

IN THE SENATE

SENATE BILL NO. 1010

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

1 RELATING TO WORKER'S COMPENSATION; AMENDING SECTION 72-102, IDAHO CODE,  
2 TO REMOVE A DEFINITION AND TO MAKE A TECHNICAL CORRECTION; AMENDING  
3 SECTION 72-436, IDAHO CODE, TO REVISE PROVISIONS REGARDING BURIAL EX-  
4 PENSES; AMENDING SECTION 20-245, IDAHO CODE, TO PROVIDE A CORRECT CODE  
5 REFERENCE; AMENDING SECTION 72-438, IDAHO CODE, TO PROVIDE A CORRECT  
6 CODE REFERENCE; AND AMENDING SECTION 72-451, IDAHO CODE, TO PROVIDE  
7 CORRECT CODE REFERENCES.  
8

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

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

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

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

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

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

25 (4) ~~"Burial expenses" means a sum, not to exceed six thousand dollars~~  
26 ~~(\$6,000) for funeral and burial or cremation, together with the actual ex-~~  
27 ~~penses of transportation of the employee's body to his place of residence~~  
28 ~~within the United States or Canada.~~

29 ~~(5) "Commission" means the industrial commission.~~

30 ~~(6) "Community service worker" means:~~

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

1 (b) Parolees under department of correction supervision, probationers  
2 under court order or department of correction supervision and offender  
3 residents of community work centers under the direction or order of the  
4 board of correction who are performing public service or community ser-  
5 vice work for any of the entities specified in paragraph (a) of this sub-  
6 section other than the department of correction.

7 (~~76~~) "Compensation" used collectively means any or all of the income  
8 benefits and the medical and related benefits and medical services.

9 (~~87~~) "Custom farmer" means a person who contracts to supply operated  
10 equipment to a proprietor of a farm for the purpose of performing part or all  
11 of the activities related to raising or harvesting agricultural or horticult-  
12 tural commodities.

13 (~~98~~) "Death" means death resulting from an injury or occupational dis-  
14 ease.

15 (~~109~~) Dependency limitations.

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

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

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

24 (d) "Grandchild" includes children of legally adopted children and  
25 children of stepchildren, but does not include stepchildren of chil-  
26 dren, stepchildren of stepchildren, or stepchildren of adopted chil-  
27 dren unless actually dependent.

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

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

32 (~~110~~) "Disability," for purposes of determining total or partial tempo-  
33 rary disability income benefits, means a decrease in wage-earning capacity  
34 due to injury or occupational disease, as such capacity is affected by the  
35 medical factor of physical impairment, and by pertinent nonmedical factors  
36 as provided in section 72-430, Idaho Code.

37 (~~121~~) "Employee" is synonymous with "workman" and means any person who  
38 has entered into the employment of, or who works under contract of service  
39 or apprenticeship with, an employer. It does not include any person engaged  
40 in any of the excepted employments enumerated in section 72-212, Idaho Code,  
41 unless an election as provided in section 72-213, Idaho Code, has been filed.  
42 It does, however, include a volunteer firefighter for purposes of section  
43 72-438(12) and (14), Idaho Code. Any reference to an employee who has been  
44 injured shall, where the employee is dead, include a reference to his depen-  
45 dents as herein defined, if the context so requires, or, where the employee  
46 is a minor or incompetent, to his committee or guardian or next friend.

47 (~~132~~) (a) "Employer" means any person who has expressly or impliedly  
48 hired or contracted the services of another. It includes contractors  
49 and subcontractors. It includes the owner or lessee of premises, or  
50 other person who is virtually the proprietor or operator of the busi-

1           ness there carried on, but who, by reason of there being an independent  
2 contractor or for any other reason, is not the direct employer of the  
3 workers there employed. It also includes, for purposes of section  
4 72-438(12) and (14), Idaho Code, a municipality, village, county or  
5 fire district that utilizes the services of volunteer firefighters. If  
6 the employer is secured, it means his surety so far as applicable.

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

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

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

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

16           (154) "Gender and number." The masculine gender includes the feminine  
17 and neuter; "husband" or "wife" includes "spouse"; the singular number in-  
18 cludes plural and the plural the singular.

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

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

29           (187) "Injury" and "accident."

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

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

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

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

45           (2019) "Medical and related benefits" means payments provided for or  
46 made for medical, hospital, burial and other services as provided in this law  
47 other than income benefits.

48           (210) "Medical services" means medical, surgical, dental or other at-  
49 tendance or treatment, nurse and hospital service, medicines, apparatus,  
50 appliances, prostheses, and related services, facilities and supplies.

1 (221) "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 (SiO<sub>2</sub>) dust.

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

25 (243) "Person" means the state or any political subdivision thereof,  
26 or any individual, partnership, firm, association, trust, corporation, in-  
27 cluding the state insurance fund, or any representative thereof.

