

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

CHAPTER 2  
SCOPE -- COVERAGE -- LIABILITY

72-201. DECLARATION OF POLICE POWER. The common law system governing the remedy of workmen against employers for injuries received and occupational diseases contracted in industrial and public work is inconsistent with modern industrial conditions. The welfare of the state depends upon its industries and even more upon the welfare of its wageworkers. The state of Idaho, therefore, exercising herein its police and sovereign power, declares that all phases of the premises are withdrawn from private controversy, and sure and certain relief for injured workmen and their families and dependents is hereby provided regardless of questions of fault and to the exclusion of every other remedy, proceeding or compensation, except as is otherwise provided in this act, and to that end all civil actions and civil causes of action for such personal injuries and all jurisdiction of the courts of the state over such causes are hereby abolished, except as is in this law provided.

[72-201, added I.C., sec. 72-201, as added by 1971, ch. 124, sec. 3, p. 422.]

72-202. INTERSTATE COMMERCE. This law shall affect the liability of employers engaged in interstate or foreign commerce or otherwise only so far as the same is permissible under the laws of the United States.

[72-202, as added by 1971, ch. 124, sec. 3, p. 422.]

72-203. EMPLOYMENTS COVERED. This law shall apply to all public employment and to all private employment including farm labor contracting not expressly exempt by the provisions of section 72-212, Idaho Code.

[72-203, added 1971, ch. 124, sec. 3, p. 422; am. 1996, ch. 194, sec. 3, p. 608.]

72-204. PRIVATE EMPLOYMENT -- COVERAGE. The following shall constitute employees in private employment and their employers subject to the provisions of this law:

(1) A person performing service in the course of the trade, business, profession or occupation of an employer.

(2) A person, including a minor, whether lawfully or unlawfully employed, in the service of an employer under any contract of hire or apprenticeship, express or implied, and all helpers and assistants of employees whether paid by the employer or employee, if employed with the knowledge, actual or constructive, of the employer.

(3) An officer of a corporation.

(4) "Employment," in the case of private employers, includes employment only in that trade, business, profession or occupation which is carried on by the employer and also includes any of the pursuits specified in section 72-212, Idaho Code, when the employer shall have elected to come under the law as provided in section 72-213, Idaho Code.

[72-204, as added by 1971, ch. 124, sec. 3, p. 422; am. 2006, ch. 231, sec. 1, p. 688.]

72-205. PUBLIC EMPLOYMENT GENERALLY -- COVERAGE. The following shall constitute employees in public employment and their employers subject to the provisions of this law:

(1) Every person in the service of the state or of any political subdivision thereof, under any contract of hire, express or implied, and every official or officer thereof, whether elected or appointed, while performing his official duties, except officials of athletic contests involving secondary schools, as defined by section 33-119, Idaho Code.

(2) Every person in the service of a county, city, or any political subdivision thereof, or of any municipal corporation.

(3) Participants in the Idaho youth conservation project under the supervision of the Idaho state forester.

(4) Every person who is a volunteer emergency responder shall be deemed, for the purposes of this law, to be in the employment of the political subdivision or municipality where the department, agency or organization is organized.

(5) Every person who is a regularly enrolled volunteer member or trainee of the department of disaster and civil defense, or of a civil defense corps, shall be deemed, for the purposes of this law, to be in the employment of the state.

(6) Members of the Idaho national guard while on duty and employees of or persons providing voluntary service to an approved Idaho national guard morale, welfare, and recreational activity. No Idaho compensation benefits shall inure to any such member, employee or volunteer or their beneficiaries for any injury or death compensable under federal law.

(7) A community service worker, as that term is defined in section 72-102, Idaho Code, is considered to be an employee in public employment for purposes of receiving worker's compensation benefits, which shall be the community service worker's exclusive remedy for all injuries and occupational diseases as provided under chapters 1 through 8, title 72, Idaho Code.

(8) Every person who participates in a youth employment program funded in whole or in part by state or federal money and administered by a state or federal agency or a nonprofit corporation or entity.

(9) A work experience student, as that term is defined in section 72-102, Idaho Code, who does not receive wages while participating in the school's work experience program shall be covered by the school district's policy or by the Idaho higher education policy when the work experience student is not covered by the private or governmental entity that is the student's work experience employer.

