

FILE NAME: Painters and Allied Trades (PAINT)

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

SECTION 1. Section 48-901 Idaho Code Annotated, is hereby amended to read as follows:

"48-901. LIABILITY OF MOTOR OWNER TO GUEST. No person transported by the owner or operator of a motor vehicle as his guest without payment for such transportation shall have a cause for damages against such owner or operator for injuries, death or loss, in case of accident, unless such accident shall have been intentional on the part of the said owner or operator or caused by his * * intoxication or his reckless disregard of the rights of others."

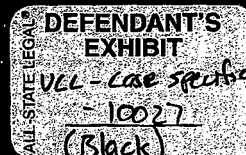
Approved March 7, 1939.

CHAPTER 161

(H. B. No. 247)

AN ACT

TO BE CITED AS THE OCCUPATIONAL DISEASE COMPENSATION LAW; PROVIDING FOR THE PAYMENT OF COMPENSATION TO WORKMEN OR THEIR DEPENDENTS ON ACCOUNT OF DISABILITY OR DEATH FROM OCCUPATIONAL DISEASES; AMENDING SECTION 43-1001 IDAHO CODE ANNOTATED; DEFINING "ACCIDENT," "INJURY," AND "PERSONAL INJURY" UNDER THE WORKMEN'S COMPENSATION LAW; SUPPLEMENTING THE WORKMEN'S COMPENSATION LAW, CHAPTERS 9 TO 19, INCLUSIVE, OF TITLE 43 IDAHO CODE ANNOTATED, BY ADDING A NEW CHAPTER, DESIGNATED CHAPTER 21, REGULATING THE PAYMENT OF COMPENSATION FOR DISABILITY AND DEATH FROM OCCUPATIONAL DISEASES; ADOPTING SO FAR AS APPLICABLE THE WORKMEN'S COMPENSATION LAW, WITH RESPECT TO COMPENSATION, SECURITY THEREFOR, AND PROCEDURE FOR OBTAINING SAME; DEFINING OCCUPATIONAL DISEASES AND THE OCCUPATIONS SUBJECT TO THIS LAW; REGULATING THE RIGHTS OF WORKMEN AND THEIR DEPENDENTS AND THE RESPONSIBILITY OF EMPLOYERS FOR COMPENSATION AND MEDICAL TREATMENT; PRESCRIBING LIMITATIONS, RULES OF PROCEDURE, AMOUNTS OF COMPENSATION AND RULES FOR DETERMINING SAME AND FOR DETERMINING DEPENDENCY; AUTHORIZING THE INDUSTRIAL ACCIDENT BOARD TO PRESCRIBE AND REGULATE RULES OF PREVENTION AND PRESCRIBING THE EFFECT OF VIOLATION THEREOF; PRESCRIBING SPECIAL



REGULATIONS IN CASES OF SILICOSIS AND DERMATITIS; PROVIDING FOR THE APPOINTMENT OF A MEDICAL PANEL AND A SILICOSIS PANEL FOR THE DETERMINATION OF MEDICAL QUESTIONS AND PRESCRIBING THEIR PERSONNEL, POWERS, DUTIES, AND PROCEDURE; MAKING AN APPROPRIATION FOR THE ADMINISTRATION OF THIS ACT; AUTHORIZING INSURANCE HEREUNDER BY THE STATE INSURANCE FUND, AND REPEALING INCONSISTENT LEGISLATION.

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

SECTION 1. Section 43-1001 Idaho Code Annotated is hereby amended to read as follows:

"43-1001. RIGHT TO COMPENSATION FOR INJURY. If a workman receives personal injury caused by an accident arising out of and in the course of any employment covered by * * the workmen's compensation law his employer or the surety shall pay compensation in the amounts and to the person or persons hereinafter specified.

"*'Accident,' as used in this law, means an unexpected, undesigned, and unlooked for mishap, or untoward event, happening suddenly and connected with the industry in which it occurs, and which can be definitely located as to time when and place where it occurred, causing an injury, as defined in this law.*

"*The terms 'injury' and 'personal injury,' as the same are used in this law, shall be construed to include only an injury caused by an accident, as above defined, which results in violence to the physical structure of the body. The said terms shall in no case be construed to include an occupational disease in any form and only such non-occupational diseases as result directly from an injury.*"

SECTION 2. RIGHT TO COMPENSATION FOR DISABLEMENT FROM OCCUPATIONAL DISEASE. The workmen's compensation law, Chapters 9 to 19, inclusive, of Title 43 Idaho Code Annotated, is hereby supplemented by adding to said Title 43 a new chapter, designated Chapter 21, as follows:

CHAPTER 21. OCCUPATIONAL DISEASE COMPENSATION

43-2101. SHORT TITLE. This chapter may be cited as the "Occupational Disease Compensation law."

