall be construed to~~
5 ~~mean~~ means the money rate at which the service rendered is
6 recompensed (1) under the contract of hiring in force at the time of
7 the accident or (2) for death benefits for the dependents of a
8 retired worker who died as the result of an occupational disease,
9 under the contract for hire in force when the retired worker was last
10 employed by the employer found liable for the occupational disease.
11 ~~It~~ Wages shall not include gratuities received from the employer or
12 others, nor shall it include board, lodging, or similar advantages
13 received from the employer, unless the money value of such advantages
14 ~~shall have been~~ was fixed by the parties at the time of hiring,
15 except that if the workers' compensation insurer ~~shall have~~ collected
16 a premium based upon the value of such board, lodging, and similar
17 advantages, then the value thereof shall become a part of the basis
18 of determining compensation benefits. In occupations involving
19 seasonal employment or employment dependent upon the weather, the
20 employee's weekly wages shall be ~~taken to be~~ one-fiftieth of the
21 total wages which he or she has earned from all occupations during
22 the year immediately preceding the accident, unless it ~~be~~ is shown
23 that during such year, by reason of exceptional causes, such method
24 of computation does not fairly represent the earnings of the
25 employee. In such a case, the period for calculation shall be

1 extended so far as to give a basis for the fair ascertainment of his
2 or her average weekly earnings. In continuous employments, if
3 immediately prior to the accident the rate of wages was fixed by the
4 day or hour or by the output of the employee, his or her weekly wages
5 shall be ~~taken to be~~ his or her average weekly income for the period
6 of time ordinarily constituting his or her week's work, and using as
7 the basis of calculation his or her earnings during as much of the
8 preceding six months as he or she worked for the same employer,
9 except as provided in sections 48-121 and 48-122. The calculation
10 shall also be made with reference to the average earnings for a
11 working day of ordinary length and exclusive of earnings from
12 overtime, except that if the insurance company's policy of insurance
13 provides for the collection of a premium based upon such overtime,
14 then such overtime shall become a part of the basis of determining
15 compensation benefits.

16 Sec. 2. Original section 48-126, Reissue Revised Statutes
17 of Nebraska, is repealed.