



Protecting Property

The Inside Story on Idaho's New Trespass Law

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Overview



- The problem
- What did not change
- What changed
- Review posting requirements
- Addressing concerns
- Questions & moving forward



Property Rights Are Fundamental:

The U.S. Supreme Court has repeatedly recognized the fundamental right to exclude others from private property.

"An essential element of individual property is the legal right to exclude others from enjoying it."

Justice Louis Brandeis, *International News Service v Associated Press*, 248 U.S. 215, 250 (1918)

"We have repeatedly held that, as to property reserved by its owner for private use, 'the right to exclude [others is] one of the most essential sticks in the bundle of rights that are commonly characterized as property.'" *Loretto v. Teleprompter Manhattan CATV Corp.*, 458 U. S. 419, 458 U. S. 433 (1982), quoting *Kaiser Aetna v. United States*, 444 U. S. 164, 444 U. S. 176 (1979). **Justice Antonin Scalia**, *Nollan v. California Coastal Commission*, 483 U.S. 825 (1987)

The Idaho Constitution recognizes that right to exclude others

Article I, Section 23 - The Rights to Hunt, Fish and Trap

"The rights to hunt, fish and trap, including by the use of traditional methods, are a valued part of the heritage of the State of Idaho and shall forever be preserved for the people and managed through the laws, rules and proclamations that preserve the future of hunting, fishing and trapping. Public hunting, fishing and trapping of wildlife shall be a preferred means of managing wildlife. **The rights set forth herein do not create a right to trespass on private property**, shall not affect rights to divert, appropriate and use water, or establish any minimum amount of water in any water body, shall not lead to a diminution of other private rights, and shall not prevent the suspension or revocation, pursuant to statute enacted by the Legislature, of an individual's hunting, fishing or trapping license."



What was the problem?



- The law was 'broken'
 - Complaints from landowners across the state
 - Lack of respect for private property rights
 - Flagrant violations
 - Difficulties in enforcement
 - Laws confusing, scattered, inconsistent, difficult to find and understand
 - Posting
 - What is a trespass?
 - Most criticisms applied to the current law – nobody understood it
- Penalties not a deterrent

The law was confusing & inconsistent

- Posting is the poster child:
 - 6-202 (civil) – 660 foot posting required for treble damages; common law – no posting or notice required
 - 18-7008, 18-7011, 36-1603 – property must be “posted”, “posted with... orange colored paint”, “posted ... at intervals of not less than ...six hundred and sixty feet”, unless access can only reasonably be taken at point of access, or posted with conspicuous sign where public road enters and exits property
 - 36-1603 – Hunting with “dog or weapon upon lands of another that are ... posted”
- Intent
 - 6-202 – “willfully and intentionally”
 - 18-7008 – “maliciously injuring” “willfully covering up” otherwise undefined
 - 18-7011 – not defined except “willfully” removing signs
 - 36-1602, 36-1603 – not defined
- Conflation of unlawful entry and property damage



What we wanted to accomplish

- Band aids wouldn't work – a complete rewrite was required
- Leadership said this was the time
- Goals
 - Clarify the law
 - Uniformity throughout the code sections
 - Enhance penalties



Quick summary of the new law

- Parallel provisions
 - 6-202 (civil)
 - 18-7008 (criminal)
 - 36-1603 (recreational)
- Uniform definitions (crops, cultivated land, damage, enter, navigable streams, permission, remains)
- Elements
 - Enters or remains
 - Property of another
 - Without permission
 - Knowing or with reason to know presence is not permitted



Quick summary of the new law (cont'd)

- Reason to know
 - Failure to depart
 - Reasonably associated with residence or business
 - Cultivated
 - Fenced
 - Posted
- Tiered penalties
- Existing rights and privileges to enter property retained



What changes?

- ✓ Creates a consistent definition of trespass (previously, none existed)
 - Enters or remains without permission
 - ✓ Specifies criminal trespass “intent” of “knowing or with reason to know” (mirrors many other criminal laws)
 - Previously, intent requirement was minimal or non-existent
 - ✓ Increased fines and penalties (tiered penalties for repeat offenders)
 - ✓ Enhances landowner posting requirements in certain circumstances
 - Creates the “reasonable person” standard (mirrors many other criminal and civil laws)
 - Fenced land adjacent to public land and unfenced, uncultivated land
 - ✓ Reduces landowner posting requirements in other circumstances
 - Land reasonably associated with a residence or place of business
 - ✓ Closes loophole that unauthorized entry was not trespassing until asked to leave
 - ✓ Defines and clarifies permission
 - ✓ 65% of each trespass fine goes to the county sheriff’s office where the crime was committed
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What did not change?

