

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 65

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

1 RELATING TO WORKER'S COMPENSATION; AMENDING SECTION 72-102, IDAHO CODE, TO
2 DEFINE A TERM; AMENDING SECTION 72-212, IDAHO CODE, TO REMOVE A DEFINI-
3 TION; AMENDING SECTION 9-203, IDAHO CODE, TO PROVIDE A CORRECT CODE REF-
4ERENCE; AMENDING SECTION 72-438, IDAHO CODE, TO PROVIDE A CORRECT CODE
5REFERENCE; AMENDING SECTION 72-451, IDAHO CODE, TO PROVIDE CORRECT CODE
6REFERENCES; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.
7

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

9 SECTION 1. That Section 72-102, Idaho Code, be, and the same is hereby
10 amended to read as follows:

11 72-102. DEFINITIONS. Words and terms used in the worker's compensa-
12 tion law, unless the context otherwise requires, are defined in the subsec-
13 tions which follow:

14 (1) "Alien" means a person who is not a citizen, a national or a resident
15 of the United States or Canada. Any person not a citizen or national of the
16 United States who relinquishes or is about to relinquish his residence in the
17 United States shall be regarded as an alien.

18 (2) "Balance billing" means charging, billing, or otherwise attempting
19 to collect directly from an injured employee payment for medical services in
20 excess of amounts allowable in compensable claims as provided by rules pro-
21 mulgated by the commission pursuant to section 72-508, Idaho Code.

22 (3) "Beneficiary" means any person who is entitled to income benefits
23 or medical and related benefits under this law.

24 (4) "Commission" means the industrial commission.

25 (5) "Community service worker" means:

26 (a) Any person who has been convicted of a criminal offense, any juve-
27 nile who has been found to be within the purview of chapter 5, title 20,
28 Idaho Code, and who has been informally diverted under the provisions of
29 section 20-511, Idaho Code, or any person or youth who has been diverted
30 from the criminal or juvenile justice system and who performs a public
31 service for any department, institution, office, college, university,
32 authority, division, board, bureau, commission, council, or other en-
33 tity of the state, or any city, county, school district, irrigation dis-
34 trict or other taxing district authorized to levy a tax or an assess-
35 ment or any other political subdivision or any private not-for-profit
36 agency which has elected worker's compensation insurance coverage for
37 such person; or

38 (b) Parolees under department of correction supervision, probationers
39 under court order or department of correction supervision and offender
40 residents of community work centers under the direction or order of the
41 board of correction who are performing public service or community ser-

1 vice work for any of the entities specified in paragraph (a) of this sub-
2 section other than the department of correction.

3 (6) "Compensation" used collectively means any or all of the income
4 benefits and the medical and related benefits and medical services.

5 (7) "Custom farmer" means a person who contracts to supply operated
6 equipment to a proprietor of a farm for the purpose of performing part or all
7 of the activities related to raising or harvesting agricultural or horticult-
8 tural commodities.

9 (8) "Death" means death resulting from an injury or occupational dis-
10 ease.

11 (9) Dependency limitations.

12 (a) "Adopted" and "adoption" include cases where persons are treated
13 as adopted as well as those of legal adoption unless legal adoption is
14 specifically provided.

15 (b) "Brother" and "sister" include stepbrothers and stepsisters, half
16 brothers and half sisters, and brothers and sisters by adoption.

17 (c) "Child" includes adopted children, posthumous children, and ac-
18 knowledged illegitimate children, but does not include stepchildren
19 unless actually dependent.

20 (d) "Grandchild" includes children of legally adopted children and
21 children of stepchildren, but does not include stepchildren of chil-
22 dren, stepchildren of stepchildren, or stepchildren of adopted chil-
23 dren unless actually dependent.

24 (e) "Parent" includes stepparents and parents by adoption.

25 (f) "Grandparent" includes parents of parents by adoption, but does not
26 include parents of stepparents, stepparents of parents, or stepparents
27 of stepparents.

28 (10) "Disability," for purposes of determining total or partial tempo-
29 rary disability income benefits, means a decrease in wage-earning capacity
30 due to injury or occupational disease, as such capacity is affected by the
31 medical factor of physical impairment, and by pertinent nonmedical factors
32 as provided in section 72-430, Idaho Code.