43-2102. RIGHT TO COMPENSATION—APPLICABILITY OF WORKMEN'S COMPENSATION LAW. Where an employee of an employer subject to this chapter suffers from an occupational disease, as defined in Section 43-2104, and is thereby disabled from performing his work in the last occupation in which he was injuriously exposed to the hazards of such disease, or dies

as a result of such disease, and the disease was due to the nature of an occupation or process in which he was employed within the period previous to his disablement limited in this chapter, the employee, or, in case of his death, his dependents, shall be entitled to compensation, as provided in the workmen's compensation law, as if such disablement or death were an injury by accident, except as otherwise provided in this chapter; and the practice and procedure prescribed in the workmen's compensation law shall apply to proceedings for compensation for such diseases, except as in this chapter otherwise provided.

43-2103. SECURITY FOR COMPENSATION—COMPENSATION REMEDY EXCLUSIVE. Every employer of workmen subject to the workmen's compensation law shall be subject to the provisions of this chapter and shall secure the payment of compensation in accordance with the provisions of this chapter by any method prescribed by the workmen's compensation law at the time in effect in this state. Where the foregoing requirement is complied with, the liability of the employer under this act shall be exclusive. The rights and remedies granted by the workmen's compensation law to an employee on account of a personal injury caused by accident, or, on account of the disability caused by an occupational disease named and contracted, as provided herein, for which injury, or disability he is entitled to compensation under this chapter, shall exclude all other rights and remedies of such employee, his personal representatives, dependents, or next of kin at common law, or otherwise, against the employer, on account of any injury or disability incurred in the course of or because of his employment.

43-2104. OCCUPATIONAL DISEASES DEFINED. Compensation as provided in this chapter shall be payable for disability or death of an employee resulting from the following occupational diseases:

- (1) Poisoning by lead, mercury, arsenic, zinc, or manganese, their preparations or compounds in any occupation involving direct contact therewith, handling thereof, or exposure thereto.
- (2) Carbon monoxide poisoning in any process or occupation involving direct exposure to carbon monoxide in buildings, sheds, or enclosed places.
- (3) Poisoning by methanol, carbon bisulphide, hydrocarbon distillates (naphthas and others) or halogenated hydrocarbons, or any preparations containing these chemicals or any of them, in any occupation involving direct contact therewith, handling thereof, or exposure thereto.
- (4) Poisoning by benzol or by nitro, amido, or amino-deriva-

tives of benzol (dinitro-benzol, anilin and others), or their preparations or compounds in any occupation involving direct contact therewith, handling thereof, or exposure thereto.

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

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

(7) Poisoning by or ulceration from chromic acid or bichromate of ammonium, potassium, or sodium or their preparations in any occupation involving direct contact therewith, handling thereof, or exposure thereto.

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

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

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

(11) Silicosis in any occupation involving direct contact with, handling of, or exposure to dust of silicon dioxide (SiO_2).

No diseases or aggravation thereof, except those in this section defined, shall be deemed occupational diseases and compensable as such, and none of the enumerated diseases herein shall be compensable unless contracted in the occupations herein enumerated.

The terms "contracted" and "incurred," as used in this chapter when referring to an occupational disease, shall be deemed the equivalent of the term "arising out of and in the course of," as used in the workmen's compensation act.

43-2105. DEFINITION OF DISABILITY. Except as hereinafter otherwise provided in this chapter, "disablement" 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.

43-2106. LAW NOT RETROACTIVE. The provisions of this

chapter shall apply only to cases of occupational disease in which the last injurious exposure in an occupation subject to the hazards of such disease occurred on or after the date on which this chapter shall have taken effect.

