

IN THE SENATE

SENATE BILL NO. 1273

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 TECHNICAL CORRECTIONS.  
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 (SiO<sub>2</sub>).

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 diseases:

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 stan-  
29 dards set forth in the national fire protection association, section  
30 1582, standard on comprehensive occupational medical program for fire  
31 departments, the disease shall be rebuttably presumed to be proximately  
32 caused by the firefighter's employment as a firefighter:

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

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

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

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

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

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

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

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

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

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

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

48 (c) The presumption created in this subsection may be rebutted by medi-  
49 cal evidence showing that the firefighter's disease was not proximately  
50 caused by his or her duties of employment. If the presumption is rebut-

1        ted by medical evidence then the firefighter or the beneficiaries must  
2        prove that the firefighter's disease was caused by his or her duties of  
3        employment.

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

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

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