33 (11) "Employee" is synonymous with "workman" and means any person who
34 has entered into the employment of, or who works under contract of service
35 or apprenticeship with, an employer. It does not include any person engaged
36 in any of the excepted employments enumerated in section 72-212, Idaho Code,
37 unless an election as provided in section 72-213, Idaho Code, has been filed.
38 It does, however, include a volunteer firefighter for purposes of section
39 72-438(12) and (14), Idaho Code. Any reference to an employee who has been
40 injured shall, where the employee is dead, include a reference to his depen-
41 dents as herein defined, if the context so requires, or, where the employee
42 is a minor or incompetent, to his committee or guardian or next friend.

43 (12) (a) "Employer" means any person who has expressly or impliedly
44 hired or contracted the services of another. It includes contractors
45 and subcontractors. It includes the owner or lessee of premises, or
46 other person who is virtually the proprietor or operator of the busi-
47 ness there carried on, but who, by reason of there being an independent
48 contractor or for any other reason, is not the direct employer of the
49 workers there employed. It also includes, for purposes of section
50 72-438(12) and (14), Idaho Code, a municipality, village, county or

1 fire district that utilizes the services of volunteer firefighters. If
2 the employer is secured, it means his surety so far as applicable.

3 (b) "Professional employer" means a professional employer as defined
4 in chapter 24, title 44, Idaho Code.

5 (c) "Temporary employer" means the employer of temporary employees as
6 defined in section 44-2403(7), Idaho Code.

7 (d) "Work site employer" means the client of the temporary or profes-
8 sional employer with whom a worker has been placed.

9 (13) "Farm labor contractor" means any person or his agent or subcon-
10 tractor who, for a fee, recruits and employs farmworkers and performs any
11 farm labor contracting activity.

12 (14) "Gender and number." The masculine gender includes the feminine
13 and neuter; "husband" or "wife" includes "spouse"; the singular number in-
14 cludes plural and the plural the singular.

15 (15) "Income benefits" means payments provided for or made under the
16 provisions of this law to the injured employee disabled by an injury or occu-
17 pational disease, or his dependents in case of death, excluding medical and
18 related benefits.

19 (16) "Independent contractor" means any person who renders service for
20 a specified recompense for a specified result, under the right to control or
21 actual control of his principal as to the result of his work only and not as to
22 the means by which such result is accomplished. For the purposes of worker's
23 compensation law, a custom farmer is considered to be an independent con-
24 tractor.

25 (17) "Injury" and "accident."

26 (a) "Injury" means a personal injury caused by an accident arising out
27 of and in the course of any employment covered by the worker's compensa-
28 tion law.

29 (b) "Accident" means an unexpected, undesigned, and unlooked for
30 mishap, or untoward event, connected with the industry in which it oc-
31 curs, and which can be reasonably located as to time when and place where
32 it occurred, causing an injury.

33 (c) "Injury" and "personal injury" shall be construed to include only
34 an injury caused by an accident, which results in violence to the phys-
35 ical structure of the body. The terms shall in no case be construed to
36 include an occupational disease and only such nonoccupational diseases
37 as result directly from an injury.

38 (18) "Manifestation" means the time when an employee knows that he has
39 an occupational disease, or whenever a qualified physician shall inform the
40 injured worker that he has an occupational disease.

41 (19) "Medical and related benefits" means payments provided for or made
42 for medical, hospital, burial and other services as provided in this law
43 other than income benefits.

44 (20) "Medical services" means medical, surgical, dental or other atten-
45 dance or treatment, nurse and hospital service, medicines, apparatus, ap-
46 pliances, prostheses, and related services, facilities and supplies.

47 (21) "Member of an employer's family" means a natural person or the
48 spouse of a natural person who is related to the employer within the first de-
49 gree of consanguinity by blood, adoption, or marriage or who is a grandchild
50 of the employer or the spouse of such grandchild.

1 ~~(21)~~ (22) "Occupational diseases."