43-2107. LAST EMPLOYER LIABLE—AMOUNT OF COMPENSATION. Where compensation is payable for an occupational disease, the employer in whose employment the employee was last injuriously exposed to the hazards of such disease shall be liable therefor; the amount of the compensation shall be based upon the average weekly wages (as defined in the workmen's compensation law) of the employee when last so exposed under such employer; and the notice of disability and claim for compensation shall be given and made to such employer; provided, however, that the maximum compensation to be allowed for disability, or death, or both, on account of any occupational disease, other than silicosis, shall be \$5,000.00, until a transitory period of six years from the date when this chapter becomes effective shall have expired, and thereafter the total aggregate of such compensation and benefits shall be as provided in the workmen's compensation law; provided further that in case of silicosis the only employer liable shall be the last employer in whose employment the employee was last injuriously exposed to the hazards of the disease during a period of sixty days or more after the effective date of this chapter.

43-2108. AGGRAVATION—PROPORTIONAL COMPENSATION. Where an occupational disease is aggravated by any other disease or infirmity, not itself compensable, or where disability or death from any other cause, not itself compensable, is aggravated, prolonged, accelerated, or in any wise contributed to by an occupational disease, the compensation payable shall be reduced and limited to such proportion only of the compensation that would be payable if the occupational disease were the sole cause of the disability or death as such occupational disease, as a causative factor, bears to all the causes of such disability or death, such reduction in compensation to be effected by reducing the number of weekly or monthly payments or the amount of such payments, as under the circumstances of the particular case may be for the best interest of all the parties.

43-2109. LIMITATIONS. An employer shall not be liable for any compensation for an occupational disease unless such disease shall be 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, and is actually incurred in his employment and unless disablement or death results within two years in case of

silicosis, or one year in case of any other occupational disease, after the last injurious exposure to such disease in such employment, or, in case of death, unless death follows continuous disability from such disease, commencing within the period above limited, for which compensation has been paid or awarded or claim made as provided in this chapter, and results within two years after such last exposure.

An employer shall not be liable for any compensation for a non-acute occupational disease unless such claimant was exposed to the hazard of such disease for a period of sixty days for the same employer.

43-2110. MEDICAL TREATMENT. In the event of disability from an occupational disease, the employer shall provide reasonable medical and other treatment for such time as in the judgment of the board will tend to lessen the period of disability or provide needed relief: Provided, however, medical and other treatment shall be limited in the case of a workman disabled by an occupational disease to a period of ninety days from the date of such disablement, but the requirement for such treatment may be extended for an additional period not to exceed ninety days upon the order of the board.

43-2111. DETERMINATION OF DEPENDENCY. No compensation for death from an occupational disease shall be payable to any person whose relationship to the deceased, which, under the provisions of this chapter would give right to compensation, arose subsequent to the beginning of the first compensable disability, save only to after-born children of a marriage existing at the beginning of such disability.

43-2112. NO COMPENSATION IN CASES OF MISREPRESENTATION. No compensation shall be payable for an occupational disease if the employee, at the time of entering into the employment of the employer by whom the compensation would otherwise be payable, falsely represented himself in writing as not having previously been disabled, laid off, or compensated in damages or otherwise because of such disease.

43-2113. RULES FOR PREVENTION. The industrial accident board may require all employers to adopt rules which have been approved by it for the protection and safety of his employees and to prevent the contraction of occupational diseases, and to keep the same posted in conspicuous places in and about the premises; and the board may require employers to install, use or adopt such protective or safety appliances as in the board's opinion are necessary for the protection of the employees.

43-2114. WILFUL SELF-EXPOSURE. A workman or his dependents shall not be entitled to compensation hereunder if he

fails to observe such rules and regulations as may be promulgated or approved by the industrial accident board and posted in the plant by the employer, or to use the protective and safety devices furnished by his employer, as prescribed by the board.

SPECIAL PROVISIONS RELATING TO PARTICULAR DISEASES

43-2115. DEFINITION OF "SILICOSIS." Whenever used in this chapter, "silicosis" shall mean the characteristic fibrotic condition of the lungs caused by the inhalation of silicon dioxide (SiO_2) dust.

43-2116. DEFINITION OF DISABILITY IN SILICOSIS CASES. In case of silicosis, "disablement" means the event of the 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.

43-2117. PERIOD OF EXPOSURE IN SILICOSIS CASES. No claim for disability or death from silicosis shall be maintained or prosecuted otherwise than under the provisions of this chapter, or come within the provisions of this chapter, unless during the ten years immediately preceding the date of disablement the employee has been exposed to the inhalation of silica dust over a period of not less than five years, the last two years of which shall have been in this state, under a contract of employment existing in this state, provided however, that if the employee shall have been employed by the same employer during the whole of such five-year period, his right to compensation against such employer shall not be affected by the fact that he had been employed during any part of such period outside of this state.

