

**NEBRASKA DEPARTMENT OF LABOR**

# HEALTH AND SAFETY

*Neb. Rev. Stat. §§48-401 to 48-417*

*Neb. Rev. Stat. §§48-419 to 48-435*



**PETE RICKETTS, GOVERNOR**

**JOHN H. ALBIN, COMMISSIONER**

[Current Through 2018 Legislature, Regular Session]

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**48-401. Water closets; duty of employer to provide.** Every factory, mill, workshop, mercantile or mechanical establishment or other building, where one or more persons are employed, shall be provided within reasonable access, with a sufficient number of water closets, earth closets or privies for the reasonable use of the persons employed therein, and wherever male and female persons are employed as aforesaid together, water closets, earth closets or privies separate and apart, shall be provided for the use of each sex, and plainly so designated, and no person shall be allowed to use such closet or privy assigned to the other sex. Such closet shall be properly enclosed and ventilated and at all times kept in a clean and sanitary condition. When the number employed is more than twenty of either sex, there shall be provided an additional closet for each sex up to the number of forty and above that number in the same ratio. The Department of Labor or any person authorized by the department may require such changes in the placing of such closets as the department may deem necessary and may require other changes which may serve the best interest of morals and sanitation.

**Source:** Laws 1911, c. 67, § 1, p. 299; Laws 1913, c. 103, § 1, p. 258; R.S.1913, § 3588; Laws 1919, c. 190, tit. IV, art. IV, § 1, p. 558; C.S.1922, § 7682; C.S.1929, § 48-401.

**Annotations:**

The state, by its Legislature, has extensively entered the field of labor. *Midwest Employers Council, Inc. v. City of Omaha*, 177 Neb. 877, 131 N.W.2d 609 (1964).

Safety regulations do not apply to non-operating owner of building. *Quist v. Duda*, 159 Neb. 393, 67 N.W.2d 481 (1954).

Petition of employee was insufficient to state cause of action under this section where it merely showed contracting of unusual disease by employee. *Russo v. Swift & Co.*, 136 Neb. 406, 286 N.W. 291 (1939).

**48-402. Dressing rooms; duty to provide; rights of lessee.** In factories, mills, workshops, mercantile or mechanical establishments, or other places where the labor performed by the operator is of such a character that it becomes necessary to change the clothing, wholly or in part, before leaving the building at the close of the day's work, separate dressing rooms shall be provided for females whenever so required by the Department of Labor. It shall be the duty of every occupant, whether owner or lessee of any such premises used as specified by sections 48-401 to 48-424, to make all the changes and additions thereto. In case such changes are made upon the order of the department to the lessee of the premises, the lessee may at any time within thirty days after the completion thereof, bring an action against any person, corporation, partnership, or limited liability company having an interest in such premises and may recover such proportion of expenses of making such changes and additions as the court adjudges should justly and equitably be borne by such defendant.

**Source:** Laws 1911, c. 67, § 2, p. 300; Laws 1913, c. 103, § 1, p. 258; R.S.1913, § 3589; Laws 1919, c. 190, tit. IV, art. IV, § 2, p. 558; C.S.1922, § 7683; C.S.1929, § 48-402; R.S.1943, §48-402; Laws 1993, LB 121, § 287.

**Annotations:**

Lessee is given a cause of action against parties having interest in premises for share of cost of changes and additions. *Quist v. Duda*, 159 Neb. 393, 67 N.W.2d 481 (1954).

**48-403. Ventilation; dust and fumes; fans required.** If in any of the aforesaid places any process is carried on by which dust or fumes are caused, which may be inhaled by the persons employed therein, or if the air shall become exhausted or impure, there shall be provided a fan or other such mechanical device as will substantially carry away all such dust or fumes or other impurities, subject to the approval of the Department of Labor.

**Source:** Laws 1911, c. 67, § 3, p. 300; Laws 1913, c. 103, § 1, p. 259; R.S.1913, § 3590; Laws 1919, c. 190, tit. IV, art. IV, § 3, p. 559; C.S.1922, § 7684; C.S.1929, § 48-403.

**Annotations:**

The "aforesaid places" referred to in this section are those which are mentioned in sections 48-401 and 48-402: factories, mills, workshops, mercantile or mechanical establishments,

or other buildings where one or more persons are employed. *Anderson v. Nashua Corp.*, 246 Neb. 420, 519 N.W.2d 275 (1994).

Burden is on employee to prove that injury resulted proximately from failure of employer to install a fan to carry off fumes of paint shop. *Smith v. Morton Motor Co.*, 145 Neb. 396, 16 N.W.2d 843 (1944).

Fact that employee contracted disease of echinococcosis does not show violation of this section. *Russo v. Swift & Co.*, 136 Neb. 406, 286 N.W. 291 (1939).