2 (a) "Occupational disease" means a disease due to the nature of an
3 employment in which the hazards of such disease actually exist, are
4 characteristic of, and peculiar to the trade, occupation, process, or
5 employment, but shall not include psychological injuries, disorders
6 or conditions unless the conditions set forth in section 72-451, Idaho
7 Code, are met.

8 (b) "Contracted" and "incurred," when referring to an occupational
9 disease, shall be deemed the equivalent of the term "arising out of and
10 in the course of" employment.

11 (c) "Disablement," except in the case of silicosis, means the event of
12 an employee's becoming actually and totally incapacitated because of an
13 occupational disease from performing his work in the last occupation in
14 which injuriously exposed to the hazards of such disease; and "disabil-
15 ity" means the state of being so incapacitated.

16 (d) "Disablement," in the case of silicosis, means the event of first
17 becoming actually incapacitated, because of such disease, from per-
18 forming any work in any remunerative employment; and "disability" means
19 the state of being so incapacitated.

20 (e) "Silicosis" means the characteristic fibrotic condition of the
21 lungs caused by the inhalation of silicon dioxide (SiO₂) dust.

22 ~~(22)~~ (23) "Outworker" means a person to whom articles or materials are
23 furnished to be treated in any way on premises not under the control or man-
24 agement of the person who furnished them.

25 ~~(23)~~ (24) "Person" means the state or any political subdivision
26 thereof, or any individual, partnership, firm, association, trust, corpora-
27 tion, including the state insurance fund, or any representative thereof.

28 ~~(24)~~ (25) "Physician" means medical physicians and surgeons, ophthal-
29 mologists, otorhinolaryngologists, dentists, osteopaths, osteopathic
30 physicians and surgeons, optometrists, podiatrists, chiropractic physi-
31 cians, and members of any other healing profession licensed or authorized by
32 the statutes of this state to practice such profession within the scope of
33 their practice as defined by the statutes of this state and as authorized by
34 their licenses.

35 ~~(25)~~ (26) "Provider" means any person, firm, corporation, partnership,
36 association, agency, institution, or other legal entity providing any kind
37 of medical services related to the treatment of an injured employee which are
38 compensable under Idaho's worker's compensation law.

39 ~~(26)~~ (27) "Secretary" means the secretary of the commission.

40 ~~(27)~~ (28) "Self-insurer" means an employer who has been authorized un-
41 der the provisions of this law to carry his own liability to his employees
42 covered by this law.

43 ~~(28)~~ (29) "State" includes any state, district, commonwealth, zone or
44 territory of the United States or any province of Canada.

45 ~~(29)~~ (30) "Surety" means any insurer authorized to insure or guarantee
46 payment of worker's compensation liability of employers in any state; it
47 also includes the state insurance fund, a self-insurer and an inter-insur-
48 ance exchange.

1 ~~(30)~~ (31) "United States," when used in a geographic sense, means the
2 several states, the District of Columbia, the Commonwealth of Puerto Rico
3 and the territories of the United States.

4 ~~(31)~~ (32) "Volunteer emergency responder" means a firefighter or peace
5 officer, or publicly employed certified personnel who is a bona fide member
6 of a legally organized law enforcement agency, a legally organized fire de-
7 partment or a licensed emergency medical service provider organization who
8 contributes services.

9 ~~(32)~~ (33) "Wages" and "wage-earning capacity" prior to the injury or
10 disablement from occupational disease mean the employee's money payments
11 for services as calculated under section 72-419, Idaho Code, and shall ad-
12 ditionally include the reasonable market value of board, rent, housing,
13 lodging, fuel, and other advantages which can be estimated in money which the
14 employee receives from the employer as part of his remuneration, and gratu-
15 ities received in the course of employment from others than the employer.
16 "Wages" shall not include sums which the employer has paid to the employee to
17 cover any special expenses entailed on him by the nature of his employment.

18 ~~(33)~~ (34) "Wages" and "wage-earning capacity" after the injury or
19 disablement from occupational disease shall be presumed to be the actual
20 earnings after the injury or disablement, which presumption may be over-
21 come by showing that those earnings do not fairly and reasonably represent
22 wage-earning capacity; in such a case, wage-earning capacity shall be de-
23 termined in the light of all factors and circumstances which may affect the
24 worker's capacity to earn wages.