43-2118. NO COMPENSATION FOR PARTIAL DISABILITY FROM SILICOSIS. Compensation shall not be payable for partial disability due to silicosis.

43-2119. COMPENSATION FOR TOTAL DISABILITY FROM UNCOMPLICATED SILICOSIS. In the event of total disability or death from uncomplicated silicosis, compensation shall be payable to employees and their dependents as follows: If disablement occurs, or, in the case of no claim for prior disablement, if death occurs in the calendar month in which this chapter becomes effective, the total compensation and death benefits payable shall not exceed the sum of \$500.00. If disablement occurs, or, in the case of no claim for prior disablement, if death occurs during the next calendar month, the total compensation and death benefits payable shall not exceed \$550.00. Thereafter the total amount of compensation for death and benefits payable for total disability and death shall increase at the rate of \$50.00 per month; the aggregate pay-

able in each case to be limited according to the foregoing formula for the month in which total disability occurs, or, in case of no claim for prior disability, in which death occurs. Such progressive increase in the limits to the aggregate compensation and benefits for total disability and death shall continue until the limit of \$3000.00 is reached, which limit shall continue until a transitory period of twelve years from the date when this chapter becomes effective shall have expired, and thereafter the total aggregate of such compensation and benefits shall be as provided in the workmen's compensation law: Provided, however, that the compensation payable in any such case shall be limited to a period not to exceed the average life expectancy of a person of the age and sex of the deceased.

43-2120. COMPENSATION FOR TOTAL DISABILITY FROM COMPLICATED SILICOSIS. In case of disability or death from silicosis, complicated with tuberculosis of the lungs, compensation shall be payable as for uncomplicated silicosis, provided, however, that the silicosis was an essential factor in causing such disability or death. In case of disability or death from silicosis complicated with any other disease, or from any other disease complicated with silicosis, the compensation shall be reduced as provided in Section 43-2108.

43-2121. NON-DISABLING SILICOSIS—WAIVER. Where an employee, though not actually disabled, is found to be affected by silicosis, he may, subject to the approval of the board, be permitted to waive in writing full compensation for any aggravation of his condition that may result from his continuing in his hazardous occupation. In the event of total disablement or death as a result of the disease with which the employee was so affected, after such a waiver, compensation shall nevertheless be payable as herein elsewhere provided, but in no case, whether for disability or death or both, to exceed \$2000.00 in the aggregate. A waiver so permitted shall remain effective, for the trade, occupation, process, or employment for which executed, notwithstanding a change or changes of employer: Provided, that such waiver shall not inure to the benefit of any employer who fails to comply with the provisions of Section 43-2113. The industrial accident board shall make reasonable rules and regulations relative to the form, execution, filing, or registration; and public inspection of waivers or records thereof.

43-2122. NON-DISABLING SILICOSIS—COMPENSATION UPON SEVERANCE FROM EMPLOYMENT. (1) When an employee working subject to this chapter is, because he has a non-disabling silicosis, discharged from employment in which he is engaged, or after an examination of an employee as provided in sub-

section (2) and a finding by the medical panel that it is inadvisable for the employee to continue in his employment, such employee terminates his employment, and suffers wage loss by reason of such discharge or termination of employment, the industrial accident board may allow such compensation on account thereof as it may deem just, payable as herein elsewhere provided, but in no case to exceed \$1500.00, subject to the following formula: If disablement occurs in the calendar month in which this chapter becomes effective, the total compensation payable shall not exceed the sum of \$250.00; if disablement occurs during the next calendar month, the total compensation shall not exceed \$275.00; thereafter, the total amount of compensation payable shall increase at the rate of \$25.00 per month; the aggregate payable in each case to be limited according to the foregoing formula for the month in which disability occurs. Such progressive increase in the limits to the aggregate compensation and benefits shall continue until the limit of \$1500.00 is reached.

(2) Upon application of any employer or employee the industrial accident board may direct any employee of such employer or such employee who, in the course of his employment has been exposed to the inhalation of silica dust, to submit to examination by the medical panel to determine whether such employee has silicosis, and the degree thereof. The cost of such medical examination shall be borne by the person making application. The results of such examination shall be submitted by the medical panel to the industrial accident board, which shall submit copies of such reports to the employer and employee, who shall have opportunity to rebut the same, provided, request therefor is made to the board within thirty days from the mailing of such report to the parties. The board shall make its findings as to whether or not it is inadvisable for the employee to continue in his employment.