Where employer provides foundry with ample ventilation and suitable equipment, and such foundry is inspected about twice a year by representative of Nebraska Department of Labor who makes no additional requirements, employer has complied with the statute. *Rzeszotarski v. American Smelting & Refining Co.*, 133 Neb. 825, 277 N.W. 334 (1938).

Where ventilators and windows would tend to carry away dust and fumes, trial court was not required to instruct jury with reference to this section. *Grover v. Aaron Ferer & Sons*, 122 Neb. 755, 241 N.W. 539 (1932).

Employer has burden of proof to show that the installation of a fan or other device for the removal of dust and fumes is not practicable. *Grant Storage Battery Co. v. DeLay*, 87 F.2d 726 (8th Cir. 1937).

**48-404. Sanitation; duty of employer.** All of the aforesaid places shall be kept clean and free from effluvia arising from any drain, privy or nuisance, and shall be ventilated and kept in a sanitary condition. The Department of Labor or any person authorized by the department may require such changes or additions to be made in any of the aforesaid places as will promote the best measures of sanitation.

**Source:** Laws 1911, c. 67, § 4, p. 300; Laws 1913, c. 103, § 1, p. 259; R.S.1913, § 3591; Laws 1919, c. 190, tit. IV, art. IV, § 4, p. 559; C.S.1922, § 7685; C.S.1929, § 48-404.

**48-405. Grinding machines; dust; blowers required.** All persons, companies or corporations operating any factory or workshop where grinding wheels, or grinding machines, emery wheels or emery belts of any description are used, whether solid emery, leather covered, felt, canvas, linen, paper, cotton or wheels or belts rolled or coated with emery or carborundum or cotton wheels used as buffs, shall, when deemed necessary by the Department of Labor, provide such wheels or belts with blowers or similar apparatus, which shall be placed over, beside or under such wheels or belts in such manner as to protect the person or persons using the same from particles of dust produced and caused thereby, and to carry away the dust arising from or thrown off by such wheels or belts while in operation, directly to the outside of the building or to some receptacle placed so as to receive and confine such dust; PROVIDED, grinding machines upon which water is used at the point of grinding contact and other wheels used for tool grinding shall be exempt from the provisions of this section.

**Source:** Laws 1911, c. 67, § 5, p. 301; Laws 1913, c. 103, § 1, p. 259; R.S.1913, § 3592; Laws 1919, c. 190, tit. IV, art. IV, § 5, p. 559; C.S.1922, § 7686; C.S.1929, § 48-405.

**Annotations:**

Applicability of act is limited to those operating factory or workshop. *Quist v. Duda*, 159 Neb. 393, 67 N.W.2d 481 (1954).

**48-406. Emery wheels and grindstones; use and operation.** No emery wheels or grindstones in any factory, mill or workshop, shall be used when known to the person using the same to be cracked or otherwise defective, nor operated at a greater speed than indicated or guaranteed by the manufacturer of such emery wheel or grindstone.

**Source:** Laws 1911, c. 67, § 6, p. 301; R.S.1913, § 3593; Laws 1919, c. 190, tit. IV, art. IV, §6, p. 560; C.S.1922, § 7687; C.S.1929, § 48-406.

**48-407. Emery wheels and grindstones; hoods or hoppers required.** Every emery wheel and grindstone shall be fitted with a sheet or cast iron hood or hopper, of such form so adjusted that the dust or refuse therefrom will fall or be thrown into such hood or hopper by centrifugal force, and be carried off by the current of air into a suction pipe.

**Source:** Laws 1911, c. 67, § 7, p. 301; R.S.1913, § 3594; Laws 1919, c. 190, tit. IV, art. IV, §7, p. 560; C.S.1922, § 7688; C.S.1929, § 48-407.

**Annotations:**

Applicability of act is limited to those operating factory or workshop. *Quist v. Duda*, 159 Neb. 393, 67 N.W.2d 481 (1954).

**48-408. Emery wheels; suction pipes required; capacity.** Every such wheel six inches or less in diameter shall be provided with a three-inch suction pipe; wheels six inches to twenty-four inches in diameter, with a four-inch suction pipe; wheels from twenty-four inches to thirty-six inches in diameter, with a five-inch suction pipe; and every wheel exceeding thirty-six inches in diameter shall be provided with a suction pipe not less than six inches in diameter.

The suction pipe from each wheel shall be of full size to its terminus, and a suction pipe to which smaller pipes are attached shall, in its capacity, be equal to the combined capacities of all smaller pipes attached thereto, and the discharge pipe shall be of as large capacity as, or larger capacity than, the combined capacities of all suction pipes.

**Source:** Laws 1911, c. 67, § 8, p. 302; R.S.1913, § 3595; Laws 1919, c. 190, tit. IV, art. IV, §8, p. 560; C.S.1922, § 7689; C.S.1929, § 48-408.

