

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 241

Introduced by Vargas, 7; Aguilar, 35; Brandt, 32; Hansen, M., 26; Hunt,
8; Lathrop, 12; McDonnell, 5; Pansing Brooks, 28; Walz, 15;
Wayne, 13.

Read first time January 11, 2021

Committee:

- 1 A BILL FOR AN ACT relating to labor; to adopt the Meatpacking Employees
- 2 COVID-19 Protection Act; and to declare an emergency.
- 3 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 7 of this act shall be known and may be
2 cited as the Meatpacking Employees COVID-19 Protection Act.

3 Sec. 2. For purposes of the Meatpacking Employees COVID-19
4 Protection Act:

5 (1) Commissioner means the Commissioner of Labor;

6 (2) COVID-19 means the novel COVID-19 identified as SARS-CoV-2, the
7 disease caused by the novel coronavirus SARS-CoV-2 or a virus mutating
8 therefrom, and the health conditions or threats associated with the
9 disease caused by the novel coronavirus SARS-CoV-2 or a virus mutating
10 therefrom;

11 (3) COVID-19 test means a test capable of determining whether an
12 individual has COVID-19;

13 (4) Department means the Department of Labor;

14 (5) Employer or meatpacking operation means a business with more
15 than one hundred workers which engages in slaughtering, butchering, meat
16 canning, meatpacking, meat manufacturing, poultry canning, poultry
17 packing, poultry manufacturing, pet food manufacturing, egg production,
18 processing of meatpacking products, or rendering. Employer or meatpacking
19 operation does not include grocery stores, delis, restaurants, butchers,
20 or other retail entities preparing meat products for immediate
21 consumption;

22 (6) Face mask means an item of double-layered cloth or various other
23 materials with elastic bands or cloth ties to secure such mask over the
24 wearer's nose and mouth in an effort to contain or reduce the spread of
25 potentially infectious respiratory secretions at the source, that is, the
26 wearer's nose and mouth. A face mask is intended to reduce the spread of
27 COVID-19 from the wearer to others, whether or not the face mask protects
28 the wearer;

29 (7) Hand sanitizer means alcohol-based hand sanitizer that is at
30 least sixty percent alcohol;

31 (8) Meatpacking products includes livestock products and poultry

1 products as such terms are defined in section 54-1902;

2 (9) Meat processing worker or worker means any individual whom an
3 employer suffers or permits to work in a meatpacking operation, and also
4 includes independent contractors and individuals performing work for an
5 employer through a temporary service or staffing agency. An individual
6 need not be directly in contact with meatpacking products to be
7 considered a worker;

8 (10) Negative test result means a COVID-19 test result which
9 indicates that a worker was not infected with COVID-19 at the time of
10 testing;

11 (11) Positive case count means the total number of positive COVID-19
12 test results; and

13 (12) Positive test result means a COVID-19 test result which
14 indicates that a worker was infected with COVID-19 at the time of
15 testing.

16 Sec. 3. Meatpacking operations shall comply with the protections
17 and requirements of section 4 of this act beginning on the effective date
18 of this section and shall maintain such compliance until December 31,
19 2021.

20 Sec. 4. (1) An employer shall maintain a six-foot radius of space
21 around and between each worker in all areas of the employer's facility.
22 An employer may accomplish such distancing by increasing physical space
23 between workstations, slowing production speeds, staggering shifts and
24 breaks, adjusting shift size, or any combination of such measures. Where
25 feasible, an employer shall reinforce social distancing with the use of
26 plastic barriers in work spaces and common areas. An employer shall also
27 reconfigure common or congregate spaces to allow for such six-foot social
28 distancing radius, including, but not limited to, lunch rooms, break
29 rooms, and locker rooms.

30 (2) An employer shall provide all workers with face masks and shall
31 make face shields available free of charge. An employer shall replace

1 face masks daily and more often as necessary, such as when face masks are
2 damaged or soiled. Any individual present at a meatpacking operation
3 facility shall wear a face mask properly secured over the individual's
4 nose and mouth while in the facility.

5 (3) An employer shall provide all workers with the ability to
6 frequently and routinely sanitize their hands with either hand washing or
7 hand sanitizing stations. An employer shall provide gloves to any worker
8 upon request.

9 (4) An employer shall clean and regularly disinfect all frequently
10 touched surfaces in the workplace, such as workstations, training rooms,
11 machinery controls, tools, protective garments, eating surfaces,
12 bathrooms, showers, and other similar areas. An employer shall install
13 and maintain ventilation systems that ensure unidirectional air flow,
14 ventilation with outdoor air, and filtration in both production areas and
15 common areas such as cafeterias and locker rooms.