(3) If an employee shall refuse to submit to such examination after direction by the board, or shall in any way obstruct the same, his right to compensation under this section shall be barred.

43-2123. RECURRING DERMATITIS. A person who has suffered disability from dermatitis and has received compensation therefor shall not be entitled to compensation for disability from a later attack of dermatitis due to substantially the same cause, unless, immediately preceding the date of the later disablement, he has been engaged in the occupation to which the recurrence of the disease is ascribed and under the same employer for at least sixty days.

MEDICAL PANEL

43-2124. **MEDICAL PANEL.** A medical panel shall be appointed by the industrial accident board at such compensation as the board shall fix in any case on a claim for compensation for an occupational disease other than silicosis, where a medical question shall be in controversy. It shall consist of three members who shall be licensed physicians in good professional standing, and who shall have had at least five years' practice in the diagnosis, treatment, and care of industrial diseases.

43-2125. **SILICOSIS PANEL.** There shall be a silicosis panel consisting of six members who shall be licensed physicians in good professional standing, four of whom shall have had at least five years' practice in the diagnosis, treatment and care of silicosis, and two of whom shall be expert roentgenologists who shall have had at least five years' practice and experience. They shall be appointed by the Governor from a list of eligibles recommended by the board of directors of the Idaho State Medical Society. The term of office of a member of such panel shall be six years, except the members of the first panel, two of whom shall be appointed to serve until the first day of October, 1941; two to serve until the first day of October, 1943, and two to serve until the first day of October, 1945. A vacancy on the panel occurring other than by expiration of term, shall be filled by appointment for the unexpired term. Members of such panel shall receive such per diem compensation as shall be fixed by the industrial accident board. They shall be entitled to their reasonable and necessary traveling and other expenses incurred while actually engaged in the performance of their duties. In any case involving silicosis, the industrial accident board shall select three members of the silicosis panel to act as the medical panel in such case.

43-2126. **NOTICE OF CONTRACTION OF DISEASE AND CLAIM FOR COMPENSATION.** Unless written notice of the manifestation of an occupational disease shall be given by the workman to the employer within sixty days after the first manifestation thereof, and except in the case of silicosis within five months after the employment has ceased in which it is claimed the disease was contracted, and, in case of death, unless written notice of such death shall be given within ninety days after the occurrence, and, unless claim for disability, or death, shall be made within one year after the disablement, or death, respectively, all rights to compensation for disability, or death, from an occupational disease shall be forever barred.

Such notice and claim may be made by any person claiming to be entitled to compensation or by some one in his behalf.

Where compensation payments have been made and discontinued, and further compensation is claimed, the claim for

such further compensation shall be made within one year after the last payment.

43-2127. POST MORTEM EXAMINATIONS. Upon the filing of a claim for compensation for death from an occupational disease where an autopsy is necessary accurately and scientifically to ascertain and determine the cause of death, such autopsy shall be ordered by the industrial accident board or the medical panel. The medical panel may designate a duly licensed physician, who is a specialist in such examinations, to perform or attend such autopsy, and to certify his findings thereon. Such findings shall be filed with the medical panel and shall be a public record. The industrial accident board also may exercise such authority on its own motion or on application made to it at any time by any party in interest, upon the presentation of facts showing that a controversy may exist in regard to the cause of death or the existence of any occupational disease. All proceedings for compensation shall be suspended upon refusal of a claimant or claimants to permit such autopsy when so ordered, and no compensation shall be payable during the continuance of such refusal.

43-2128. MODIFICATION OF AWARD. An award or denial of award of compensation for an occupational disease may be reviewed and compensation increased, reduced, or terminated where previously awarded, or awarded where previously denied, only upon proof of fraud or of change in conditions, and then only upon application by a party in interest made not later than one year after the denial of award or, where compensation has been awarded, after the award of the date when the last payment was made under the award, except in case of silicosis where such time limit shall be two years.

43-2129. REFERENCE TO MEDICAL PANEL OF CONTROVERTED MEDICAL QUESTIONS. If on a claim for compensation for an occupational disease any medical question shall be in controversy, the industrial accident board shall refer the case to the medical panel for investigation and report. No award shall be made in any such case until the medical panel shall have duly investigated the case and made its report with respect to all medical questions at issue. The date of disablement, if in dispute, shall be deemed a medical question.