25 ~~(34)~~ (35) "Work experience student" means any person enrolled in the
26 public school districts or public institutions of higher education of this
27 state and who, as part of his instruction, is enrolled in a class or program
28 for academic credit and for which the student is employed by, or works for, a
29 private or governmental entity. The student need not receive wages from the
30 private or governmental entity in order to be classified as a work experience
31 student.

32 ~~(35)~~ (36) "Worker's compensation law" or "workmen's compensation law"
33 means and includes the worker's compensation law of this state and any like
34 or similar law of any state, United States, territory, or province of Canada.

35 SECTION 2. That Section 72-212, Idaho Code, be, and the same is hereby
36 amended to read as follows:

37 72-212. EXEMPTIONS FROM COVERAGE. None of the provisions of this law
38 shall apply to the following employments unless coverage thereof is elected
39 as provided in section 72-213, Idaho Code:

40 (1) Household domestic service.

41 (2) Casual employment.

42 (3) Employment of outworkers.

43 (4) Employment of members of an employer's family dwelling in his
44 household if the employer is the owner of a sole proprietorship or a single
45 member limited liability company that is taxed as a sole proprietorship.

46 (5) Employment of members of an employer's family not dwelling in his
47 household if the employer is the owner of a sole proprietorship, provided
48 the family member has filed with the commission a written declaration of his
49 election for exemption from coverage. ~~For the purposes of this subsection,~~

1 ~~"member of an employer's family" means a natural person or the spouse of a~~
 2 ~~natural person who is related to the employer by blood, adoption or marriage~~
 3 ~~within the first degree of consanguinity or a grandchild or the spouse of a~~
 4 ~~grandchild.~~

5 (6) Employment as the owner of a sole proprietorship; employment of a
 6 working member of a partnership or a limited liability company; employment
 7 of an officer of a corporation who at all times during the period involved
 8 owns not less than ten percent (10%) of all of the issued and outstanding vot-
 9 ing stock of the corporation and, if the corporation has directors, is also a
 10 director thereof.

11 (7) Employment for which a rule of liability for injury, occupational
 12 disease, or death is provided by the laws of the United States.

13 (8) Employment as a pilot of an aircraft, while actually operating an
 14 aircraft for the purpose of applying fertilizers or pesticides to agricul-
 15 tural crops, shall be exempt from the provisions of the worker's compensa-
 16 tion law, provided that:

17 (a) The industrial commission has issued to the agent submitting the
 18 policy written approval of a policy of insurance that will provide
 19 benefits in an amount of not less than: twenty-five thousand dollars
 20 (\$25,000) accidental death and dismemberment, ten thousand dollars
 21 (\$10,000) medical expense payments, and five hundred dollars (\$500) per
 22 month disability income for a minimum of forty-eight (48) months; and

23 (b) Once the policy has been approved by the industrial commission,
 24 proof of coverage for the specified pilot has been filed with the com-
 25 mission prior to the pilot actually operating an aircraft.

26 Provided however, the agent issuing the policy shall obtain approval of the
 27 policy of insurance, and proof of coverage for each pilot insured under the
 28 policy shall be filed with the commission, each calendar year. The exemp-
 29 tion shall be effective on the date the commission receives proof of coverage
 30 for the specified pilot, but no earlier than the date written approval of the
 31 policy was issued by the commission.

32 (9) Associate real estate brokers and real estate salesmen. Service
 33 performed by an individual for a real estate broker as an associate real es-
 34 tate broker or as a real estate salesman, if all such service performed by
 35 such individual for such person is performed for remuneration solely by way
 36 of commission.

37 (10) Volunteer ski patrollers.

38 (11) Officials of athletic contests involving secondary schools, as de-
 39 fined in section 33-119, Idaho Code.