**48-409. Machinery; safety devices required.** Every person operating a plant where machinery is used, shall provide such guards, boxing, screens or other appliances as will protect employees against injury from belting, shafting, gearing, elevators, drums, saws, cogs, electric currents, molten metal or hot liquid. He shall also furnish and supply belt shifters which can be operated from the floor. All exposed cogs or gears shall be enclosed in metal casings or woven wire screens. Protruding set screws in collars and couplings of shafting or other revolving machinery shall be countersunk or covered with metal boxing. Pulleys, belts and projections of or from ends of shaftings shall be protected by boxing or enclosing with metal or other suitable material. Belts shall not rest on shafting in motion, but rest hooks shall be provided to hold belting free therefrom. Roll guards shall be placed on roll-feed machines fed by hand at the point where the material is fed, and a device for instantly stopping the machine by the hand or foot shall also be provided within reach of the operator when operating the machine.

**Source:** Laws 1911, c. 67, § 9, p. 302; Laws 1913, c. 103, § 1, p. 260; R.S.1913, § 3597; Laws 1919, c. 190, tit. IV, art. IV, § 9, p. 560; C.S.1922, § 7690; C.S.1929, § 48-409.

**Annotations:**

Employee's acceptance of benefits under Workmen's Compensation Act ordinarily constitutes release to employer of claims at law arising from the injury. *Edelman v. Ralph Printing & Lithographing, Inc.*, 189 Neb. 763, 205 N.W.2d 340 (1973).

Evidence did not establish violation of this section. *Goodwin v. Epsen Lithographing Co.*, 183 Neb. 281, 160 N.W.2d 183 (1968).

Words "operating a plant" would include corporation carrying on an elevator business. *Fosler v. Aden*, 175 Neb. 535, 122 N.W.2d 494 (1963).

Applicability of section is limited to operator of plant. *Quist v. Duda*, 159 Neb. 393, 67 N.W.2d 481 (1954).

A farming and stockfeeding business is not a plant within this section. *Groat v. Clausen*, 139 Neb. 689, 298 N.W. 563 (1941).

Factory act is not intended to narrow compensation act. Fact that employer's violation of this section was cause of injury to employee does not entitle latter to sue at common law. *Navracel v. Cudahy Packing Co.*, 109 Neb. 506, 191 N.W. 659 (1922), reh'g denied, 109 Neb. 512, 193 N.W. 768 (1923).

Where defendant failed to provide rest hook to hold belting free from shafting, it was proper to submit to jury failure to comply with statute as evidence of negligence. *Hellerich v. Central Granaries Co.*, 104 Neb. 818, 178 N.W. 919 (1920).

Violation of this section constituted gross negligence. *McCarthy v. Village of Ravenna*, 99 Neb. 674, 157 N.W. 629 (1916).

**48-410. Revolving machines; screens required.** A metal or other suitable screen shall be placed around each laundry extractor or other exposed high-speed revolving machinery.

**Source:** Laws 1919, c. 190, tit. IV, art. IV, § 10, p. 561; C.S.1922, § 7691; C.S.1929, § 48-410.

**48-411. Woodworking machinery; safety devices.** Wood planers, wood shapers, swing saws, equalizing saws, circular heading jointers, wood polishers, buzz planers, lathe bolters, and all similar machinery, shall be equipped with requisite safety appliances.

**Source:** Laws 1919, c. 190, tit. IV, art. IV, § 11, p. 561; C.S.1922, § 7692; C.S.1929, § 48-411.

**48-412. Safety appliances; codes and standards.** All safety appliances prescribed by sections 48-401 to 48-424 shall be subject to the approval of the Commissioner of Labor. The commissioner is directed and empowered to formulate, adopt, publish and enforce such safety codes, orders, rules and standards as he deems necessary, in order that all employments and places of employment shall be, in all respects, so constructed, equipped, arranged, operated and maintained as to provide reasonable and adequate protection to the lives, health and safety of all persons employed therein and frequenting the same, as the nature of the employment will reasonably permit. Such codes as may be adopted shall be subject to modification, amendment or repeal at any time, in the discretion of the commissioner.

**Source:** Laws 1919, c. 190, tit. IV, art. IV, § 12, p. 561; C.S.1922, § 7693; Laws 1929, c. 138, § 1, p. 492; C.S.1929, § 48-412; R.S.1943, § 48-412; Laws 1969, c. 400, § 1, p. 1390.

**Annotations:**

Safety appliance codes apply only where the relationship of employer and employee exists. *Quist v. Duda*, 159 Neb. 393, 67 N.W.2d 481 (1954).