43-2130. HEARING ON MEDICAL QUESTIONS—FINDINGS. The medical panel, upon reference to it of a claim for occupational disease, shall notify the claimant or claimants and the employer to appear before it at a time and place stated in the notice, and shall examine the employee if living, and may examine the body of the employee if deceased. If the employee be living, he shall appear before the medical panel

at the time and place specified then or thereafter to submit to such examinations, including clinical and x-ray examinations, as the medical panel may require. The claimant and the employer or his surety shall each be entitled, at his own expense, to have present at all examinations conducted by the medical panel, a physician admitted to practice medicine in the state who shall be given every reasonable facility for participating in every such examination. If a physician admitted to practice medicine in the state shall certify that the employee is physically unable to appear at the time and place designated by the medical panel, such panel shall, on notice to the parties, change the place and time of examination to such other place and time as may reasonably facilitate the examination of the employee. Proceedings shall be suspended and no compensation shall be payable for any period during which the employee may refuse to submit to such examination.

43-2131. REPORT OF MEDICAL PANEL. The medical panel shall, as soon as practicable after it has completed its consideration of the case, report in writing its findings and conclusions on every medical question in controversy. If the date of disablement is controverted and cannot be exactly fixed scientifically, the medical panel shall fix the most probable date, having regard to all the circumstances of the case. The medical panel shall also include in its report a statement indicating the physician or physicians, if any, who appeared before it, and what, if any, medical reports and x-rays were considered by it.

The medical panel shall file its findings and report with the industrial accident board, which shall send a certified copy thereof to the claimant or claimants and to the employer and his surety, if any.

43-2132. AWARD—REVIEW OF MEDICAL FINDINGS. The decision or award of the industrial accident board in the case shall conform to the findings and conclusions in such report insofar as restricted to medical questions; provided, however, that any such findings and conclusions may be set aside, reversed, or modified by the industrial accident board upon a review of the award or decision, in case such a review is had as provided in Section 43-1406 of the workmen's compensation act, subject, however, to the following special provisions: No such finding or conclusion of the medical panel shall be subject to review unless specific objection shall be filed by a party in interest within the time limited in which to apply for review of an award or decision. If objection is so filed, notice thereof shall be given to the medical panel, whereupon such panel shall delegate one or more of its members to appear at the

hearing or hearings on review to submit to examination and cross-examination in respect to the findings and conclusions objected to. Upon such review, no finding or conclusion of the medical panel upon a medical question shall be set aside, reversed, or modified unless proved to be manifestly erroneous or unreasonable, or due to fraud, undue influence, inadvertence, or mistake of fact or law. But, with the consent of the medical panel, its report in any case may, upon review, be remanded to it for reconsideration. Every decision by the industrial accident board that sets aside, reverses, or modifies a finding or conclusion by the medical panel shall be subject to review by the courts, upon appeal as in other compensation cases.

SECTION 3. APPROPRIATION. There is hereby appropriated out of any moneys in the general fund in the state treasury not otherwise appropriated, the sum of \$10,000.00, or so much thereof as may be necessary, the same to be placed in the industrial administration fund, and the sum of \$10,000.00, or so much thereof as may be necessary, is hereby appropriated out of the industrial administration fund to the industrial accident board for the administration of this act during the biennium ending December 31, 1940.

SECTION 4. STATE INSURANCE FUND. The state insurance fund created by the workmen's compensation law and its administrator, are hereby authorized to insure employers against liability for compensation and to assure to the persons entitled thereto the compensation provided by this act. In determining equitable rates for the added risks of occupational diseases, the State Insurance Fund shall be governed by the provisions of Section 43-1713, Idaho Code Annotated.

SECTION 5. All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 7, 1939.

CHAPTER 162

(H. B. No. 435)

AN ACT

LEVYING AN AD VALOREM TAX FOR EACH OF THE YEARS 1939 AND 1940 TO PROVIDE REVENUE TO PAY THE NECESSARY GENERAL PUBLIC ASSISTANCE REQUIREMENTS AND TO PROVIDE REVENUE TO PAY CERTAIN OF THE NECESSARY PUBLIC ASSISTANCE REQUIREMENTS HERE-