- Maintains most existing definitions
 - Does not change posting requirements in most circumstances
 - Homes, cultivated land, most fenced land
 - Retains existing exemptions, privileges and rights.
 - Does not criminalize girl scouts, missionaries, door-to-door salesman, or business customers
 - You can still retrieve your property (as long as no damage is caused and you ask, just like before)
 - Retains privileges to retrieve Frisbees, dogs, game, etc. - still need to seek permission
 - Does not criminalize your chimney smoke, dust etc... from your property going onto another's, those are "nuisance" suits, not trespass (just like before)
 - Does not change law enforcement's authority to cite an individual who refuses to leave
 - All Fish & Game remedies still apply to recreational trespass
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Posting requirements

“A person has reason to know his presence is not permitted on real property that meets any of the following descriptions:”

*“The property
is reasonably
associated with
a residence or
place of
business”*















*“The
property is
cultivated”*





“Fenced or otherwise enclosed in a manner that a reasonable person would recognize as delineating a private property boundary.”



Provided however:

Fenced property, if adjacent to public lands, the fence line is posted with conspicuous “No Trespassing” signs or bright orange or fluorescent paint at the corners . . . and at all navigable streams, roads, gates, and rights-of way entering the private land from public land”



AND “is posted in a manner that a reasonable person would be put on notice that it is private land.”



Unfenced and uncultivated property is “posted with conspicuous “No Trespassing” signs or bright orange or fluorescent paint at all property corners . . . and navigable streams, roads, gates, and rights-of-way entering the land”



AND “is posted in a manner that a reasonable person would be put on notice that it is private land.”



“Reasonable Person” standard places a higher burden on landowners, but will also be more enforceable as a common-sense standard juries already use.



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Summary of concerns we have heard:

- “Enters or Remains” which one is it?
- What about an “innocent mistake”?
- Won’t this escalate neighbor disputes?
- Is written permission required or not?
- What does “conspicuous” mean?



Summary of concerns we have heard (cont'd):

- How does the law handle failure to depart and returning after being ordered to leave?
 - How do we interpret “knowing or with reason to know”?
 - What constitutes a “reasonable person”?
 - Are we criminalizing people retrieving their Frisbee or other property?
 - This new language is too vague and confusing.
-





Questions?

HB658a as enacted

LEGISLATURE OF THE STATE OF IDAHO
Sixty-fourth Legislature Second Regular Session - 2018

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 658, As Amended in the Senate

BY WAYS AND MEANS COMMITTEE

AN ACT

RELATING TO TRESPASS; TO PROVIDE LEGISLATIVE INTENT; AMENDING SECTION 6-202, IDAHO CODE, TO PROVIDE FOR ACTIONS FOR CIVIL TRESPASS, TO PROVIDE DEFINITIONS, TO PROVIDE FOR ACTS CONSTITUTING CIVIL TRESPASS AND CIVIL TRESPASS WITH DAMAGE, TO PROVIDE FOR DAMAGES AND TO PROVIDE FOR EXCLUSIONS; REPEALING SECTION 6-202A, IDAHO CODE, RELATING TO DEFINITIONS OF TERMS; AMENDING TITLE 6, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 31, TITLE 6, IDAHO CODE, TO PROVIDE FOR THE LIABILITY AND DUTY OF A LAND POSSESSOR TO A TRESPASSER AND TO PROVIDE FOR THE APPLICABILITY OF THE ATTRACTIVE NUISANCE COMMON LAW DOCTRINE; REPEALING SECTION 18-7008, IDAHO CODE, RELATING TO TRESPASS; AMENDING CHAPTER 70, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-7008, IDAHO CODE, TO PROVIDE FOR CRIMINAL TRESPASS, TO PROVIDE DEFINITIONS, TO PROVIDE FOR ACTS CONSTITUTING CRIMINAL TRESPASS AND CRIMINAL TRESPASS WITH DAMAGE, TO PROVIDE FOR PENALTIES AND TO PROVIDE FOR EXCLUSIONS; REPEALING SECTION 18-7011, IDAHO CODE, RELATING TO CRIMINAL TRESPASS; AMENDING SECTION 19-4705, IDAHO CODE, TO PROVIDE FOR THE DISPOSITION OF FINES; AMENDING SECTION 36-1402, IDAHO CODE, TO PROVIDE FOR A VIOLATION OF TRESPASSING FOR THE PURPOSE OF HUNTING, FISHING OR TRAPPING AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTION 36-1602, IDAHO CODE, RELATING TO HUNTING ON CERTAIN LANDS WITHOUT PERMISSION; AMENDING SECTION 36-1603, IDAHO CODE, TO PROHIBIT TRESPASSING WHILE HUNTING, FISHING AND TRAPPING, TO PROVIDE REMEDIES, TO AUTHORIZE PERMISSION FORMS AND TO PROVIDE FOR THE DISSEMINATION OF INFORMATION; AMENDING SECTION 36-1604, IDAHO CODE, TO PROVIDE FOR THE APPLICABILITY OF CERTAIN REMEDIES WITH RESPECT TO THE LIABILITY OF THOSE USING THE LAND OF ANOTHER PERSON FOR RECREATION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 36-1108, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION; PROVIDING SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE FOR THE ACCRUAL OF ACTIONS.

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

SECTION 1. LEGISLATIVE INTENT. The Legislature of the State of Idaho makes the following findings and declares the following statement of intent and legislative purpose:

(1) Under Section 1, Article I, of the Constitution of the State of Idaho, "acquiring, possessing and protecting property" is an inalienable right. The right to own real property and to exclude others from that property according to law is fundamental to our rights as citizens and has been upheld repeatedly by the United States Supreme Court.

