

## LEGISLATIVE BILL 738

Approved by the Governor April 10, 2012

Introduced by Gloor, 35.

FOR AN ACT relating to the Nebraska Workers' Compensation Act; to amend section 48-122, Reissue Revised Statutes of Nebraska; to change burial expense benefits; to harmonize provisions; and to repeal the original section.

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

Section 1. Section 48-122, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

(3) Upon the death of an employee, resulting through personal injuries as ~~herein~~ defined in section 48-151, whether or not there ~~be~~ are dependents entitled to compensation, the reasonable expenses of burial, not exceeding ~~six~~ ten thousand dollars, without deduction of any amount previously paid or to be paid for compensation or for medical expenses, shall be paid to his or her dependents, or if there ~~be~~ are no dependents, then to his or her personal representative.

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

(5) The consul general, consul, vice consul general, or vice consul of the nation of which the employee, whose injury results in death, is a citizen, or the representative of such consul general, consul, vice consul general, or vice consul residing within the State of Nebraska shall be regarded as the sole legal representative of any alien dependents of the employee residing outside of the United States and representing the nationality of the employee. Such consular officer, or his or her representative, residing in the State of Nebraska, shall have in behalf of such nonresident dependents, the exclusive right to adjust and settle all claims for compensation provided by the Nebraska Workers' Compensation Act, and to receive the distribution to such nonresident alien dependents of all compensation arising thereunder.

Sec. 2. Original section 48-122, Reissue Revised Statutes of Nebraska, is repealed.