28 (254) "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 (265) "Provider" means any person, firm, corporation, partnership, as-  
36 sociation, agency, institution, or other legal entity providing any kind of  
37 medical services related to the treatment of an injured employee which are  
38 compensable under Idaho's worker's compensation law.

39 (276) "Secretary" means the secretary of the commission.

40 (287) "Self-insurer" means an employer who has been authorized under  
41 the provisions of this law to carry his own liability to his employees cov-  
42 ered by this law.

43 (298) "State" includes any state, district, commonwealth, zone or ter-  
44 ritory of the United States or any province of Canada.

45 (3029) "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 (310) "United States," when used in a geographic sense, means the sev-  
2 eral states, the District of Columbia, the Commonwealth of Puerto Rico and  
3 the territories of the United States.

4 (321) "Volunteer emergency responder" means a firefighter or peace of-  
5 ficer, or publicly employed certified personnel who is a bona fide member of  
6 a legally organized law enforcement agency, a legally organized fire depart-  
7 ment or a licensed emergency medical service provider organization who con-  
8 tributes services.

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

18 (343) "Wages" and "wage-earning capacity" after the injury or disable-  
19 ment from occupational disease shall be presumed to be the actual earnings  
20 after the injury or disablement, which presumption may be overcome by show-  
21 ing that those earnings do not fairly and reasonably represent wage\_earning  
22 capacity; in such a case, wage-earning capacity shall be determined in the  
23 light of all factors and circumstances which may affect the worker's capac-  
24 ity to earn wages.

25 (354) "Work experience student" means any person enrolled in the public  
26 school districts or public institutions of higher education of this state  
27 and who, as part of his instruction, is enrolled in a class or program for  
28 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 (365) "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 72-436, Idaho Code, be, and the same is hereby  
36 amended to read as follows:

37 72-436. BURIAL EXPENSES. If death results from the injury within  
38 four (4) years, the employer shall pay to the person entitled to compen-  
39 sation, or if there is none then to the personal representative of the  
40 deceased employee, ~~the actual amount of burial expenses as defined in sec-~~  
41 ~~tion 72-102(4), Idaho Code~~ a sum not to exceed six thousand dollars (\$6,000)  
42 for funeral and burial or cremation, together with the actual expenses of  
43 transportation of the employee's body to his place of residence within the  
44 United States or Canada.

45 SECTION 3. That Section 20-245, Idaho Code, be, and the same is hereby  
46 amended to read as follows:

1           20-245. OFFENDER LABOR ON STATE AND COMMUNITY SERVICE PROJECTS. (1)  
 2 Offender labor on state projects. The state board of correction shall have  
 3 the authority to use, under such rules as they may prescribe, the labor of  
 4 offenders either within or without the walls of the penitentiary and on all  
 5 public works done under the direct control of the state; that offender labor  
 6 under control of the state board of correction shall manufacture and repair  
 7 state highway signs, except for highways and projects where federal regu-  
 8 lations would prohibit the use of signs so manufactured; provided, that so  
 9 far as practicable any manufacture conducted within the walls shall be in  
 10 connection with metal motor license plates, road or street signs furnished  
 11 by the state or used by its municipalities, wearing apparel, articles and  
 12 containers, for state use in the various departments or institutions of the  
 13 state not for sale upon the open market. When any product produced by the  
 14 offender shall be used by any department or other institution of the state,  
 15 the current appropriation shall receive from such department or institution  
 16 such reimbursement therefor as may be fixed by the state board of correction  
 17 with the approval of the state board of examiners.

18           (2) Offender labor on community service projects. The state board of  
 19 correction shall have the authority to assign parolees under department of  
 20 correction supervision, probationers under court order or department of  
 21 correction supervision and offender residents of community work centers  
 22 under the direction or order of the board of correction, as community service  
 23 workers as set forth in section 72-102(~~65~~), Idaho Code. The state board of  
 24 correction shall have the authority to charge offenders performing commu-  
 25 nity service work an hourly fee in an amount to be determined by the state  
 26 insurance fund, to be remitted to the state insurance fund for purposes of  
 27 providing worker's compensation insurance for parolees, probationers or  
 28 community work center residents assigned as community service workers.

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

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

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

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

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

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

48           (5) Glanders in the care or handling of any equine animal or the carcass  
 49 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 ( $\text{SiO}_2$ ).

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(221) (a), Idaho Code,  
 33 and the diseases enumerated in subsection (12) of this section pertaining to  
 34 firefighters shall not be subject to the limitations prescribed in section  
 35 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(187) (a) through (187) (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 psy-  
 48 chological mishap or event meets the other criteria of this sec-  
 49 tion;



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) of this section arising from a personnel-related action includ-  
45 ing, but not limited to, disciplinary action, changes in duty, job evalua-  
46 tion, 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 sections 59-1391(f) and  
8 72-1403(A), Idaho Code;

9 (iii) A volunteer emergency responder as defined in section  
10 72-102(3~~2~~1), Idaho Code;

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

17 (v) An emergency communications officer as defined in section  
18 19-5101(f), Idaho Code.

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