[72-205, added 1971, ch. 124, sec. 3, p. 422; am. 1972, ch. 136, sec. 1, p. 302; am. 1981, ch. 190, sec. 1, p. 335; am. 1989, ch. 155, sec. 13, p. 393; am. 1989, ch. 200, sec. 1, p. 500; am. 1990, ch. 301, sec. 1, p. 831; am. 1990, ch. 335, sec. 2, p. 915; am. 2007, ch. 90, sec. 32, p. 267; am. 2008, ch. 369, sec. 2, p. 1013.; am. 2011, ch. 42, sec. 1, p. 97; am. 2013, ch. 46, sec. 2, p. 100; am. 2018, ch. 39, sec. 1, p. 99.]

72-206. IDAHO YOUTH CONSERVATION PROJECT -- COVERAGE. The benefits secured by section 72-205[, Idaho Code,] of this act to members of the Idaho youth conservation project under the supervision of the Idaho state forester, while on duty, shall be in accordance with the provisions of section 56-609, Idaho Code.

[72-206, added I.C., sec. 72-206, as added by 1971, ch. 124, sec. 3, p. 422.]

72-207. PUBLIC EMPLOYMENT -- RELIEF WORK. Whenever any public or municipal corporation mentioned in section 72-205[, Idaho Code,] of this act shall accept, sponsor, take charge of or manage any work or project for the purpose of relief or assisting unemployment, wherein any part or all of the funds used on such project are granted by the United States of America or by the state of Idaho, the persons so working upon such project shall be deemed employees of the public or municipal corporation so sponsoring, accepting, taking charge of or managing such work or project.

[72-207, added I.C., sec. 72-207, as added by 1971, ch. 124, sec. 3, p. 422.]

72-208. INJURIES NOT COVERED -- WILLFUL INTENTION -- INTOXICATION. (1) No compensation shall be allowed to an employee for injury proximately caused by the employee's willful intention to injure himself or to injure another.

(2) If intoxication is a reasonable and substantial cause of an injury, no income benefits shall be paid, except where the intoxicants causing the employee's intoxication were furnished by the employer or where the employer permits the employee to remain at work with knowledge by the employer or his supervising agent that the employee is intoxicated.

(3) "Intoxication" as used in this section means being under the influence of alcohol or of controlled substances, as defined in section 37-2701(e), Idaho Code. Provided, however, that this definition shall not include an employee's use of a controlled substance for which a prescription has been issued authorizing such substance to be dispensed to the employee, or when such substance is dispensed directly by a physician to the employee, and where the employee's use of the controlled substance is in accordance with the instructions for use of the controlled substance.

[72-208, as added by 1971, ch. 124, sec. 3, p. 422; am. 1989, ch. 364, sec. 1, p. 912; am. 1997, ch. 274, sec. 2, p. 804; am. 2010, ch. 118, sec. 4, p. 264.]

72-209. EXCLUSIVENESS OF LIABILITY OF EMPLOYER. (1) Subject to the provisions of section 72-223, [Idaho Code] the liability of the employer under this law shall be exclusive and in place of all other liability of the employer to the employee, his spouse, dependents, heirs, legal representatives or assigns.

(2) The liability of an employer to another person who may be liable for or who has paid damages on account of an injury or occupational disease or death arising out of and in the course of employment of an employee of the employer and caused by the breach of any duty or obligation owed by the employer to such other person, shall be limited to the amount of compensation for which the employer is liable under this law on account of such injury, disease, or death, unless such other person and the employer agree to share liability in a different manner.

(3) The exemption from liability given an employer by this section shall also extend to the employer's surety and to all officers, agents, servants and employees of the employer or surety, provided that such exemptions from liability shall not apply in any case where the injury or death is proximately caused by the willful or unprovoked physical aggression of the employer, its officers, agents, servants or employees, the loss of such exemption applying only to the aggressor and shall not be imputable to the

employer unless provoked or authorized by the employer, or the employer was a party thereto.

[72-209, added I.C., sec. 72-209, as added by 1971, ch. 124, sec. 3, p. 422.]

72-210. EMPLOYER'S FAILURE TO INSURE LIABILITY. If an employer fails to secure payment of compensation as required by this act, an injured employee, or one contracting an occupational disease, or his dependents or legal representative in case death results from the injury or disease, may claim compensation under this law and shall be awarded, in addition to compensation, an amount equal to ten per cent (10%) of the total amount of his compensation together with costs, if any, and reasonable attorney's fees if he has retained counsel.