The violation of a provision of a safety code intended to protect life, health, and safety of employees constitutes actionable negligence but such negligence must be shown to have been the proximate cause of the injury. *Wertz v. Lincoln Liberty Life Ins. Co.*, 152 Neb. 451, 41 N.W.2d 740 (1950).

Rules of Department of Labor are not applicable to a farming and stockraising business. *Groat v. Clausen*, 139 Neb. 689, 298 N.W. 563 (1941).

**48-413. Safety codes; adopt, amend, or repeal; Nebraska Safety Code for Building Construction; procedures.** (1) The Commissioner of Labor shall, from time to time, create advisory committees composed of employers, employees, and such other persons as the commissioner may designate, to advise him in formulating, adopting, amending or repealing such codes, orders, rules and standards. Before any code is adopted, amended or repealed there shall be a public hearing thereon, notice of which hearing shall be given such publicity as the commissioner deems necessary. The commissioner may make or cause to be made such investigations and surveys as will assist in the formulation and modification of such codes, orders, rules and standards.

(2) A safety code may be adopted as a regulation by the Commissioner of Labor and shall thereafter be known as the Nebraska Safety Code for Building Construction. A copy of this code, if so adopted, shall be kept on file in the office of the Commissioner of Labor. Any amendment or change thereafter made in such code shall become effective in this state only after public notice and hearing thereon as provided in the Administrative Procedure Act.

**Source:** Laws 1929, c. 138, § 1, p. 493; C.S.1929, § 48-412; R.S.1943, § 48-413; Laws 1969, c. 400, § 2, p. 1391.

**Cross Reference:**

Administrative Procedure Act, see section 84-920.

**48-414. Safety codes; enforcement; violation; penalty; coverage of sections.** It shall be the duty of the Commissioner of Labor to make or cause to be made periodic inspections of all places of employment for the purpose of enforcing the provisions of such safety codes as have been adopted, and any inspector or employee of the commissioner may order the discontinuance of the use or operation of any machine or device, or the discontinuance of work at any location, which does not conform to the provisions of the code or codes pertaining thereto. The commissioner shall adopt a suitable label to be attached to any such machine or device stating that the use or operation of such machine or device is dangerous and has been ordered discontinued. The commissioner shall adopt a similar label or sign to be posted at any location where work has been ordered discontinued. Such label shall not be removed except upon authority from the commissioner. Any employer or employee who uses or operates, or causes to be used or operated, any machine or device so labeled, or who continues work at any location where work has been ordered discontinued, shall be guilty of a Class II misdemeanor. Railroad companies engaged in interstate or foreign commerce are not within the provisions of sections 48-412 to 48-416. Public power and irrigation districts, under Chapter 70, article 6, are subject to the provisions of Chapter 48, article 4.

**Source:** Laws 1929, c. 138, § 1, p. 493; C.S.1929, § 48-412; R.S.1943, § 48-414; Laws 1969, c. 400, § 3, p. 1391; Laws 1977, LB 40, § 282; Laws 1979, LB 467, § 1.

**Annotations:**

Evidence that Department of Labor has inspected and approved a particular machine is prima facie evidence that its use is not in violation of this act. *Goodwin v. Epsen Lithographing Co.*, 183 Neb. 281, 160 N.W.2d 183 (1968).

**48-415. Safety codes; validity or reasonableness; appeal to Commissioner of Labor.** Any person in interest, or his duly authorized agent, may file a petition with the Commissioner of Labor for a review of the validity or reasonableness of any code, order, rule or standard made under the provisions of section 48-412. The commissioner shall, as soon as practicable thereafter, hold a hearing to determine the issues raised, and shall give ample notice of the time and place of such hearing to the petitioner, and to such other interested persons as the commissioner may determine.

**Source:** Laws 1929, c. 138, § 1, p. 493; C.S.1929, § 48-412; R.S.1943, § 48-415; Laws 1969, c. 400, § 4, p. 1392.

**48-416. Appeal; procedure.** Any person in interest who is dissatisfied with the decision of the Commissioner of Labor may appeal the decision, and the decision shall be in accordance with the Administrative Procedure Act.

**Source:** Laws 1929, c. 138, § 1, p. 494; C.S.1929, § 48-412; R.S.1943, § 48-416; Laws 1969, c. 400, § 5, p. 1392; Laws 1988, LB 352, § 84.

**Cross Reference:**

Administrative Procedure Act, see section 84-920.

**48-417. Electric plants; safety regulations.** Signs or indicating lamps shall be placed at all switches in electric light and power plants or other places where high pressure currents are used, to show whether the current is on or off the circuit. When current is turned off a circuit for repair, the switch shall first be tagged, the tag bearing the name of the person for whom it is turned off. The tag shall not be removed or the current turned on until the person for whom it was tagged shall notify the operator that his work has ceased.