40 SECTION 3. That Section 9-203, Idaho Code, be, and the same is hereby
 41 amended to read as follows:

42 9-203. CONFIDENTIAL RELATIONS AND COMMUNICATIONS. There are particu-
 43 lar relations in which it is the policy of the law to encourage confidence and
 44 to preserve it inviolate; therefore, a person cannot be examined as a witness
 45 in the following cases:

46 (1) A husband cannot be examined for or against his wife, without her
 47 consent, nor a wife for or against her husband, without his consent; nor can
 48 either, during the marriage or afterwards, be, without the consent of the
 49 other, examined as to any communication made by one to the other during the

1 marriage; but this exception does not apply to a civil action or proceeding
2 by one against the other nor to a criminal action or proceeding for a crime
3 committed by violence of one against the person of the other, nor does this
4 exception apply to any case of physical injury to a child where the injury has
5 been caused as a result of physical abuse or neglect by one or both of the par-
6 ents, nor does this exception apply to any case of lewd and lascivious con-
7 duct or attempted lewd and lascivious conduct where either party would oth-
8 erwise be protected by this privilege.

9 (2) An attorney cannot, without the consent of his client, be exam-
10 ined as to any communication made by the client to him, or his advice given
11 thereon, in the course of professional employment. The word client used
12 herein shall be deemed to include a person, a corporation or an association.

13 (3) A clergyman or priest cannot, without the consent of the person mak-
14 ing the confession, be examined as to any confession made to him in his pro-
15 fessional character in the course of discipline enjoined by the church to
16 which he belongs.

17 (4) A physician or surgeon cannot, without the consent of his patient,
18 be examined in a civil action as to any information acquired in attending
19 the patient which was necessary to enable him to prescribe or act for the pa-
20 tient, provided, however, that:

21 (a) Nothing herein contained shall be deemed to preclude physicians
22 from reporting of and testifying at all cases of physical injury to
23 children, where it appears the injury has been caused as a result of
24 physical abuse or neglect by a parent, guardian or legal custodian of
25 the child.

26 (b) Nothing herein contained shall be deemed to preclude physicians
27 from testifying at all cases of physical injury to a person where it ap-
28 pears the injury has been caused as a result of domestic violence.

29 (c) After the death of a patient, in any action involving the valid-
30 ity of any will or other instrument executed, or claimed to have been
31 executed, by him, conveying or transferring any real or personal prop-
32 erty or incurring any financial obligation, such physician or surgeon
33 may testify to the mental or physical condition of such patient and in so
34 testifying may disclose information acquired by him concerning such pa-
35 tient which was necessary to enable him to prescribe or act for such de-
36 ceased.

37 (d) Where any person or his heirs or representatives brings an action
38 to recover damages for personal injuries or death, such action shall be
39 deemed to constitute a consent by the person bringing such action that
40 any physician who has prescribed for or treated said injured or deceased
41 person and whose testimony is material in the action may testify.

42 (e) If the patient be dead and during his lifetime had not given such
43 consent, the bringing of an action by a beneficiary, assignee or payee
44 or by the legal representative of the insured to recover on any life,
45 health or accident insurance policy shall constitute a consent by such
46 beneficiary, assignee, payee or legal representative to the testimony
47 of any physician who attended the deceased.

48 (5) A public officer cannot be examined as to communications made to him
49 in official confidence when the public interests would suffer by disclosure.

1 (6) Any certificated counselor, psychologist, or psychological exam-
 2 iner duly appointed, regularly employed, and designated in such capacity by
 3 any public or private school in this state for the purpose of counseling stu-
 4 dents shall be immune from disclosing, without the consent of the student,
 5 any communication made by any student so counseled or examined in any civil
 6 or criminal action to which such student is a party. Such matters so communi-
 7 cated shall be privileged and protected against disclosure.

8 (7) Any parent, guardian or legal custodian shall not be forced to
 9 disclose any communication made by their minor child or ward to them con-
 10 cerning matters in any civil or criminal action to which such child or ward
 11 is a party. Such matters so communicated shall be privileged and protected
 12 against disclosure; excepting, this section does not apply to a civil action
 13 or proceeding by one against the other nor to a criminal action or proceeding
 14 for a crime committed by violence of one against the person of the other, nor
 15 does this section apply to any case of physical injury to a minor child where
 16 the injury has been caused as a result of physical abuse or neglect by one or
 17 both of the parents, guardians or legal custodians.