[72-210, added I.C., sec. 72-210, as added by 1971, ch. 124, sec. 3, p. 422.]

72-211. EXCLUSIVENESS OF EMPLOYEE'S REMEDY. Subject to the provisions of section 72-223, [Idaho Code,] the rights and remedies herein granted to an employee on account of an injury or occupational disease for which he is entitled to compensation under this law shall exclude all other rights and remedies of the employee, his personal representatives, dependents or next of kin, at common law or otherwise, on account of such injury or disease.

[72-211, added I.C., sec. 72-211, as added by 1971, ch. 124, sec. 3, p. 422.]

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

- (1) Household domestic service.
- (2) Casual employment.
- (3) Employment of outworkers.
- (4) Employment of members of an employer's family dwelling in his household if the employer is the owner of a sole proprietorship or a single member limited liability company that is taxed as a sole proprietorship.
- (5) Employment of members of an employer's family not dwelling in his household if the employer is the owner of a sole proprietorship, provided the family member has filed with the commission a written declaration of his election for exemption from coverage. For the purposes of this subsection, "member of an employer's family" means a natural person or the spouse of a natural person who is related to the employer by blood, adoption or marriage within the first degree of consanguinity or a grandchild or the spouse of a grandchild.
- (6) Employment as the owner of a sole proprietorship; employment of a working member of a partnership or a limited liability company; employment of an officer of a corporation who at all times during the period involved owns not less than ten percent (10%) of all of the issued and outstanding voting stock of the corporation and, if the corporation has directors, is also a director thereof.
- (7) Employment for which a rule of liability for injury, occupational disease, or death is provided by the laws of the United States.
- (8) Employment as a pilot of an aircraft, while actually operating an aircraft for the purpose of applying fertilizers or pesticides to agricul-

tural crops, shall be exempt from the provisions of the worker's compensation law, provided that:

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

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

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

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

(10) Volunteer ski patrollers.

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

[72-212, added 1971, ch. 124, sec. 3, p. 422; am. 1972, ch. 20, sec. 1, p. 26; am. 1972, ch. 186, sec. 1, p. 473; am. 1974, ch. 94, sec. 1, p. 1193; am. 1976, ch. 285, sec. 1, p. 985; am. 1979, ch. 132, sec. 1, p. 426; am. 1981, ch. 190, sec. 2, p. 336; am. 1982, ch. 176, sec. 1, p. 464; am. 1982, ch. 244, sec. 1, p. 631; am. 1994, ch. 293, sec. 14, p. 926; am. 1996, ch. 194, sec. 4, p. 608; am. 1997, ch. 230, sec. 1, p. 671; am. 1999, ch. 214, sec. 1, p. 572; am. 2000, ch. 164, sec. 1, p. 414; am. 2006, ch. 231, sec. 2, p. 688; am. 2014, ch. 347, sec. 1, p. 868.]

72-213. ELECTION OF EXEMPT COVERAGE. An employer engaged in any of the exempt occupations listed in section 72-212[, Idaho Code,] may elect coverage thereof by a declaration in writing of himself and his surety filed with the commission that the provisions of the law shall apply thereto. Unless the effective date of such coverage is otherwise fixed in such declaration, coverage shall be deemed effective as of the date of filing such election, if the employer also files simultaneously or has on file approved security under section 72-301[, Idaho Code]; otherwise, such coverage shall be deemed effective upon the filing of approved security.

[72-213, added I.C., sec. 72-213, as added by 1971, ch. 124, sec. 3, p. 422.]

72-214. REVOCATION OF ELECTION. An election of coverage may be revoked by a declaration in writing of the employer and his surety filed with the commission. The effective date of such revocation shall be ten (10) days from the date of its filing, unless such declaration fixes a more remote date.

The cancelation of coverage by a surety shall revoke an election of coverage theretofore made, unless before the effective date of such cancelation

the employer files substitute security, supplemented by the new surety's consent to such election.

[72-214, added I.C., sec. 72-214, as added by 1971, ch. 124, sec. 3, p. 422.]

72-216. CONTRACTORS. (1) Liability of employer to employees of contractors and subcontractors. An employer subject to the provisions of this law shall be liable for compensation to an employee of a contractor or subcontractor under him who has not complied with the provisions of section 72-301[, Idaho Code,] in any case where such employer would have been liable for compensation if such employee had been working directly for such employer.

(2) Liability of contractors and subcontractors. The contractor or subcontractor shall also be liable for such compensation, but the employee shall not recover compensation for the same injury from more than one party.