**Source:** Laws 1919, c. 190, tit. IV, art. IV, § 13, p. 561; C.S.1922, § 7694; C.S.1929, § 48-413.

**48-419. Steam boilers; repairs; safety regulations.** Where a number of boilers deliver to a common steam main, they shall be equipped with a shutoff or throttle valve for each boiler to take it out of service for repairs and inspection necessitating the entry therein of workmen. A metal shield shall be constructed

covering the hand wheel of the valve hinging in the center and containing hasp and lock. The shield shall be painted red and marked with the words Man in boiler. The workman shall be allowed to retain key in his possession while in such boiler.

**Source:** Laws 1919, c. 190, tit. IV, art. IV, § 15, p. 561; C.S.1922, § 7696; C.S.1929, § 48-415.

**48-420. Fire escapes; when required.** Every factory or other institution, more than two stories in height, shall be equipped with outside fireproof iron stairways, chutes or toboggans, and one automatic fire escape for every fifteen persons working or congregating therein at any time, who, for any reason, are unable to reach or use the outside fireproof stairways, chutes or toboggans.

**Source:** Laws 1919, c. 190, tit. IV, art. IV, § 16, p. 562; C.S.1922, § 7697; C.S.1929, § 48-416.

**Annotations:**

Under former penal statute relating to fire escapes, law will not be extended to include agents of owners who fail, after notice, to erect fire escapes. *State v. Dailey*, 76 Neb. 770, 107 N.W. 1094 (1906).

**48-421. Accidents; reports; contents.** Every person operating a plant where machinery is used, shall report in writing to the Department of Labor all fatal accidents within forty-eight hours after their occurrence, and all other accidents within two weeks after their occurrence. Such report shall state fully the cause of the accidents, the nature and extent of the injuries, and the probable loss of time which will result therefrom.

**Source:** Laws 1911, c. 67, § 10, p. 302; Laws 1913, c. 103, § 1, p. 261; R.S.1913, § 3598; Laws 1919, c. 190, tit. IV, art. IV, § 17, p. 562; C.S.1922, § 7698; C.S.1929, § 48-417.

**Annotations:**

Applicability of act is limited to operator. *Quist v. Duda*, 159 Neb. 393, 67 N.W.2d 481 (1954).

**48-422. Violations; liability for injuries.** Every person operating a plant where machinery is used who shall violate any of the provisions of sections 48-401 to 48-424 shall be liable in damages to any person injured, as a result thereof, or to the heirs of any person who shall have died as a result thereof.

**Source:** Laws 1919, c. 190, tit. IV, art. IV, § 18, p. 562; C.S.1922, § 7699; C.S.1929, § 48-418.

**Annotations:**

Employee's acceptance of benefits under Workmen's Compensation Act ordinarily constitutes release to employer of claims at law arising from the injury. *Edelman v. Ralph Printing & Lithographing, Inc.*, 189 Neb. 763, 205 N.W.2d 340 (1973).

Recovery was denied in action brought under this section against manager of elevator. *Fosler v. Aden*, 175 Neb. 535, 122 N.W.2d 494 (1963).

Applicability of act is limited to operator. *Quist v. Duda*, 159 Neb. 393, 67 N.W.2d 481 (1954).

Where evidence failed to show that any machinery was used in room where plaintiff worked, court was not required to instruct jury with reference to this section. *Grover v. Aaron Ferer & Sons*, 122 Neb. 755, 241 N.W. 539 (1932).

Notwithstanding injury to minor employee was caused by employer's violation of statute requiring screens to protect from machinery, Workmen's Compensation Act applied and employer was not liable at common law. *Navracel v. Cudahy Packing Co.*, 109 Neb. 506, 191 N.W. 659 (1922), reh'g denied, 109 Neb. 512, 193 N.W. 768 (1923).

Where appliances furnished for protection of employee are of standard make and in common use, and no defect is shown therein, cause of action is not made out for not furnishing proper appliances. *Grant Storage Battery Co. v. DeLay*, 87 F.2d 726 (8<sup>th</sup> Cir. 1937).

**48-423. Violations; assumption of risk.** The continuance by any person in the employ of any such operator shall not be deemed an assumption of the risks of such employment.

**Source:** Laws 1919, c. 190, tit. IV, art. IV, § 19, p. 562; C.S.1922, § 7700; C.S.1929, § 48-419.

**Cross Reference:**

Actions against railroad or street railway company, employee shall not be held to have assumed risk where company or its agents, servants, or employees have been guilty of negligence, see section 25-21,184.

**Annotations:**

Applicability of act is limited to operator. *Quist v. Duda*, 159 Neb. 393, 67 N.W.2d 481 (1954).

Employee assumes risk arising from lead poisoning, where adequate warning and instructions to prevent injury are given. *Grant Storage Battery Co. v. DeLay*, 87 F.2d 726 (8<sup>th</sup> Cir. 1937).