(2) Section 23, Article I of the Idaho Constitution also protects the right to hunt and fish, but that right expressly does not include "a right to trespass on private property."

(3) The Legislature finds that trespassing on private property has become a serious problem for landowners throughout the state. While many individuals respect private property rights, landowners report a significant number of persons who blatantly disregard the rights of property owners and frequently cause damage to private property, including cut fences, ruined crops, vandalism and theft.

(4) The trespass laws of the State of Idaho have been insufficient to deter trespassing and have offered inadequate penalties when trespassers are prosecuted.

(5) Moreover, the existing trespass laws are a confusing, inconsistent and constitutionally suspect patchwork of laws. They impose significant posting burdens on landowners, without reducing trespassing. The poor construction of the laws of trespass hinders the effective arrest and prosecution of trespassers.

(6) It is the intent of the Legislature in passing this act to cultivate a new culture of respect for private property rights and a renewal of the neighborly ways that have been a hallmark of our state.

SECTION 2. That Section 6-202, Idaho Code, be, and the same is hereby amended to read as follows:

6-202. ACTIONS FOR CIVIL TRESPASS. (1) Definitions. As used in this section:

(a) "Crops" means field crops including, but not limited to, grains, feed crops, legumes, fruits and vegetables.

(b) "Cultivated land" means:

(i) Land whose soil is loosened or broken up for the raising of crops;

(ii) Land used for the raising of crops; or

(iii) Pasturage that is artificially irrigated.

(c) "Damage" means any injury or damage to real or personal property and includes, but is not limited to, any of the following actions, when conducted without lawful authority, the consent of the landowner or his agent, or a valid license:

(i) Cutting down or carrying off any wood, underbrush, tree or timber, or girdling or otherwise injuring any tree or timber on the land of another;

(ii) Severing from the property of another anything attached thereto, or the produce thereof;

(iii) Digging, taking or carrying away any earth, soil or stone from the property of another;

(iv) Tearing down or otherwise damaging any fence on the land of another, or opening any gate, bar or fence of another and leaving it open, or using the corral or corrals of another;

(v) Dumping trash or covering up in any manner the property of another;

(vi) The unprovoked, intentional killing or injuring of a domestic animal of another on his property;

(vii) Removing, mutilating, damaging or destroying any "no trespassing" signs or markers of similar meaning;

(viii) Going through or driving a motor vehicle, as defined in sections 49-114 and 49-123, Idaho Code, into, upon, over or through any cultivated lands; or

(ix) Injuring or killing livestock.

(d) "Enter" or "enters" means going upon or over real property either in person or by causing any object, substance or force to go upon or over real property.

(e) "Navigable streams" shall have the meaning set forth in section 36-1601, Idaho Code.

(f) "Permission" means written authorization from the owner or his agent to enter upon private land, which shall include the signature of the owner or his agent, the name of the person being given permission, the appropriate dates that the permission is valid and a general description of the property; or another form of permission or invitation recognized by law.

(g) "Remains" means to fail to depart from the real property of another immediately when notified to do so by the owner or his agent.

(2) (a) Acts constituting civil trespass. Any person who, without permission of the owner, or the owner's agent, willfully and intentionally enters or remains upon the real property of another person which property is posted with "No Trespassing" signs or other notices of like meaning, spaced at intervals of not less than one (1) notice per six hundred sixty (660) feet along such real property; or who willfully and intentionally cuts down or carries off any wood or underwood, tree or timber, or girdling, or otherwise willfully and intentionally injures any tree or timber on the land of another person, or on the street or highway in front of any person's house, village, or city lot, or cultivated grounds; or on the commons or public grounds of or in any city or town, or on the street or highway in front thereof, without lawful authority, is liable to the owner of such land, or to such city or town, for treble the amount of damages which may be assessed therefor or fifty dollars (\$50.00), plus a reasonable attorney's fee which shall be taxed as costs, in any civil action brought to enforce the terms of this act if the plaintiff prevails without permission commits a civil trespass.

(b) Acts constituting civil trespass with damage. A person commits a civil trespass with damage when he enters or remains on the real property of another without permission, knowing or with reason to know that his presence is not permitted, and causes damage to real or personal property in excess of one thousand dollars (\$1,000). A person has reason to know that his presence is not permitted on real property that meets any of the following descriptions:

(i) The property is reasonably associated with a residence or place of business;

(ii) The property is cultivated;

(iii) The property is fenced or otherwise enclosed in a manner that a reasonable person would recognize as delineating a private property boundary. Provided, however, if the property adjoins or is contained within public lands, the fence line adjacent to public land is posted with conspicuous "no trespassing" signs or bright orange or fluorescent paint at the corners of the fence

adjoining public land and at all navigable streams, roads, gates and rights-of-way entering the private land from the public land, and is posted in a manner that a reasonable person would be put on notice that it is private land; or

(iv) The property is unfenced and uncultivated but is posted with conspicuous "no trespassing" signs or bright orange or fluorescent paint at all property corners and boundaries where the property intersects navigable streams, roads, gates and rights-of-way entering the land, and is posted in a manner that a reasonable person would be put on notice that it is private land.