(3) Subrogation.

(a) The employer who shall become liable for and pay such compensation may recover the same from the contractor or subcontractor for whom the employee was working at the time of the accident causing the injury or manifestation of the occupational disease.

(b) The contractor who shall become liable for and pay such compensation may recover the same from the subcontractor for whom the employee was working at the time of the accident causing the injury or manifestation of the occupational disease.

[72-216, added I.C., sec. 72-216, as added by 1971, ch. 124, sec. 3, p. 422.]

72-217. EXTRATERRITORIAL COVERAGE. If an employee, while working outside the territorial limits of this state, suffers an injury or an occupational disease on account of which he, or in the event of death, his dependents, would have been entitled to the benefits provided by this law had such occurred within this state, such employee, or, in the event of his death resulting from such injury or disease, his dependents, shall be entitled to the benefits provided by this law, provided that at the time of the accident causing such injury, or at the time of manifestation of such disease:

(1) His employment is principally localized in this state; or

(2) He is working under a contract of hire made in this state in employment not principally localized in any state; or

(3) He is working under a contract of hire made in this state in employment principally localized in another state, the workmen's compensation law of which is not applicable to his employer; or

(4) He is working under a contract of hire made in this state for employment outside the United States and Canada.

[72-217, added I.C., sec. 72-217, as added by 1971, ch. 124, sec. 3, p. 422.]

72-218. AWARD SUBJECT TO CREDIT FOR BENEFITS FURNISHED OR PAID UNDER LAWS OF OTHER JURISDICTIONS. The payment or award of benefits under the workmen's compensation law of another state, territory, province or foreign nation to an employee or his dependents otherwise entitled on account of such injury, occupational disease or death to the benefits of this law shall not be a bar to a claim for benefits under this law, provided that claim under this law is filed within two (2) years after the accident causing such in-

jury, or manifestation of such disease, or death. If compensation is paid or awarded under this law:

(1) The medical and related benefits furnished or paid by the employer under such other workmen's compensation law on account of such injury, occupational disease, or death shall be credited against the medical and related benefits to which the employee would have been entitled under this law, had claim been made solely under this law;

(2) The total amount of all income benefits paid or awarded the employee under such other workmen's compensation law shall be credited against the total amount of income benefits which would have been due the employee had claim been made solely under this law;

(3) The total amount of death benefits paid or awarded under such other workmen's compensation law shall be credited against the total amount of death benefits payable under this law.

[72-218, added I.C., sec. 72-218, as added by 1971, ch. 124, sec. 3, p. 422.]

72-219. INJURIES IN TRANSITORY EMPLOYMENT IN IDAHO. (1) If an employee is entitled to the benefits of this law by reason of an injury sustained or occupational disease contracted in this state in employment by an employer who is domiciled in another state and who has not secured the payment of compensation as required by this law, the employer or his surety may file with the commission a certificate, issued by the board, commission, officer or agency of such other state having jurisdiction over workmen's compensation claims, certifying that such employer has secured the payment of compensation under the workmen's compensation law of such other state and that with respect to said injury or disease such employee is entitled to the benefits provided under such law; and shall also file with the commission an irrevocable power of attorney, in form approved by the commission, designating a person or corporation domiciled in this state as his or its attorney-in-fact for acceptance of process in any proceeding brought by such employee or his dependents to enforce his or their rights under this law;

(2) If such employer is a qualified self-insurer under the workmen's compensation law of such other state, such employer shall, upon submission of evidence satisfactory to the commission of his ability to meet his liability to such employee under this law, be deemed to be a qualified self-insurer under this law;

(3) If such employer's liability under the workmen's compensation law of such other state is insured, such employer's surety, as to such employee or his dependents only, shall be deemed to be an insurer authorized to write insurance under and be subject to this law, provided, however, that unless the contract with said employer requires it to pay an amount equivalent to the compensation benefits provided by this law, its liability for income benefits or for medical and related benefits shall not exceed the amounts of such benefits for which such insurer would have been liable under the workmen's compensation law of such other state;

(4) If the total amount for which such employer's insurer is liable under the subdivisions (2) and (3) is less than the total of the compensation benefits to which such employee is entitled under this law, the commission, if it deems necessary, may require the employer to file security, satisfactory to the commission, to secure the payment of benefits due such employee or his dependents under this law; and

(5) Upon compliance with the preceding requirements of this section such employer, as to such employee and his dependents only, shall be deemed to have secured the payment of compensation under this law.

