

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 64

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

1 RELATING TO WORKER'S COMPENSATION; AMENDING SECTION 72-319, IDAHO CODE, TO
2 PROVIDE FOR MEMBERS OF LIMITED LIABILITY COMPANIES AND TO MAKE TECHNICAL
3 CORRECTIONS; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE
4 DATE.
5

6 Be It Enacted by the Legislature of the State of Idaho:

7 SECTION 1. That Section 72-319, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 72-319. PENALTY FOR FAILURE TO SECURE COMPENSATION. (1) Any employer
10 required to secure the payment of compensation under this law who fails to
11 secure the payment thereof shall be guilty of a misdemeanor. In any case
12 where the employer is a corporation or a limited liability company, any officer
13 or employee of the corporation or member, manager, or employee of a limited
14 liability company who had authority to secure payment of compensation
15 on behalf of the corporation or limited liability company and failed to do so
16 shall individually be guilty of a misdemeanor.

17 (2) Such officer, employee, member, or manager shall be personally liable
18 jointly and severally with such corporation or limited liability company for any
19 compensation ~~which that~~ may accrue under this law in respect to any injury
20 or occupational disease suffered by any employee of such corporation or limited
21 liability company while it shall so fail to secure the payment of compensation.
22

23 (3) Any employer who knowingly transfers, sells, encumbers, assigns, or in any
24 manner disposes of, conceals, secretes or destroys any property or records
25 belonging to such employer, after one (1) of its employees has been afflicted
26 by an injury or occupational disease, with intent to avoid the payment of
27 compensation to such employee or his dependents, shall be guilty of a
28 misdemeanor. In any case where such employer is a corporation or limited liability
29 company, any officer, employee, member, or manager thereof, if knowingly
30 participating or acquiescing in any such act, shall also be individually
31 guilty of a misdemeanor.

32 (4) Any employer required to secure the payment of compensation under this law
33 who fails to do so, may be liable for a penalty of either two dollars (\$2.00)
34 for each employee for each day or twenty-five dollars (\$25.00) for each day
35 during which such failure continues, whichever is greater, and in cases where
36 the employer is a corporation or limited liability company and is unable to pay
37 the fine, any officer or employee of the corporation or member or manager
38 of a limited liability company who had authority to secure payment of
39 compensation on behalf of the corporation or a limited liability company and
40 failed to do so, shall be liable for a like penalty, to be recovered for the
41 time during which such failure continued, but for not more than three
42 (3) consecutive years, in an action brought by the commission in the name of

1 the state of Idaho; any amount so collected shall be paid into the industrial
2 administration fund; for this purpose, the district court of any county in
3 which the employer carries on any part of its trade or occupation shall have
4 jurisdiction. In determining whether penalties should be assessed or col-
5 lected for the employer's failure to secure the payment of compensation, the
6 commission may consider the following factors:

7 (a) When the employer was notified that such employer's worker's com-
8 pensation insurance coverage had been ~~cancelled~~ canceled or that such
9 insurance was required;

10 (b) The length of time that elapsed between when the employer was no-
11 tified that worker's compensation insurance coverage was required, or
12 that such employer's coverage had been ~~cancelled~~ canceled, and the date
13 that such coverage was put into effect;

14 (c) Whether the employer is able to document attempts to secure
15 worker's compensation insurance coverage during the period of time that
16 such employer was without such coverage;

17 (d) Whether there were prior instances in which the employer failed
18 to keep worker's compensation insurance in effect or such coverage was
19 ~~cancelled~~, canceled and the reasons for such failure or cancellation;

20 (e) The reasons that the employer is unable to obtain or keep in effect
21 worker's compensation insurance coverage;

22 The above factors are not exclusive and the commission may consider any other
23 relevant factor.

24 (5) If any employer required to secure the payment of compensation un-
25 der this law is or has been in default under section 72-301, Idaho Code, the
26 employer may be enjoined by the district court of any county in which such em-
27 ployer carries on any part of its trade or occupation from carrying on such
28 business while any default under section 72-301, Idaho Code, exists. All
29 proceedings in the courts under this section are to be brought by the indus-
30 trial commission in the name of the state of Idaho.

31 (6) An employer who fails to secure the payment of compensation and who
32 has been assessed a penalty within the previous three (3) years pursuant to
33 section 72-319(4), Idaho Code, shall be liable for the following penalty in
34 addition to the penalty provided by section 72-319(4), Idaho Code:

35 (a) Five hundred dollars (\$500) for the second failure to secure the
36 payment of compensation;

37 (b) One thousand dollars (\$1,000) for the third and any subsequent
38 failure to secure the payment of compensation.

39 SECTION 2. An emergency existing therefor, which emergency is hereby
40 declared to exist, this act shall be in full force and effect on and after
41 July 1, 2025.