(3) Remedies.

(a) Civil trespass. Any person found liable for a civil trespass pursuant to subsection (2) (a) of this section shall be liable for the following damages:

(i) The greater of:

1. A damage award of five hundred dollars (\$500); or

2. The amount of actual damages caused by the trespass;

(ii) Reasonable attorney's fees, which shall be taxed as costs in any civil action brought to enforce the provisions of this section, if the plaintiff prevails; and

(iii) Reasonable costs associated with investigating any trespass, as approved by the court, which shall be taxed as costs in any civil action brought to enforce the provisions of this section, if the plaintiff prevails.

(b) Civil trespass with damage. Any person found liable for a civil trespass with damage pursuant to subsection (2) (b) of this section shall be liable for the following damages and penalties:

(i) Treble the amount of actual damages caused by the trespass;

(ii) Reasonable attorney's fees, which shall be taxed as costs in any civil action brought to enforce the provisions of this section, if the plaintiff prevails; and

(iii) Reasonable costs associated with investigating any trespass, as approved by the court, which shall be taxed as costs in any civil action brought to enforce the provisions of this section, if the plaintiff prevails.

(c) If an action for civil trespass or civil trespass with damage is brought without foundation and the defendant prevails, the defendant may be awarded reasonable attorney's fees, which shall be taxed as costs.

Provided however, the owner or operator of any right-of-way or easement for any ditch, canal or other conduit governed by the provisions of chapter 11 or chapter 12, title 42, Idaho Code, or any rail carrier or aircraft who is found in violation of this section shall be liable only for actual damages and not for any treble damages ~~or~~, attorney's fees or investigation costs otherwise provided for under this subsection.

(4) All damages and penalties awarded pursuant to this section shall be remitted to the damaged party.

(5) Posting of navigable streams shall not prohibit access to navigable streams below the high-water mark pursuant to section 36-1601, Idaho Code.

1 (6) Subject to any rights or authorities described in subsection (7) of
 2 this section, a landowner or his agent may revoke permission granted under
 3 this section to another to enter or remain upon his property at any time, for
 4 any reason, orally, in writing, or by any other form of notice reasonably ap-
 5 parent to the permitted person or persons.

6 (7) A person has not committed the act of civil trespass under this sec-
 7 tion for entering or remaining upon real property if the person entered or
 8 remained on the property pursuant to any of the following rights or authori-
 9 ties:

10 (a) An established right of entry or occupancy of the real property in
 11 question, including, but not limited to:

12 (i) An invitation, whether express or implied, to enter or remain
 13 on real property including, but not limited to, the right to enter
 14 property that is, at the time, open to the public, if the person is
 15 in compliance with lawful conditions imposed on access;

16 (ii) A license to enter or remain on real property; or

17 (iii) A lease, easement, contract, privilege or other legal right
 18 to enter, remain upon, possess or use the real property;

19 (b) A lawful authority to enter onto or remain upon the real property in
 20 question, including, but not limited to:

21 (i) Any law enforcement officer during the course and scope of
 22 fulfilling his lawful duties;

23 (ii) Any paramedic, firefighter or other emergency personnel dur-
 24 ing the course and scope of fulfilling his lawful duties; or

25 (iii) Any licensed professional otherwise authorized to enter or
 26 remain on the real property during the course and scope of fulfill-
 27 ing his lawful duties; or

28 (c) Any other person with a legally prescribed right to enter or remain
 29 upon the real property in question.

30 (8) Examples of the exclusions in subsection (7) of this section in-
 31 clude, but are not limited to, a customer entering and remaining in a store
 32 during business hours who has not been asked to depart by the property owner
 33 or his agent; a person knocking on a front door of a property that is not
 34 posted; a meter reader in the scope and course of his employment; a postal
 35 employee delivering mail or packages; power company personnel fixing downed
 36 power lines; a bail bondsman arresting a person who is in violation of a bail
 37 contract; a tenant in compliance with a valid lease; and the owner or op-
 38 erator of any right-of-way or easement for any ditch, canal or other con-
 39 duit, acting pursuant to the provisions of chapter 11 or chapter 12, title
 40 42, Idaho Code.

41 (9) The exclusions set forth in this section shall not relieve any per-
 42 son of civil or criminal liability pursuant to other applicable law for caus-
 43 ing damage while entering or remaining on the property in question.

44 SECTION 3. That Section 6-202A, Idaho Code, be, and the same is hereby
 45 repealed.

46 SECTION 4. That Title 6, Idaho Code, be, and the same is hereby amended
 47 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-
 48 ter 31, Title 6, Idaho Code, and to read as follows:

CHAPTER 31
LIABILITY OF LAND POSSESSOR TO TRESPASSER

6-3101. DUTY OF LAND POSSESSOR TO TRESPASSER. A possessor of any interest in real property, including an owner, lessee or other lawful occupant, owes no duty of care to a trespasser, except to refrain from intentional or willful and wanton acts that cause injury to the trespasser.

6-3102. ATTRACTIVE NUISANCE. Nothing in this chapter shall affect the common law doctrine of attractive nuisance.