**48-424. Health and safety regulations; violations; penalty.** Every person who shall violate any of the provisions of sections 48-401 to 48-423 shall be guilty of a Class II misdemeanor.

**Source:** Laws 1919, c. 190, tit. IV, art. IV, § 20, p. 562; C.S.1922, § 7701; C.S.1929, § 48-420; R.S.1943, § 48-424; Laws 1965, c. 284, § 1, p. 813; Laws 1977, LB 40, § 284.

**Annotations:**

Requirements of act did not apply to a landlord who was not occupant of building or operator of safety device. *Quist v. Duda*, 159 Neb. 393, 67 N.W.2d 481 (1954).

**48-425. Scaffolds or staging; safety requirements.** All scaffolds, hoists, cranes, stays, ladders, supports or other mechanical contrivances used in the erection, repairing, alteration, removal or painting of any house, building, bridge, viaduct or other structure, shall be erected and constructed in a safe, suitable and proper manner. Scaffolding or staging, swung or suspended from an overhead support and more than twenty feet from the ground floor, shall have, where practicable, a safety rail properly bolted, secured and braced, rising at least thirty-four inches above the floor or main portion of such scaffolding or staging, and extending along the entire length of the outside and ends thereof and properly attached thereto, and such scaffolding and staging shall be so fastened as to prevent the same from swaying from the building or structure.

**Source:** Laws 1911, c. 65, § 1, p. 289; R.S.1913, § 3602; Laws 1919, c. 190, tit. IV, art. IV, §21, p. 562; C.S.1922, § 7702; C.S.1929, § 48-421.

**Annotations:**

This section does not preclude indemnification against a breach of the statutory duty concerning scaffolding. *Oddo v. Speedway Scaffold Co.*, 233 Neb. 1, 443 N.W.2d 596 (1989).

It is the responsibility of a subcontractor who owns, erects, and controls scaffold for use of his own employees to comply with safety regulations hereunder. *Hand v. Rorick Constr. Co.*, 190 Neb. 191, 206 N.W.2d 835 (1973).

Duty to secure ladder was that of plaintiff independent contractor rather than of defendant general contractor. *Laaker v. Hartman*, 186 Neb. 774, 186 N.W.2d 494 (1971).

Defective scaffold formed the basis of cross-petition by defendant against codefendant. *Rogers v. Western Electric Co.*, 179 Neb. 359, 138 N.W.2d 423 (1965).

Prior case involving scaffolding on building is distinguished. *Fosler v. Aden*, 175 Neb. 535, 122 N.W.2d 494 (1963).

Where scaffold was supplied under contract of bailment, bailor was liable if scaffold did not meet requirements of statute. *Baer v. Schaap*, 168 Neb. 578, 97 N.W.2d 207 (1959).

Scaffold must be safe, suitable, and proper for the purpose for which it is used, and employer is liable if it does not meet this requirement. *Johnson v. Weborg*, 142 Neb. 516, 7 N.W.2d 65 (1942).

Section is constitutional as to owner of real estate. *Butera v. Mardis Co.*, 99 Neb. 815, 157 N.W. 1024 (1916).

Issue of responsibility for proper erection and maintenance of ladder was question for a jury. *Farmers Co-op Elevator Ass'n. v. Strand*, 382 F.2d 224 (8th Cir. 1967).

Erection of an unsafe scaffold is negligence per se. *Continental Can Co. v. Horton*, 250 F.2d 637 (8th Cir. 1957).

**48-426. Buildings; construction; supports, floor strength.** If in any house, building or structure in process of erection or construction, except a private barn, or a private house, the distance between the enclosed walls is more than twenty-four feet in the clear, there shall be built, kept and maintained, proper intermediate supports for the joists, which supports shall be either brick walls or iron or steel columns, beams, trusses or girders. The floors in all such houses, buildings or structures shall be capable of bearing in all their parts, in addition to the weight of the floor construction, partitions and permanent fixtures and mechanisms that may be set upon the same, a live load of fifty pounds for every square foot of floor surface.

**Source:** Laws 1911, c. 65, § 2, p. 290; R.S.1913, § 3603; Laws 1919, c. 190, tit. IV, art. IV, §22, p. 563; C.S.1922, § 7703; C.S.1929, § 48-422.

**48-427. Buildings; construction; floor loads; notice.** The owner of every house, building or structure, except a private barn or a private house, shall affix and display conspicuously on each floor of such building during construction, a placard, stating the load per square foot of floor surface which may, with safety, be applied to the particular floor during construction. If the strength of different parts of any floor varies, then there shall be placards for each varying part of such floor. It shall be unlawful to load any such floors, or any part thereof, to a greater extent than the load indicated on the placard, and all such placards shall be verified and approved by the Department of Labor, or other proper authority in the city or village charged with the enforcement of building laws.