18 (8) (a) As used in this subsection:

19 (i) "First responder" means:

- 20 1. A peace officer as defined in section 19-5101(d), Idaho
 21 Code, when employed by a city, county, or the Idaho state po-
 22 lice;
- 23 2. A firefighter as defined in section 59-1302(16), Idaho
 24 Code;
- 25 3. A volunteer emergency responder as defined in section
 26 72-102(~~31~~), Idaho Code;
- 27 4. An emergency medical service (EMS) provider certi-
 28 fied by the department of health and welfare pursuant to
 29 sections 56-1011 through 56-1018B, Idaho Code, and an am-
 30 bulance-based clinician as defined in the rules governing
 31 emergency medical services as adopted by the department of
 32 health and welfare; and
- 33 5. An emergency communications officer as defined in sec-
 34 tion 19-5101(f), Idaho Code.

35 (ii) "Peer support counseling session" means a meeting conducted
 36 by a peer support specialist, which meeting is held in response to
 37 a critical incident, traumatic event, or other personal or profes-
 38 sional wellness issue.

39 (iii) "Peer support specialist" means a person designated by a
 40 public agency employing first responders to lead, moderate, or
 41 assist in a peer support counseling session.

42 (b) Any peer support specialist or participant in a peer support coun-
 43 seling session cannot disclose and shall not be forced to disclose a
 44 communication made during or arising out of a peer support counseling
 45 session without the consent of the person who made the communication or
 46 about whom the communication was made, unless the communication:

- 47 (i) Involves a threat of suicide or a threat to commit a criminal
 48 act;
- 49 (ii) Involves information required by law to be reported; or
- 50 (iii) Is an admission of criminal conduct.

1 (c) Any disclosure permitted by paragraph (b) of this subsection that
 2 is made during or as part of court proceedings is subject to the rules of
 3 the Idaho supreme court.

4 (9) A person employed by or volunteering at a nongovernmental domestic
 5 or sexual violence program shall not, without the written and signed consent
 6 of the recipient of services, be required to or compelled to disclose any
 7 communication made between the person in the course of employment or volun-
 8 teer services for the domestic or sexual violence program and a recipient of
 9 the program's services or to disclose information or records about a recip-
 10 ient of the services of a domestic or sexual violence program, provided that
 11 disclosure of communications during or as part of court proceedings is sub-
 12 ject to the rules of the Idaho supreme court. The provisions of this subsec-
 13 tion shall not apply to communications made to a provider or employee during
 14 medical services, medical procedures, medical exams, medical evaluations,
 15 or forensic interviews.

16 (10) For purposes of this section:

17 (a) "Recipient" means any individual who has received or inquired about
 18 receiving services or assistance from a domestic or sexual violence
 19 program, including shelter, advocacy, counseling, or other services
 20 offered by a domestic or sexual violence program.

21 (b) "Domestic or sexual violence program" means any nonprofit or-
 22 ganization, nongovernmental organization, private entity, or tribe
 23 or tribal organization that has as its primary purpose the operation
 24 of shelters or supportive services for victims of domestic or sexual
 25 violence and their dependents or counseling, advocacy, or self-help
 26 services to victims of domestic or sexual violence.

27 SECTION 4. That Section 72-438, Idaho Code, be, and the same is hereby
 28 amended to read as follows:

29 72-438. OCCUPATIONAL DISEASES. Compensation shall be payable for dis-
 30 ability or death of an employee resulting from the following occupational
 31 diseases:

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

35 (2) Carbon monoxide poisoning or chlorine poisoning in any process
 36 or occupation involving direct exposure to carbon monoxide or chlorine in
 37 buildings, sheds, or enclosed places.

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

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

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

1 (6) Radium poisoning by or disability due to radioactive properties
2 of substances or to roentgen ray (X-ray) in any occupation involving direct
3 contact therewith, handling thereof, or exposure thereto.

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

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

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

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

19 (11) Silicosis in any occupation involving direct contact with, han-
20 dling of, or exposure to dust of silicon dioxide (SiO_2).

21 (12) Cardiovascular or pulmonary or respiratory diseases of a fire-
22 fighter, employed by or volunteering for a municipality, village or fire
23 district as a regular member of a lawfully established fire department,
24 caused by overexertion in times of stress or danger or by proximate exposure
25 or by cumulative exposure over a period of four (4) years or more to heat,
26 smoke, chemical fumes or other toxic gases arising directly out of, and in
27 the course of, his employment.