6-3103. APPLICABILITY. This chapter does not create or increase the liability of any possessor of real property and does not affect any other statutory or common law immunities from or defenses to civil liability to which a possessor of real property may be entitled.

SECTION 5. That Section 18-7008, Idaho Code, be, and the same is hereby repealed.

SECTION 6. That Chapter 70, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 18-7008, Idaho Code, and to read as follows:

18-7008. CRIMINAL TRESPASS -- DEFINITIONS AND ACTS CONSTITUTING. (1) Definitions. As used in this section:

(a) "Crops" means field crops including, but not limited to, grains, feed crops, legumes, fruits and vegetables.

(b) "Cultivated land" means:

(i) Land whose soil is loosened or broken up for the raising of crops;

(ii) Land used for the raising of crops; or

(iii) Pasturage that is artificially irrigated.

(c) "Damage" means any injury or damage to real or personal property and includes, but is not limited to, any of the following actions, when conducted without lawful authority, the consent of the landowner or his agent, or a valid license:

(i) Cutting down or carrying off any wood, underbrush, tree or timber, or girdling or otherwise injuring any tree or timber on the land of another;

(ii) Severing from the property of another anything attached thereto, or the produce thereof;

(iii) Digging, taking or carrying away any earth, soil or stone from the property of another;

(iv) Tearing down or otherwise damaging any fence on the land of another person, or opening any gate, bar or fence of another person and leaving it open, or using the corral or corrals of another person;

(v) Dumping trash or covering up in any manner the property of another person;

(vi) The unprovoked, intentional killing or injuring of a domestic animal of another on his property;

(vii) Removing, mutilating, damaging or destroying any "no trespassing" signs or markers of similar meaning;

(viii) Going through or driving a motor vehicle, as defined in sections 49-114 and 49-123, Idaho Code, into, upon, over or through any cultivated lands; or

(ix) Injuring livestock.

(d) "Enter" or "enters" means going upon or over real property either in person or by causing any object, substance or force to go upon or over real property.

(e) "Navigable streams" shall have the meaning set forth in section 36-1601, Idaho Code.

(f) "Permission" means written authorization from the owner or his agent to enter upon private land, which shall include the signature of the owner or his agent, the name of the person being given permission, the appropriate dates that the permission is valid and a general description of the property; or another form of permission or invitation recognized by law.

(g) "Remains" means to fail to depart from the real property of another immediately when notified to do so by the owner or his agent.

(2) Acts constituting criminal trespass.

(a) A person commits criminal trespass and is guilty of a misdemeanor, except as provided in subsection (3)(a)(i) of this section, when he enters or remains on the real property of another without permission, knowing or with reason to know that his presence is not permitted. A person has reason to know his presence is not permitted when, except under a landlord-tenant relationship, he fails to depart immediately from the real property of another after being notified by the owner or his agent to do so, or he returns without permission or invitation within one (1) year, unless a longer period of time is designated by the owner or his agent. In addition, a person has reason to know that his presence is not permitted on real property that meets any of the following descriptions:

(i) The property is reasonably associated with a residence or place of business;

(ii) The property is cultivated;

(iii) The property is fenced or otherwise enclosed in a manner that a reasonable person would recognize as delineating a private property boundary. Provided, however, if the property adjoins or is contained within public lands, the fence line adjacent to public land is posted with conspicuous "no trespassing" signs or bright orange or fluorescent paint at the corners of the fence adjoining public land and at all navigable streams, roads, gates and rights-of-way entering the private land from the public land, and is posted in a manner that a reasonable person would be put on notice that it is private land; or

(iv) The property is unfenced and uncultivated but is posted with conspicuous "no trespassing" signs or bright orange or fluorescent paint at all property corners and boundaries where the property intersects navigable streams, roads, gates and rights-of-way

entering the land, and is posted in a manner that a reasonable person would be put on notice that it is private land.

(b) Every person who commits a criminal trespass as provided by this section and who causes damage to real or personal property in excess of one thousand dollars (\$1,000) while trespassing is guilty of criminal trespass with damage and is guilty of a misdemeanor, except as provided in subsection (3) (b) (iii) of this section.

(3) Penalties.

(a) Penalties for criminal trespass.

(i) Any person who pleads guilty to or is found guilty of a violation of subsection (2) (a) of this section for the first time:

1. If no damage of any kind was committed during the trespass and the person accused does not remain if ordered to depart by the owner of the real property or his agent, then the person shall be guilty of an infraction and fined in the amount of three hundred dollars (\$300); or

2. Except as provided in subparagraph (i) 1. of this paragraph, the person may be sentenced to jail for a period of no more than six (6) months and shall be fined in an amount no less than five hundred dollars (\$500) and no more than one thousand dollars (\$1,000).

(ii) Any person who pleads guilty to or is found guilty of a violation of subsection (2) (a) of this section for a second time within five (5) years:

1. May be sentenced to jail for a period of no more than six (6) months;

2. Shall be fined in an amount no less than one thousand five hundred dollars (\$1,500) and no more than three thousand dollars (\$3,000); and

3. If the trespass can be reasonably construed to have been committed in a manner described in section 36-1603(a), Idaho Code, shall have any license issued pursuant to chapter 3, title 36, Idaho Code, suspended for a period of one (1) year.