**Source:** Laws 1911, c. 65, § 3, p. 290; R.S.1913, § 3604; Laws 1919, c. 190, tit. IV, art. IV, §23, p. 563; C.S.1922, § 7704; C.S.1929, § 48-423.

**48-428. Scaffolding; platforms; inspection; duty to render safe.** Whenever it shall come to the notice of the Department of Labor or the local authority in any city or village of this state, charged with the duty of enforcing the building laws, that the scaffolding or the slings, hangers, blocks, pulleys, stays, braces, ladders, irons or ropes of any swinging or stationary scaffolding, platform or other similar device, used in the construction, alteration, removing, repairing, cleaning or painting of buildings, bridges or viaducts within this state are unsafe, or liable to prove dangerous to the life or limb of any person, the department, or such local authority or authorities, shall immediately cause an inspection to be made of such scaffolding, platform or device, or the slings, hammocks, blocks, pulleys, stays, braces, ladders, iron or other parts connected therewith. If, after examination, such scaffolding, platform or device, or any of such parts, is found to be dangerous to the life or limb of any person, the department or such local authority shall at once notify the person responsible for its erection or maintenance of such fact and warn him against the use, maintenance or operation thereof and prohibit the use thereof, and require the same to be altered and reconstructed so as to avoid such danger. Such notice may be served personally upon the person responsible for its erection or maintenance or by conspicuously affixing it to the scaffold, platform or other such device, or the part thereof declared to be unsafe. After such notice has been so served or affixed the person responsible therefor shall cease using and immediately remove such scaffolding, platform or other device or part thereof, and alter or strengthen it in such manner as to render it safe. The department, or such local authority, whose duty it is to examine or test any scaffolding, platform or other similar device, or part thereof, required to be erected and maintained by this section, shall have free access at all reasonable hours to any building or structure or premises containing such scaffolding, platform or other similar device, or parts thereof, or where they may be in use. All swinging and stationary scaffolding, platforms or other devices shall be so constructed as to bear four times the maximum weight required to be dependent thereon, or placed thereon when in use, and such swing, scaffolding, platform or other device shall not be so overloaded or crowded as to render the same unsafe or dangerous.

**Source:** Laws 1911, c. 65, § 4, p. 291; R.S.1913, § 3605; Laws 1919, c. 190, tit. IV, art. IV, §24, p. 563; C.S.1922, § 7705; C.S.1929, § 48-424.

**Annotations:**

It is the responsibility of a subcontractor who owns, erects, and controls scaffold for use of his own employees to comply with safety regulations hereunder. *Hand v. Rorick Constr. Co.*, 190 Neb. 191, 206 N.W.2d 835 (1973).

**48-429. Scaffolding; staging; safety devices.** Any person employing or directing another to perform labor of any kind in the erecting, altering, repairing or painting of any water pipe, standpipe, tank, smokestack, chimney, tower, steeple, pole, staff, dome or cupola, when the use of any scaffolding, staging, swing, hammock, support, temporary platform or other similar contrivance is required or used in the performance of such labor, shall keep and maintain at all times, while such labor is being performed, and such mechanical device is in use or operation, a safe and proper scaffold, stay, support or other suitable device, not more than sixteen feet below such working scaffold, staging, swing, hammock, support, or temporary platform, when such work is being performed at a height of thirty-two feet or more.

**Source:** Laws 1911, c. 65, § 5, p. 292; R.S.1913, § 3606; Laws 1919, c. 190, tit. IV, art. IV, §25, p. 564; C.S.1922, § 7706; C.S.1929, § 48-425.

**48-430. Buildings; floors; safety regulations.** All contractors and owners, when constructing buildings where the plans and specifications require the floors to be arched between the beams thereof, or where the floors or filling in between the floors are fireproof material or brick work, shall complete the flooring or filling in as the building progresses, to within at least two tiers or beams below that on which the iron work is being erected. If the plans and specifications of such building do not require filling in between the beams of floors with brick or fireproof material, all contractors for carpenter work in the course of construction shall lay the underflooring thereof, or a safe temporary floor on each story as the building progresses to within at least two stories or floors below the story where the work is being performed. If the floor beams are of iron or steel, the contractors for the iron or steel work of buildings in the course of construction, or the owners of such buildings shall thoroughly plank over the entire tier or iron or steel beams on which the structural iron or steel work is being erected, except such spaces as may be reasonably required for the proper construction of such iron or steel work and for the raising and lowering of materials to be used in the construction of buildings, or such spaces as may be designated by the plans and specifications for stairways and elevator shafts.