16 (5) Each time before an individual enters a meatpacking operation
17 facility, the employer shall screen such individual for COVID-19. Such
18 screening procedure shall include a temperature check with the result
19 disclosed to the individual and shall require completion of an oral or
20 written questionnaire including questions about possible COVID-19
21 symptoms and disclosure of known exposure to COVID-19.

22 (6)(a) An employer shall permit any worker who suspects that such
23 worker may have been exposed to the COVID-19 to leave the meatpacking
24 operation premises in order to receive a COVID-19 test on paid work time.

25 (b) A worker displaying or experiencing symptoms of COVID-19 who has
26 received a COVID-19 test shall be allowed to await test results while
27 quarantined away from the meatpacking operation. An asymptomatic worker
28 may return to work unless such worker develops symptoms.

29 (c) An employer shall allow a worker who receives a positive test
30 result to quarantine away from the meatpacking operation with paid sick
31 leave and without penalty. Such paid sick leave shall not count against

1 other paid sick leave to which a worker is otherwise entitled under state
2 law or employer policy. An employer shall not require a worker to return
3 to work while the worker is still showing symptoms of COVID-19 or within
4 two weeks after a positive test result.

5 (d) An employer shall allow a worker who receives a negative test
6 result to return to work upon receipt of such result.

7 (e) An employer shall permit any worker to leave the meatpacking
8 operation premises in order to receive a COVID-19 vaccine on paid work
9 time.

10 (7) An employer shall track, for each meatpacking operation facility
11 it operates, the total number of COVID-19-related deaths and the positive
12 case count known to the employer. Such tracking shall be done on a daily
13 basis and shall be disaggregated by race and ethnicity. The employer
14 shall provide such data in a weekly report to the Department of Health
15 and Human Services, the Department of Labor, the Business and Labor
16 Committee of the Legislature, and the Health and Human Services Committee
17 of the Legislature. Such data and report shall be submitted in the form
18 and manner prescribed by the commissioner.

19 (8) If a worker is confirmed to have contracted COVID-19, the
20 employer shall identify all workers who worked in the same work area and
21 on the same shift and notify in writing all such workers of their
22 possible exposure. Such notification shall maintain the confidentiality
23 of the infected worker's identity as required by the federal Americans
24 with Disabilities Act of 1990, as amended, as such act existed on January
25 1, 2021.

26 (9) An employer shall disseminate all communications, notices, and
27 any published materials required by or regarding this section in English,
28 Spanish, and such other languages as required by subdivision (2)(e) of
29 section 48-2213.

30 Sec. 5. (1) The department shall have the authority to administer
31 and enforce the Meatpacking Employees COVID-19 Protection Act under the

1 auspices of the meatpacking industry worker rights coordinator.

2 (2)(a) The department, including the coordinator, may conduct
3 unannounced workplace inspections of employers. The coordinator or the
4 coordinator's delegate has the authority to inspect employer records and
5 make remedial recommendations during such inspection.

6 (b) No later than thirty days following a workplace inspection, the
7 coordinator or delegate shall file a final report of findings, including
8 any findings of violations of the Meatpacking Employees COVID-19
9 Protection Act, with the department and provide a copy to the employer
10 and its workers' collective-bargaining representative, if any. The report
11 shall be considered a public record.

12 Sec. 6. (1) The commissioner shall issue a citation to an employer
13 when an inspection reveals that the employer is in violation of the
14 Meatpacking Employees COVID-19 Protection Act. Such citation shall
15 additionally list with particularity the nature of each violation and
16 prescribe required hazard abatement measures and a reasonable timeline
17 for such compliance.

18 (2) When a citation is issued, the commissioner shall notify the
19 employer of the proposed administrative penalty, if any, by certified
20 mail or any other manner of delivery by which the United States Postal
21 Service can verify delivery or by any method of service recognized under
22 Chapter 25, article 5. The citation shall specify a deadline by which the
23 employer must abate the violation. The deadline shall be set at the
24 discretion of the commissioner but shall not be later than forty-five
25 days after the date of issuance of the citation. The administrative
26 penalty shall be not less than five thousand dollars in the case of a
27 first violation and not less than fifty thousand dollars in the case of a
28 second or subsequent violation.

29 (3) An employer shall provide proof of abatement of the violation to
30 the commissioner within seven days after any abatement deadline named in
31 the citation. The commissioner shall assess an additional administrative

1 penalty of five thousand dollars for failure to comply with this
2 subsection for each unabated hazard.

3 (4) The employer shall have fifteen business days after the date of
4 the citation or penalty to contest such citation or penalty. Notice of
5 contest shall be filed with the commissioner who shall set a hearing in
6 accordance with the Administrative Procedure Act.

7 Sec. 7. The department may adopt and promulgate rules and
8 regulations as necessary to carry out the Meatpacking Employees COVID-19
9 Protection Act.

10 Sec. 8. Since an emergency exists, this act takes effect when
11 passed and approved according to law.