(iii) Any person who pleads guilty to or is found guilty of a violation of subsection (2) (a) of this section, who previously has been found guilty of or has pled guilty to two (2) or more violations of the provisions of subsection (2) of this section within ten (10) years, notwithstanding the form of the judgments or withheld judgments:

1. May be sentenced to jail for a period no more than one (1) year;

2. Shall be fined an amount no less than five thousand dollars (\$5,000) and no more than ten thousand dollars (\$10,000); and

3. If the trespass can be reasonably construed to have been committed in a manner described in section 36-1603(a), Idaho Code, shall have any license issued pursuant to chapter 3, title 36, Idaho Code, suspended for a period of no more than five (5) years.

(b) Penalties for criminal trespass with damage.

1 (i) Any person who pleads guilty to or is found guilty of a viola-
 2 tion of subsection (2) (b) of this section for the first time:

- 3 1. May be sentenced to jail for a period of no more than six
 4 (6) months; and
- 5 2. Shall be fined in an amount no less than one thousand five
 6 hundred dollars (\$1,500) and no more than five thousand dol-
 7 lars (\$5,000).

8 (ii) Any person who pleads guilty to or is found guilty of a viola-
 9 tion of subsection (2) (b) of this section for a second time within
 10 five (5) years:

- 11 1. May be sentenced to jail for a period of no more than six
 12 (6) months;
- 13 2. Shall be fined in an amount no less than five thou-
 14 sand dollars (\$5,000) and no more than ten thousand dollars
 15 (\$10,000); and
- 16 3. If the trespass can be reasonably construed to have been
 17 committed in a manner described in section 36-1603(a), Idaho
 18 Code, shall have any license issued pursuant to chapter 3,
 19 title 36, Idaho Code, suspended for a period of one (1) year.

20 (iii) Any person who pleads guilty to or is found guilty of a viola-
 21 tion of subsection (2) (b) of this section, who previously has been
 22 found guilty of or has pled guilty to two (2) or more violations of
 23 the provisions of subsection (2) of this section within ten (10)
 24 years, notwithstanding the form of the judgments or withheld judg-
 25 ments, is guilty of a felony and:

- 26 1. Shall be sentenced to the custody of the state board of
 27 correction for a period of no less than one (1) year and no
 28 more than five (5) years;
- 29 2. Shall be fined in an amount no less than fifteen thou-
 30 sand dollars (\$15,000) and no more than fifty thousand dol-
 31 lars (\$50,000); and
- 32 3. If the trespass can be reasonably construed to have been
 33 committed in a manner described in section 36-1603(a), Idaho
 34 Code, shall have any license issued pursuant to chapter 3,
 35 title 36, Idaho Code, suspended for a period of no less than
 36 five (5) years.

37 (c) In addition to any other penalty prescribed by law, a court shall,
 38 for any violation of subsection (2) of this section, order restitution
 39 in accordance with section 19-5304, Idaho Code.

40 (4) Posting of navigable streams shall not prohibit access to navigable
 41 streams below the high-water mark pursuant to section 36-1601, Idaho Code.

42 (5) Subject to any rights or authorities described in subsection (6) of
 43 this section, a landowner or his agent may revoke permission granted under
 44 this section to another to enter or remain upon his property at any time, for
 45 any reason, orally, in writing, or by any other form of notice reasonably ap-
 46 parent to the permitted person or persons.

47 (6) A person shall not be guilty of trespass under this section for en-
 48 tering or remaining upon real property if the person entered or remained on
 49 the property pursuant to any of the following rights or authorities:

1 (a) An established right of entry or occupancy of the real property in
2 question, including, but not limited to:

3 (i) An invitation, whether express or implied, to enter or remain
4 on real property including, but not limited to, the right to enter
5 property that is, at the time, open to the public, if the person is
6 in compliance with lawful conditions imposed on access;

7 (ii) A license to enter or remain on real property; or

8 (iii) A lease, easement, contract, privilege or other legal right
9 to enter, remain upon, possess or use the real property;

10 (b) A lawful authority to enter onto or remain upon the real property in
11 question, including, but not limited to:

12 (i) Any law enforcement officer during the course and scope of
13 fulfilling his lawful duties;

14 (ii) Any paramedic, firefighter or other emergency personnel dur-
15 ing the course and scope of fulfilling his lawful duties; or

16 (iii) Any licensed professional otherwise authorized to enter or
17 remain on the real property during the course and scope of fulfill-
18 ing his lawful duties; or

19 (c) Any other person with a legally prescribed right to enter or remain
20 upon the real property in question.

21 (7) Examples of the exclusions in subsection (6) of this section in-
22 clude, but are not limited to: a customer entering and remaining in a store
23 during business hours who has not been asked to depart by the property owner
24 or his agent; a person knocking on a front door of a property that is not
25 posted; a meter reader during the scope and course of his employment; a
26 postal employee delivering mail or packages; power company personnel fixing
27 downed power lines; a bail bondsman arresting a person who is in violation of
28 a bail contract; a tenant pursuant to a valid lease; and the owner or operator
29 of any right-of-way or easement for any ditch, canal or other conduit, acting
30 pursuant to the provisions of chapter 11 or chapter 12, title 42, Idaho Code.

