

TITLE 72  
WORKER'S COMPENSATION AND RELATED LAWS -- INDUSTRIAL COMMISSION

CHAPTER 1  
SHORT TITLE -- DEFINITIONS

72-101. SHORT TITLE. (1) This law may be cited as the worker's compensation law.

(2) Wherever in title 72, Idaho Code, references appear to the term workmen's compensation this shall be deemed to mean worker's compensation.

[72-101, added I.C., sec. 72-101, as added by 1971, ch. 124, sec. 3, p. 422; am. 1989, ch. 191, sec. 1, p. 473.]

72-102. DEFINITIONS. [EFFECTIVE UNTIL JULY 1, 2021] Words and terms used in the worker's compensation law, unless the context otherwise requires, are defined in the subsections which follow:

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

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

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

(4) "Burial expenses" means a sum, not to exceed six thousand dollars (\$6,000) for funeral and burial or cremation, together with the actual expenses of transportation of the employee's body to his place of residence within the United States or Canada.

(5) "Commission" means the industrial commission.

(6) "Community service worker" means:

(a) Any person who has been convicted of a criminal offense, any juvenile who has been found to be within the purview of chapter 5, title 20, Idaho Code, and who has been informally diverted under the provisions of section 20-511, Idaho Code, or any person or youth who has been diverted from the criminal or juvenile justice system and who performs a public service for any department, institution, office, college, university, authority, division, board, bureau, commission, council, or other entity of the state, or any city, county, school district, irrigation district or other taxing district authorized to levy a tax or an assessment or any other political subdivision or any private not-for-profit agency which has elected worker's compensation insurance coverage for such person; or

(b) Parolees under department of correction supervision, probationers under court order or department of correction supervision and offender residents of community work centers under the direction or order of the board of correction who are performing public service or community service work for any of the entities specified in paragraph (a) of this subsection other than the department of correction.

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

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

(9) "Death" means death resulting from an injury or occupational disease.

(10) Dependency limitations.

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

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

(c) "Child" includes adopted children, posthumous children, and acknowledged illegitimate children, but does not include stepchildren unless actually dependent.

(d) "Grandchild" includes children of legally adopted children and children of stepchildren, but does not include stepchildren of children, stepchildren of stepchildren, or stepchildren of adopted children unless actually dependent.

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

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

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

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

(13) (a) "Employer" means any person who has expressly or impliedly hired or contracted the services of another. It includes contractors and subcontractors. It includes the owner or lessee of premises, or other person who is virtually the proprietor or operator of the business there carried on, but who, by reason of there being an independent contractor or for any other reason, is not the direct employer of the workers there employed. It also includes, for purposes of section 72-438(12) and (14), Idaho Code, a municipality, village, county or fire district that utilizes the services of volunteer firefighters. If the employer is secured, it means his surety so far as applicable.

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

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

(d) "Work site employer" means the client of the temporary or professional employer with whom a worker has been placed.

(14) "Farm labor contractor" means any person or his agent or subcontractor who, for a fee, recruits and employs farmworkers and performs any farm labor contracting activity.

(15) "Gender and number." The masculine gender includes the feminine and neuter; "husband" or "wife" includes "spouse"; the singular number includes plural and the plural the singular.

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

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

(18) "Injury" and "accident."

(a) "Injury" means a personal injury caused by an accident arising out of and in the course of any employment covered by the worker's compensation law.

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

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

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

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

(21) "Medical services" means medical, surgical, dental or other attendance or treatment, nurse and hospital service, medicines, apparatus, appliances, prostheses, and related services, facilities and supplies.

(22) "Occupational diseases."

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

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

(c) "Disablement," except in the case of silicosis, means the event of an employee's becoming actually and totally incapacitated because of an occupational disease from performing his work in the last occupation in

which injuriously exposed to the hazards of such disease; and "disability" means the state of being so incapacitated.

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

(e) "Silicosis" means the characteristic fibrotic condition of the lungs caused by the inhalation of silicon dioxide (SiO<sub>2</sub>) dust.

