

IN THE SENATE

SENATE BILL NO. 1336, As Amended

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO WORKER'S COMPENSATION; AMENDING SECTION 72-438, IDAHO CODE,
2 TO PROVIDE THAT COMPENSATION SHALL BE PAYABLE FOR DISABILITY OR DEATH
3 RESULTING FROM CERTAIN FIREFIGHTER OCCUPATIONAL DISEASES, TO DEFINE A
4 TERM, TO PROVIDE A REBUTTABLE PRESUMPTION OF PROXIMATE CAUSATION BE-
5 TWEEN SPECIFIED DISEASES AND EMPLOYMENT AS A FIREFIGHTER, TO PROVIDE
6 FOR REBUTTAL OF THE PRESUMPTION, TO PROVIDE FOR THE DEMONSTRATION OF
7 CAUSAL CONNECTION, TO PROVIDE THAT THE PRESUMPTION SHALL NOT APPLY UN-
8 DER CERTAIN CIRCUMSTANCES AND TO MAKE A TECHNICAL CORRECTION.
9

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

11 SECTION 1. That Section 72-438, Idaho Code, be, and the same is hereby
12 amended to read as follows:

13 72-438. OCCUPATIONAL DISEASES. Compensation shall be payable for dis-
14 ability or death of an employee resulting from the following occupational
15 diseases:

16 (1) Poisoning by lead, mercury, arsenic, zinc, or manganese, their
17 preparations or compounds in any occupation involving direct contact there-
18 with, handling thereof, or exposure thereto.

19 (2) Carbon monoxide poisoning or chlorine poisoning in any process
20 or occupation involving direct exposure to carbon monoxide or chlorine in
21 buildings, sheds, or ~~in~~ enclosed places.

22 (3) Poisoning by methanol, carbon bisulphide, hydrocarbon distillates
23 (naphthas and others) or halogenated hydrocarbons, or any preparations con-
24 taining these chemicals or any of them, in any occupation involving direct
25 contact therewith, handling thereof, or exposure thereto.

26 (4) Poisoning by benzol or by nitro, amido, or amino-derivatives of
27 benzol (dinitro-benzol, anilin and others) or their preparations or com-
28 pounds in any occupation involving direct contact therewith, handling
29 thereof, or exposure thereto.

30 (5) Glanders in the care or handling of any equine animal or the carcass
31 of any such animal.

32 (6) Radium poisoning by or disability due to radioactive properties of
33 substances or to Roentgenray (X-ray) in any occupation involving direct con-
34 tact therewith, handling thereof, or exposure thereto.

35 (7) Poisoning by or ulceration from chromic acid or bichromate of am-
36 monium, potassium, or sodium or their preparations, or phosphorus prepara-
37 tions or compounds, in any occupation involving direct contact therewith,
38 handling thereof, or exposure thereto.

39 (8) Ulceration due to tar, pitch, bitumen, mineral oil, or paraffin,
40 or any compound product, or residue of any of these substances, in any oc-
41 cupation involving direct contact therewith, handling thereof, or exposure
42 thereto.

1 (9) Dermatitis venenata, that is, infection or inflammation of the
 2 skin, furunculosis excepted, due to oils, cutting compounds, lubricants,
 3 liquids, fumes, gases, or vapors in any occupation involving direct contact
 4 therewith, handling thereof or exposure thereto.

5 (10) Anthrax occurring in any occupation involving the handling of or
 6 exposure to wool, hair, bristles, hides, skins, or bodies of animals either
 7 alive or dead.

8 (11) Silicosis in any occupation involving direct contact with, han-
 9 dling of, or exposure to dust of silicon dioxide (SiO₂).

10 (12) Cardiovascular or pulmonary or respiratory diseases of a paid
 11 fireman, employed by a municipality, village or fire district as a regular
 12 member of a lawfully established fire department, caused by overexertion in
 13 times of stress or danger or by proximate exposure or by cumulative exposure
 14 over a period of four (4) years or more to heat, smoke, chemical fumes or
 15 other toxic gases arising directly out of, and in the course of, his employ-
 16 ment.

17 (13) Acquired immunodeficiency syndrome (AIDS), AIDS related complexes
 18 (ARC), other manifestations of human immunodeficiency virus (HIV) infec-
 19 tions, infectious hepatitis viruses and tuberculosis in any occupation
 20 involving exposure to human blood or body fluids.

21 (14) Firefighter occupational disease:

22 (a) As used in this subsection, "firefighter" means an employee whose
 23 primary occupation is that of extinguishing or investigating fires as
 24 part of a fire district, fire department or fire brigade.

25 (b) If a firefighter is diagnosed with one (1) or more of the follow-
 26 ing diseases after the period of employment indicated, which disease
 27 was not revealed during an initial employment medical screening exam-
 28 ination or during any subsequent medical review pursuant to the guide-
 29 lines set forth in the national firefighters protection act, section
 30 1582, the disease shall be rebuttably presumed to be proximately caused
 31 by the firefighter's employment as a firefighter:

32 (i) Brain cancer after ten (10) years;

33 (ii) Bladder cancer after twelve (12) years;

34 (iii) Kidney cancer after fifteen (15) years;

35 (iv) Colorectal cancer after ten (10) years;

36 (v) Non-Hodgkin's lymphoma after fifteen (15) years;

37 (vi) Leukemia after five (5) years;

38 (vii) Ureter cancer after twelve (12) years;

39 (viii) Testicular cancer after five (5) years if diagnosed before
 40 the age of forty (40) with no evidence of anabolic steroids or hu-
 41 man growth hormone use;

42 (ix) Breast cancer after five (5) years if diagnosed before the
 43 age of forty (40) without a breast cancer 1 or breast cancer 2 ge-
 44 netic predisposition to breast cancer;

45 (x) Esophageal cancer after ten (10) years; and

46 (xi) Multiple myeloma after fifteen (15) years.

47 (c) The presumption created in this subsection may be rebutted by medi-
 48 cal evidence presented to the Idaho industrial commission showing that
 49 the firefighter's disease was not proximately caused by his or her du-
 50 ties of employment. If the presumption is rebutted by medical evidence

1 then the firefighter or the beneficiaries must prove that the fire-
2 fighter's disease was caused by his or her duties of employment.

3 (d) The presumption created in this subsection shall not preclude a
4 firefighter from demonstrating a causal connection between employment
5 and disease or injury by a preponderance of evidence before the Idaho
6 industrial commission.

7 (e) The presumption created in this subsection shall not apply to any
8 specified disease diagnosed more than ten (10) years following the last
9 date on which the firefighter actually worked as a firefighter as de-
10 defined in paragraph (a) of this subsection.

11 Recognizing that additional toxic or harmful substances or matter are
12 continually being discovered and used or misused, the above enumerated oc-
13 cupational diseases are not intended to be exclusive, but such additional
14 diseases shall not include hazards which are common to the public in general
15 and which are not within the meaning of section 72-102(22) (a), Idaho Code,
16 and the diseases enumerated in subsection (12) of this section pertaining to
17 paid firemen shall not be subject to the limitations prescribed in section
18 72-439, Idaho Code.