31 (8) The exclusions set forth in this section shall not relieve any per-
32 son of civil or criminal liability pursuant to other applicable law for caus-
33 ing damage while entering or remaining on the property in question.

34 SECTION 7. That Section 18-7011, Idaho Code, be, and the same is hereby
35 repealed.

36 SECTION 8. That Section 19-4705, Idaho Code, be, and the same is hereby
37 amended to read as follows:

38 19-4705. PAYMENT OF FINES AND FORFEITURES -- SATISFACTION OF JUDGMENT
39 -- DISPOSITION -- APPORTIONMENT. (1) Except as otherwise provided in subsec-
40 tion (2) of this section:

41 (a) All fines and forfeitures collected pursuant to the judgment of
42 any court of the state shall be remitted to the court in which the judg-
43 ment was rendered. The judgment shall then be satisfied by entry in the
44 docket of the court. The clerk of the court shall daily remit all fines
45 and forfeitures to the county auditor who shall at the end of each month
46 apportion the proceeds according to the provisions of this chapter.
47 Other existing laws regarding the disposition of fines and forfeitures
48 are hereby repealed to the extent such laws are inconsistent with the

1 provisions of this chapter except as provided in section 49-1013(5),
2 Idaho Code.

3 (b) Fines and forfeitures remitted for violations of fish and game
4 laws shall be apportioned two and one-half percent (2 1/2%) to the
5 state treasurer for deposit in the state general fund, ten percent
6 (10%) to the search and rescue account, twenty-two and one-half percent
7 (22 1/2%) to the district court fund and sixty-five percent (65%) to the
8 fish and game fund.

9 (c) Fines and forfeitures remitted for violations of state motor ve-
10 hicle laws, for violation of state driving privilege laws, and for
11 violation of state laws prohibiting driving while under the influence
12 of alcohol, drugs or any other intoxicating substances, shall be ap-
13 portioned ten percent (10%) to the state treasurer of which eighty-six
14 percent (86%) shall be deposited to the state general fund and fourteen
15 percent (14%) shall be deposited to the peace officers standards and
16 training fund authorized in section 19-5116, Idaho Code, forty-five
17 percent (45%) to the state treasurer for deposit in the highway dis-
18 tribution account, twenty-two and one-half percent (22 1/2%) to the
19 district court fund and twenty-two and one-half percent (22 1/2%) to the
20 state treasurer for deposit in the public school income fund; provided,
21 however, that fines and forfeitures remitted for violation of state mo-
22 tor vehicle laws, for violation of state driving privilege laws, and for
23 violation of state laws prohibiting driving while under the influence
24 of alcohol, drugs or any other intoxicating substances, where an arrest
25 is made or a citation is issued by a city law enforcement official, or by
26 a law enforcement official of a governmental agency under contract to
27 provide law enforcement services for a city, shall be apportioned ten
28 percent (10%) to the state treasurer of which eighty-six percent (86%)
29 shall be deposited to the state general fund and fourteen percent (14%)
30 shall be deposited to the peace officers standards and training fund
31 authorized in section 19-5116, Idaho Code, and ninety percent (90%) to
32 the city whose officer made the arrest or issued the citation.

33 (d) Fines and forfeitures remitted for violation of any state law not
34 involving fish and game laws, or motor vehicle laws, or state driving
35 privilege laws, or state laws prohibiting driving while under the in-
36 fluence of alcohol, drugs or any other intoxicating substances, shall
37 be apportioned ten percent (10%) to the state treasurer of which eighty-
38 six percent (86%) shall be deposited to the state general fund and four-
39 teen percent (14%) shall be deposited to the peace officers standards
40 and training fund authorized in section 19-5116, Idaho Code, and ninety
41 percent (90%) to the district court fund of the county in which the vio-
42 lation occurred.

43 (e) Fines and forfeitures remitted for violation of county ordinances
44 shall be apportioned ten percent (10%) to the state treasurer of which
45 eighty-six percent (86%) shall be deposited to the state general fund
46 and fourteen percent (14%) shall be deposited to the peace officers
47 standards and training fund authorized in section 19-5116, Idaho Code,
48 and ninety percent (90%) to the district court fund of the county whose
49 ordinance was violated.

(f) Fines and forfeitures remitted for violation of city ordinances shall be apportioned ten percent (10%) to the state treasurer of which eighty-six percent (86%) shall be deposited to the state general fund and fourteen percent (14%) shall be deposited to the peace officers standards and training fund authorized in section 19-5116, Idaho Code, and ninety percent (90%) to the city whose ordinance was violated.

(g) Fines and forfeitures remitted for violations not specified in this chapter shall be apportioned ten percent (10%) to the state treasurer of which eighty-six percent (86%) shall be deposited to the state general fund and fourteen percent (14%) shall be deposited to the peace officers standards and training fund authorized in section 19-5116, Idaho Code, and ninety percent (90%) to the district court fund of the county in which the violation occurred except in cases where a duly designated officer of any city police department or city law enforcement official shall have made the arrest for any such violation, in which case ninety percent (90%) shall be apportioned to the city whose officer made the arrest.