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

(24) "Person" means the state or any political subdivision thereof, or any individual, partnership, firm, association, trust, corporation, including the state insurance fund, or any representative thereof.

(25) "Physician" means medical physicians and surgeons, ophthalmologists, otorhinolaryngologists, dentists, osteopaths, osteopathic physicians and surgeons, optometrists, podiatrists, chiropractic physicians, and members of any other healing profession licensed or authorized by the statutes of this state to practice such profession within the scope of their practice as defined by the statutes of this state and as authorized by their licenses.

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

(27) "Secretary" means the secretary of the commission.

(28) "Self-insurer" means an employer who has been authorized under the provisions of this law to carry his own liability to his employees covered by this law.

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

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

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

(32) "Volunteer emergency responder" means a firefighter or peace officer, or publicly employed certified personnel who is a bona fide member of a legally organized law enforcement agency, a legally organized fire department or a licensed emergency medical service provider organization who contributes services.

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

(34) "Wages" and "wage-earning capacity" after the injury or disablement from occupational disease shall be presumed to be the actual earnings after the injury or disablement, which presumption may be overcome by showing that those earnings do not fairly and reasonably represent wage earning capacity; in such a case, wage-earning capacity shall be determined in the light of all factors and circumstances which may affect the worker's capacity to earn wages.

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

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

[72-102, added 1971, ch. 124, sec. 3, p. 422; am. 1974, ch. 208, sec. 1, p. 1538; am. 1978, ch. 264, sec. 1, p. 573; am. 1982, ch. 231, sec. 1, p. 608; am. 1987, ch. 49, sec. 1, p. 78; am. 1989, ch. 155, sec. 12, p. 390; am. 1990, ch. 335, sec. 1, p. 912; am. 1993, ch. 341, sec. 1, p. 1277; am. 1994, ch. 112, sec. 1, p. 256; am. 1994, ch. 446, sec. 1, p. 1427; am. 1996, ch. 194, sec. 2, p. 604; am. 1997, ch. 130, sec. 1, p. 393; am. 1997, ch. 274, sec. 1, p. 800; am. 2004, ch. 149, sec. 1, p. 479; am. 2006, ch. 206, sec. 1, p. 627; am. 2008, ch. 369, sec. 1, p. 1009; am. 2013, ch. 46, sec. 1, p. 96; am. 2016, ch. 276, sec. 1, p. 759.]

72-103. TEMPORARY AND PROFESSIONAL EMPLOYERS. (1) So long as the temporary or professional employer, or work site employer, has worker's compensation insurance covering an injured worker, or is a qualified self-insurer covering an injured worker under this title:

(a) The work site employer shall have all of the protections and immunities granted any other employer by this title and shall not be regarded as a third party under section 72-223, Idaho Code.

(b) The temporary or professional employer shall have all of the protections and immunities granted any other employer by this title and shall not be regarded as a third party under section 72-223, Idaho Code, if it exercised the right of control sufficient to be an employer as defined in section 72-102, Idaho Code, and insures its worker's compensation liability accordingly.

(2) Whenever the parties to a temporary or professional employer arrangement contemplated by subsection (1) of this section comply with that subsection, no penalties under the worker's compensation law for being uninsured shall apply to the temporary or professional employer, or the work site employer, and no violation of any provision of title 41, Idaho Code, shall occur.

(3) Whenever there is a temporary or professional employer arrangement as contemplated by subsection (1) of this section, the parties to such arrangement shall have the option to determine for themselves, in writing, whether the temporary or professional employer or the work site employer will be the party to secure liability as required by section 72-301, Idaho Code, and the party so obligated to secure such liability may do so in any manner permitted by this title. In the event that the parties to such an

arrangement do not exercise the option provided in this subsection, the obligation to secure such liability shall be with the temporary or professional employer.

[72-103, added 1997, ch. 130, sec. 2, p. 397.]