28 (13) Acquired immunodeficiency syndrome (AIDS), AIDS-related com-
29 plexes (ARC), other manifestations of human immunodeficiency virus (HIV)
30 infections, infectious hepatitis viruses and tuberculosis in any occupation
31 involving exposure to human blood or body fluids.

32 (14) Firefighter occupational diseases:

33 (a) As used in this subsection, "firefighter" means an employee whose
34 primary duty is that of extinguishing or investigating fires as part of
35 a fire district, fire department or fire brigade.

36 (b) If a firefighter is diagnosed with one (1) or more of the following
37 diseases after the period of employment indicated in subparagraphs (i)
38 through (xi) of this paragraph, and the disease was not revealed dur-
39 ing an initial employment medical screening examination that was per-
40 formed according to such standards and conditions as may be established
41 at the sole discretion of the governing board having authority over a
42 given fire district, fire department, or fire brigade, then the disease
43 shall be presumed to be proximately caused by the firefighter's employ-
44 ment as a firefighter:

- 45 (i) Brain cancer after ten (10) years;
46 (ii) Bladder cancer after twelve (12) years;
47 (iii) Kidney cancer after fifteen (15) years;
48 (iv) Colorectal cancer after ten (10) years;
49 (v) Non-Hodgkin's lymphoma after fifteen (15) years;
50 (vi) Leukemia after five (5) years;

- 1 (vii) Mesothelioma after ten (10) years;
 2 (viii) Testicular cancer after five (5) years if diagnosed before
 3 the age of forty (40) years with no evidence of anabolic steroids
 4 or human growth hormone use;
 5 (ix) Breast cancer after five (5) years if diagnosed before the
 6 age of forty (40) years without a breast cancer 1 or breast cancer 2
 7 genetic predisposition to breast cancer;
 8 (x) Esophageal cancer after ten (10) years; and
 9 (xi) Multiple myeloma after fifteen (15) years.

10 (c) The presumption created in this subsection may be overcome by sub-
 11 stantial evidence to the contrary. If the presumption is overcome by
 12 substantial evidence, then the firefighter or the beneficiaries must
 13 prove that the firefighter's disease was caused by his or her duties of
 14 employment.

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

19 (e) The presumption created in this subsection shall not apply to any
 20 specified disease diagnosed more than ten (10) years following the last
 21 date on which the firefighter actually worked as a firefighter as de-
 22 fined in paragraph (a) of this subsection. Nor shall the presumption
 23 apply if a firefighter or a firefighter's cohabitant has regularly and
 24 habitually used tobacco products for ten (10) or more years prior to the
 25 diagnosis.

26 (f) The periods of employment described in paragraph (b) of this sub-
 27 section refer to periods of employment within the state of Idaho.

28 Recognizing that additional toxic or harmful substances or matter are
 29 continually being discovered and used or misused, the above enumerated oc-
 30 cupational diseases are not intended to be exclusive, but such additional
 31 diseases shall not include hazards that are common to the public in general
 32 and that are not within the meaning of section ~~72-102(21)(a)~~ 72-102(22)(a),
 33 Idaho Code, and the diseases enumerated in subsection (12) of this section
 34 pertaining to firefighters shall not be subject to the limitations pre-
 35 scribed in section 72-439, Idaho Code.

36 SECTION 5. That Section 72-451, Idaho Code, be, and the same is hereby
 37 amended to read as follows:

38 72-451. PSYCHOLOGICAL ACCIDENTS AND INJURIES. (1) Psychological in-
 39 juries, disorders or conditions shall not be compensated under this title,
 40 unless the following conditions are met:

41 (a) Such injuries of any kind or nature emanating from the workplace
 42 shall be compensated only if caused by accident and physical injury
 43 as defined in section 72-102(17)(a) through ~~(17)(c)~~, Idaho Code, or
 44 only if accompanying an occupational disease with resultant physical
 45 injury, except that a psychological mishap or event may constitute an
 46 accident where:

- 47 (i) It results in resultant physical injury as long as the psycho-
 48 logical mishap or event meets the other criteria of this section;

1 (ii) It is readily recognized and identifiable as having occurred
2 in the workplace; and

3 (iii) It must be the product of a sudden and extraordinary event;

4 (b) No compensation shall be paid for such injuries arising from con-
5 ditions generally inherent in every working situation or from a person-
6 nel-related action including, but not limited to, disciplinary action,
7 changes in duty, job evaluation or employment termination;

8 (c) Such accident and injury must be the predominant cause as compared
9 to all other causes combined of any consequence for which benefits are
10 claimed under this section;

11 (d) Where psychological causes or injuries are recognized by this sec-
12 tion, such causes or injuries must exist in a real and objective sense;

13 (e) Any permanent impairment or permanent disability for psychologi-
14 cal injury recognizable under the Idaho worker's compensation law must
15 be based on a condition sufficient to constitute a diagnosis using the
16 terminology and criteria of the American psychiatric association's di-
17 agnostic and statistical manual of mental disorders, third edition re-
18 vised, or any successor manual promulgated by the American psychiatric
19 association, and must be made by a psychologist or psychiatrist duly li-
20 censed to practice in the jurisdiction in which treatment is rendered;
21 and

22 (f) Clear and convincing evidence that the psychological injuries
23 arose out of and in the course of the employment from an accident or oc-
24 cupational disease as contemplated in this section is required.

25 (2) Nothing in subsection (1) of this section shall be construed as
26 allowing compensation for psychological injuries from psychological causes
27 without accompanying physical injury.

28 (3) The provisions of subsection (1) of this section shall apply to ac-
29 cidents and injuries occurring on or after July 1, 1994, and to causes of ac-
30 tion for benefits accruing on or after July 1, 1994, notwithstanding that
31 the original worker's compensation claim may have occurred prior to July 1,
32 1994.

33 (4) Notwithstanding subsection (1) of this section, post-traumatic
34 stress injury suffered by a first responder is a compensable injury or occu-
35 pational disease when the following conditions are met:

36 (a) The first responder is examined and subsequently diagnosed with
37 post-traumatic stress injury by a psychologist, a psychiatrist duly li-
38 censed to practice in the jurisdiction where treatment is rendered, or a
39 counselor trained in post-traumatic stress injury; and

40 (b) Clear and convincing evidence indicates that the post-traumatic
41 stress injury was caused by an event or events arising out of and in the
42 course of the first responder's employment.

43 (5) No compensation shall be paid for such injuries described in sub-
44 section ~~(2)~~ (4) of this section arising from a personnel-related action in-
45 cluding, but not limited to, disciplinary action, changes in duty, job eval-
46 uation, or employment termination.

47 (6) As used in subsection (4) of this section:

48 (a) "Post-traumatic stress injury" means a disorder that meets the di-
49 agnostic criteria for post-traumatic stress disorder or post-traumatic
50 stress injury specified by the American psychiatric association's di-

1 agnostic and statistical manual of mental disorders, fifth edition re-
2 vised, or any successor manual promulgated by the American psychiatric
3 association.

4 (b) "First responder" means:

5 (i) A peace officer as defined in section 19-5101(d), Idaho Code,
6 when employed by a city, county, or the Idaho state police;

7 (ii) A firefighter as defined in section 59-1302(16), Idaho Code;

8 (iii) A volunteer emergency responder as defined in section
9 72-102~~(31)~~, Idaho Code;

10 (iv) An emergency medical service provider, or EMS provider,
11 certified by the department of health and welfare pursuant to
12 sections 56-1011 through 56-1018B, Idaho Code, and an ambu-
13 lance-based clinician as defined in the rules governing emergency
14 medical services as adopted by the department of health and wel-
15 fare; and

16 (v) An emergency communications officer as defined in section
17 19-5101(f), Idaho Code.

18 (7) Subsections (4) through (6) of this section are effective for first
19 responders with dates of injury or manifestations of occupational disease on
20 or after July 1, 2019.

21 SECTION 6. An emergency existing therefor, which emergency is hereby
22 declared to exist, this act shall be in full force and effect on and after
23 July 1, 2025.