**Source:** Laws 1911, c. 65, § 6, p. 293; R.S.1913, § 3607; Laws 1919, c. 190, tit. IV, art. IV, §26, p. 565; C.S.1922, § 7707; C.S.1929, § 48-426.

**48-431. Buildings; construction; hoists; safety regulations.** If elevating machines or hoisting apparatus are used within a building in the course of construction for the purpose of lifting materials to be used in such construction, the contractors or owners shall cause the shafts or openings in each floor to be enclosed or fenced in on all sides by a substantial barrier or railing at least eight feet in height. Any hoisting machines or engines used in such building construction shall, where practicable, be set up or placed on the ground, and where it is necessary in the construction of such building to place such hoisting machine or engine on some floor above the ground floor, such machine or engine must be properly secured and supported with a foundation capable of safely sustaining twice the weight of such machine or engine. If a building in course of construction is five stories or more in height, no material needed for such construction shall be hoisted or lifted over public streets or alleys unless such street or alley shall be barricaded from use by the public. The chief officer in any city or village charged with the enforcement of local building laws and ordinances, shall cooperate with the Department of Labor in enforcing the provisions of sections 48-425 to 48-435.

**Source:** Laws 1911, c. 65, § 7, p. 293; R.S.1913, § 3608; Laws 1919, c. 190, tit. IV, art. IV, §27, p. 565; C.S.1922, § 7708; C.S.1929, § 48-427.

**48-432. Buildings; elevating machines or hoists; signals.** If elevating machines or hoisting apparatus, operated or controlled by other than hand power, are used in the construction, alteration or removal of any building or other structure, a complete and adequate system of communication by means of signals shall

be provided and maintained by the owner, contractor or subcontractor, during the use and operation of such elevating machines or hoisting apparatus.

**Source:** Laws 1911, c. 65, § 8, p. 294; R.S.1913, § 3609; Laws 1919, c. 190, tit. IV, art. IV, §28, p. 566; C.S.1922, § 7709; C.S.1929, § 48-428.

**48-433. Building plans; duty of architects or draftsmen; violation; penalty.** All architects or draftsmen in preparing plans, specifications or drawings to be used in the erection, repairing, altering or removing of any building or structure within the terms and provisions of sections 48-425 to 48-435, shall provide in such plans, specifications and drawings for all the permanent structural features or requirements specified in said sections. Any person violating the provisions of this section shall be guilty of a Class IV misdemeanor.

**Source:** Laws 1911, c. 65, § 9, p. 294; R.S.1913, § 3610; Laws 1919, c. 190, tit. IV, art. IV, §29, p. 566; C.S.1922, § 7710; C.S.1929, § 48-429; R.S.1943, § 48-433; Laws 1977, LB 40, §285.

**48-434. Violations; penalty; prosecution.** (1) Any person violating any of the provisions of sections 48-425 to 48-432 shall be guilty of a Class II misdemeanor.

(2) All prosecutions for offenses relating to health and safety laws and regulations under sections 48-401 to 48-435 shall be brought in the name of the State of Nebraska before any court having jurisdiction thereof. It shall be the duty of all county attorneys in their respective counties to prosecute all persons charged with offenses against the health and safety laws and regulations of this state.

**Source:** Laws 1911, c. 65, § 10, p. 295; R.S.1913, § 3611; Laws 1919, c. 190, tit. IV, art. IV, §30, p. 566; C.S.1922, § 7711; C.S.1929, § 48-430; R.S.1943, § 48-434; Laws 1969, c. 400, §6, p. 1393; Laws 1973, LB 2, § 1; Laws 1977, LB 40, § 286.

**Annotations:**

Effect of 1919 amendment to this section discussed. *Quist v. Duda*, 159 Neb. 393, 67 N.W.2d 481 (1954).

**48-435. Buildings; construction; violations; assumption of risk.** The continuance by any person in the employ of any such operator shall not be deemed an assumption of the risk of such employment.

**Source:** Laws 1911, c. 65, § 11, p. 296; R.S.1913, § 3612; Laws 1919, c. 190, tit. IV, art. IV, §31, p. 567; C.S.1922, § 7712; C.S.1929, § 48-431.

**Annotations:**

This section did not apply to plaintiff independent contractor as he was not employee of defendant general contractor. *Laaker v. Hartman*, 186 Neb. 774, 186 N.W.2d 494 (1971).

Effect of 1919 amendment to this section discussed. *Quist v. Duda*, 159 Neb. 393, 67 N.W.2d 481 (1954).

Statute, insofar as it makes liable owner of lot on which building is being erected, is constitutional. *Butera v. Mardis Co.*, 99 Neb. 815, 157 N.W. 1024 (1916).

Assumption of risk doctrine had no bearing in determining negligence of owner of property. *Farmers Co-op Elevator Assn. v. Strand*, 382 F.2d 224 (8th Cir. 1967).