[72-219, added I.C., sec. 72-219, as added by 1971, ch. 124, sec. 3, p. 422.]

72-220. LOCALE OF EMPLOYMENT. (1) A person's employment is principally localized in this or another state when:

(a) His employer has a place of business in this or such other state and he regularly works at or from such place of business; or

(b) He is domiciled and spends a substantial part of his working time in the service of his employer in this or such other state.

(2) An employee whose duties require him to travel regularly in the service of his employer in this and one or more other states may, by written agreement with his employer, provide that his employment is principally localized in this or another such state, and, unless such other state refuses jurisdiction, such agreement shall be given effect under this law.

[72-220, added I.C., sec. 72-220, as added by 1971, ch. 124, sec. 3, p. 422.]

72-221. COVERAGE FOR INJURIES OR OCCUPATIONAL DISEASES OUTSIDE STATE PRESUMED. An employer who hires workmen within this state to work outside the state may agree with such workmen that the remedies under this act shall be exclusive as to injuries received and occupational diseases contracted outside this state arising out of and in the course of such employment, and all contracts of hiring in this state shall be presumed to include such an agreement.

[72-221, added I.C., sec. 72-221, as added by 1971, ch. 124, sec. 3, p. 422.]

72-222. RECIPROCAL RECOGNITION OF EXTRATERRITORIAL COVERAGE WITH OTHER JURISDICTIONS. For the purpose of effecting mutually satisfactory reciprocal arrangements with other states respecting extraterritorial jurisdictions, the commission is empowered to promulgate special or general regulations not inconsistent with the provisions of this law and, with the approval of the governor, to enter into reciprocal agreements with appropriate boards, commissions, officers or agencies of other states having jurisdiction of workmen's compensation claims.

[72-222, added I.C., sec. 72-222, as added by 1971, ch. 124, sec. 3, p. 422.]

72-223. THIRD PARTY LIABILITY. (1) The right to compensation under this law shall not be affected by the fact that the injury, occupational disease or death is caused under circumstances creating in some person other than the employer a legal liability to pay damages therefor, such person so liable being referred to as the third party. Such third party shall not include those employers described in section 72-216, Idaho Code, having under them contractors or subcontractors who have in fact complied with the provisions of section 72-301, Idaho Code; nor include 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 workmen there employed.



(2) Action may be instituted against such third party by the employee, or in event compensation has been claimed and awarded, by the employee and employer jointly, in the employee's name, or, if the employee refuses to participate in such action, by the employer in the employee's name.

(3) If compensation has been claimed and awarded, the employer having paid such compensation or having become liable therefor, shall be subrogated to the rights of the employee, to recover against such third party to the extent of the employer's compensation liability.

(4) Unless otherwise agreed, upon any recovery by the employee against the third party, the employer shall pay or have deducted from its subrogated portion thereof, a proportionate share of the costs and attorney's fees incurred by the employee in obtaining such recovery unless one (1) or more of the following circumstances exist:

(a) If prior to the date of a written retention agreement between the employee and an attorney, the employer has reached an agreement with the third party, in writing, agreeing to pay in full the employer's subrogated interest;

(b) If the employee alleges or asserts a position in the third party claim adverse to the employer, then the commission shall have jurisdiction to determine a reasonable fee, if any, for services rendered to the employer;

(c) If there is a joint effort between the employee and employer to pursue a recovery from the third party, then the commission shall have jurisdiction to determine a reasonable fee, if any, and apportion the costs and attorney's fees between the employee and employer.

(5) If the amount recovered from the third party exceeds the amount of the subrogated portion payable to the employer for past compensation benefits paid, then to the extent the employer has a future subrogated interest in that portion of the third party recovery paid to the employee, the employer shall receive a credit against its future liability for compensation benefits. Such credit shall apply as future compensation benefits become payable, and the employer shall reimburse the employee for the proportionate share of attorney's fees and costs paid by the employee in obtaining that portion of the third party recovery corresponding to the credit claimed. The employer shall not be required to pay such attorney's fees and costs related to the future credit prior to the time the credit is claimed. However, the employer and employee may agree to different terms if approved by the industrial commission.

