

Fifty-fifth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1116

Introduced by

Representative Keiser

(At the request of the Department of Corrections and Rehabilitation)

1 A BILL for an Act to create and enact a new chapter to title 65 of the North Dakota Century
2 Code, relating to workers' compensation coverage for inmates engaged in work programs
3 through roughrider industries.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1.** A new chapter to title 65 of the North Dakota Century Code is created and
6 enacted as follows:

7 **Workers' compensation coverage for inmates engaged in work programs through**
8 **roughrider industries.** An inmate incarcerated at the penitentiary and engaged in work in a
9 prison industries work program through roughrider industries, whether the program is operated
10 by roughrider industries or by contract with a public or private entity or by a private employer,
11 may receive workers' compensation coverage under a program of modified workers'
12 compensation coverage established in accordance with the provisions of this chapter and
13 administrative rules and fee schedules adopted under this chapter if the director of the
14 department of corrections and rehabilitation elects to provide and requests such coverage. An
15 inmate who sustains an injury arising out of and in the course of work in a prison industries
16 work program through roughrider industries may only receive workers' compensation benefits in
17 accordance with any such modified coverage.

18 **Modified coverage of inmates engaged in work programs through roughrider**
19 **industries - Conditions.** Except as otherwise provided in this chapter, all claims for workers'
20 compensation benefits under this chapter are subject to the provisions of title 65 and all
21 administrative rules and fee schedules adopted under title 65. A claim under this chapter must
22 be filed in accordance with section 65-05-01. The penitentiary may pay the reasonable medical
23 expenses of an inmate injured arising out of and in the course of work in a prison industries
24 work program through roughrider industries while the inmate is incarcerated at the penitentiary.

1 If an inmate sustains an injury arising out of and in the course of work in a prison industries
2 work program through roughrider industries, disability or permanent partial impairment benefits
3 may not accrue or be paid while the inmate is incarcerated and may only accrue and be paid
4 when the inmate is discharged from the penitentiary. Disability benefits and permanent partial
5 impairment benefits must be computed according to chapter 65-05. The inmate's weekly wage
6 must be computed using either the actual wage paid to the inmate or the federal minimum wage
7 as of the date of injury, whichever is higher. An injury occurring as the result of a fight, riot,
8 recreational activity, or other activity or incident not directly related to the inmate's work
9 assignment in a prison industries work program through roughrider industries may not be
10 considered an injury arising out of and in the course of work in a prison industries work program
11 through roughrider industries and is not compensable under this title.

12 **Rulemaking - Excess or reinsurance coverage.** The workers compensation bureau,
13 in cooperation with the department of corrections and rehabilitation and the risk management
14 division of the office of management and budget, shall adopt administrative rules and fee
15 schedules for a program of modified workers' compensation coverage of inmates engaged in
16 work in a prison industries work program through roughrider industries when the director of the
17 department of corrections and rehabilitation elects to provide and requests such coverage. The
18 administrative rules and fee schedules must include provisions for the classification of inmates
19 engaged in work in a prison industries work program through roughrider industries, computation
20 of premiums, payment of claims charged against the classification, payment of medical bills,
21 excess coverage or reinsurance, and reimbursement to the bureau by roughrider industries for
22 claim benefit costs charged against the classification in excess of premiums and medical
23 expenses paid. Roughrider industries may secure excess coverage or reinsure all risk, or any
24 part, through the risk management division to cover the claim benefit costs in excess of
25 premium and medical expenses paid. The risk management division shall assess a premium
26 against roughrider industries for the cost of excess or reinsurance coverage and roughrider
27 industries shall pay such premium. Excess or reinsurance coverage through the risk
28 management division is subject to the per person and per occurrence limitations of section
29 32-12.2-02.

30 **No liability for damages - Inmates are not employees.** The state, its employees, and
31 the department of corrections and rehabilitation, its divisions, departments, and employees,

1 may not be held liable for damages at common law or by statute if an inmate covered under a
2 program of modified workers' compensation coverage under this chapter sustains an injury
3 arising out of and in the course of work in a prison industries work program through roughrider
4 industries. An inmate covered under a program of modified workers' compensation coverage
5 under this chapter may not be deemed an employee of the state or the department of
6 corrections and rehabilitation and its divisions and departments except for the purpose of the
7 program of modified workers' compensation coverage under this chapter.