(6) If death results from the injury or occupational disease and if the employee leaves no dependents entitled to benefits under this law, the surety shall have a right of action against the third party for recovery of income benefits, reasonable expenses of medical and related services and burial expense actually paid by the surety and for recovery of amounts paid into the industrial special indemnity account pursuant to section 72-420, Idaho Code, and such right of action shall be in addition to any cause of action of the heirs or personal representatives of the deceased.

(7) All rights and restrictions herein granted to the employer have previously been intended to be, and are hereby expressly granted to the industrial special indemnity account.

[72-223, added I.C., sec. 72-223, as added by 1971, ch. 124, sec. 3, p. 422; am. 1981, ch. 261, sec. 1, p. 553; am. 1996, ch. 191, sec. 1, p. 599; am. 1999, ch. 52, sec. 1, p. 130; am. 2000, ch. 119, sec. 1, p. 258; am. 2000, ch. 372, sec. 1, p. 1231.]

72-225. MINOR EMPLOYEE. A minor working at an age legally permitted under the laws of this state shall be deemed sui juris for the purpose of this law, and no other person shall have any cause of action or right to compensation for an injury or occupational disease to such minor employee except as expressly provided in this law; but, in the event of a lump sum payment becoming due under this law to such minor employee, the management of the sum shall be within the jurisdiction of the courts, the same as other property of minors.

[72-225, added I.C., sec. 72-225, as added by 1971, ch. 124, sec. 3, p. 422.]

72-226. INSANE PERSON'S COMPENSATION PAYABLE TO GUARDIAN. The compensation of a person who is insane shall be paid to his or her guardian.

[72-226, added I.C., sec. 72-226, as added by 1971, ch. 124, sec. 3, p. 422.]

72-227. DOUBTFUL RIGHTS SUBJECT TO COMMISSION'S DETERMINATION. In case the employer is in doubt as to the respective rights of rival claimants he may apply to the commission to decide between them.

[72-227, added I.C., sec. 72-227, as added by 1971, ch. 124, sec. 3, p. 422.]

72-228. PRESUMPTION FAVORING CERTAIN CLAIMS. (1) In any claim for compensation, where the employee has been killed, or is physically or mentally unable to testify, and where there is un rebutted prima facie evidence that indicates that the injury arose in the course of employment, it shall be presumed, in the absence of substantial evidence to the contrary, that the injury arose out of the employment and that sufficient notice of the accident causing the injury has been given.

(2) This section shall not apply to any defense under section 72-208, Idaho Code.

[72-228, as added by 1971, ch. 124, sec. 3, p. 422; am. 1997, ch. 274, sec. 3, p. 804.]

72-229. SURETY ESTOPPED TO DENY COVERAGE. (1) Notwithstanding the provisions of sections 72-204 and 72-205, Idaho Code, a surety which issues to an employer a policy of workers' compensation insurance and collects a premium based upon moneys paid or to be paid a worker, or a self-insured employer which receives consideration from a worker to cover the cost of workers' compensation coverage, shall not be permitted to plead and raise the defense that the worker, at the time of the occurrence of the industrial accident or manifestation of the occupational disease, was an independent contractor and not an employee of the surety's insured employer or of the self-insured employer.

(2) In the event that at the time of the industrial accident or manifestation of an occupational disease the worker has obtained security for payment of compensation as provided under this law, the provisions of subsection (1) of this section shall not apply.

(3) Nothing in this section shall be construed to negate any prohibition contained in section 72-318, Idaho Code.

[72-229, added 1992, ch. 193, sec. 1, p. 602.]

72-230. PUBLIC ASSISTANCE -- COVERAGE. (1) Any employer who enters into a written agreement with the Idaho department of health and welfare to provide unpaid work experience, training, or both, to any person receiving public assistance benefits, shall be the "on-site employer" and shall be granted all the protections and immunities granted to any employer under the Idaho worker's compensation law.

(2) Any person receiving public assistance benefits pursuant to chapter 2, title 56, Idaho Code, who participates in unpaid work experience, training, or both, shall be deemed to be an employee of the "on-site employer" defined in subsection (1) of this section and shall be entitled to all benefits under the Idaho worker's compensation law.

(3) Any worker's compensation premiums and losses associated with unpaid work experience or training pursuant to this section shall be assessed against the Idaho department of health and welfare. All protections and immunities granted to any employer under the Idaho worker's compensation law shall be extended simultaneously to the "on-site employer" defined in subsection (1) of this section and the department of health and welfare.

[72-230, added 1996, ch. 39, sec. 1, p. 102.]