(h) Fines and forfeitures remitted for violations involving registrations of motorcycles or motor-driven cycles used off highways, snowmobiles, or use of winter recreation parking areas shall be apportioned ten percent (10%) to the state treasurer of which eighty-six percent (86%) shall be deposited to the state general fund and fourteen percent (14%) shall be deposited to the peace officers standards and training fund authorized in section 19-5116, Idaho Code, and ninety percent (90%) to the general fund of the county or city whose law enforcement official issued the citation.

(i) Fines and forfeitures remitted for violations of overweight laws as provided in section 49-1013(3), Idaho Code, shall be deposited one hundred percent (100%) into the highway distribution account.

(j) Fines remitted for violations of section 18-7008, Idaho Code, shall be apportioned ten percent (10%) to the district court fund, sixty-five percent (65%) to the county where the trespass occurred for appropriation to the sheriff's office, and twenty-five percent (25%) to the Idaho rangeland resources commission for expanded education programs regarding private property rights and land user responsibility.

(2) Any fine or forfeiture remitted for any misdemeanor violation for which an increase in the maximum fine became effective on or after July 1, 2005, shall be apportioned as follows:

(a) Any funds remitted, up to the maximum amount that could have been imposed before July 1, 2005, as a fine for the misdemeanor violation, shall be apportioned according to the applicable provisions of subsection (1) of this section; and

(b) Any other funds remitted, in excess of the maximum amount that could have been imposed before July 1, 2005, as a fine for the misdemeanor violation, shall be remitted to the state treasurer and shall be deposited in the drug court, mental health court and family court services fund as set forth in section 1-1625, Idaho Code.

(3) As used in this section, the term "city law enforcement official" shall include an official of any governmental agency which is providing law enforcement services to a city in accordance with the terms of a contract or

1 agreement, when such official makes the arrest or issues a citation within
 2 the geographical limits of the city and when the contract or agreement pro-
 3 vides for payment to the city of fines and forfeitures resulting from such
 4 service.

5 SECTION 9. That Section 36-1402, Idaho Code, be, and the same is hereby
 6 amended to read as follows:

7 36-1402. PENALTY -- INFRACTION -- MISDEMEANOR -- FELONY -- REVOCATION
 8 OF LICENSE -- DISPOSITION OF MONEYS. (a) Infraction Penalty. Except as pro-
 9 vided for in subsection (b) of this section, any person who pleads guilty to
 10 or is found guilty of an infraction of this code, or rules or proclamations
 11 promulgated pursuant thereto, shall be subject to a fine of seventy-two dol-
 12 lars (\$72.00).

13 (b) A violation of section 36-1401(a)1.(K) through (L) or (a)2.(S)
 14 through (X), Idaho Code, shall constitute an infraction subject to a fine of
 15 two hundred fifty dollars (\$250).

16 (c) Misdemeanor Penalty. Any person entering a plea of guilty for,
 17 found guilty of or convicted of a misdemeanor under the provisions of this
 18 title or rules or proclamations promulgated pursuant thereto shall, ex-
 19 cept in cases where a higher penalty is prescribed, be fined in a sum of not
 20 less than twenty-five dollars (\$25.00) nor more than one thousand dollars
 21 (\$1,000) and/or by commitment to jail for not more than six (6) months. The
 22 minimum fine, per animal, fish or bird, for the illegal taking, illegal pos-
 23 session or the illegal waste of the following animals, fish or birds shall be
 24 as indicated below:

25	Animal, Fish or Bird	Minimum Fine
26	Bighorn sheep, mountain goat and moose	\$500
27	Elk	\$300
28	Any other big game animal	\$200
29	Wild turkey, swan and sturgeon	\$200
30	Chinook salmon, wild steelhead and bull trout	\$100
31	Any other game bird, game fish or furbearer	\$ 25

32 (d) Felony Penalty. Any person entering a plea of guilty for, found
 33 guilty of or convicted of a felony under the provisions of this title shall be
 34 punished in accordance with section 18-112, Idaho Code. Provided further,
 35 that the judge hearing the case shall forthwith revoke for life, the hunting,
 36 fishing or trapping license and privileges of any person who, within a five
 37 (5) year period, pleads guilty to, is found guilty of or is convicted of three
 38 (3) or more felony violations of the provisions of this title.

39 (e) License Revocation. Any person entering a plea of guilty or being
 40 found guilty or convicted of violating any of the provisions of this title,
 41 or who otherwise fails to comply with the requirements of a citation in con-
 42 nection with any such offense, may, in addition to any other penalty assessed
 43 by the court, have his hunting, fishing, or trapping privileges revoked for
 44 such period of time as may be determined by the court not to exceed three (3)
 45 years, except that violations classified as felonies under section 36-1401,

Idaho Code, or as flagrant violations as defined in subsection (f) of this section, shall authorize the court to impose license revocations for periods of time up to and including life, with said period beginning on the date of conviction, finding of guilt or the entry of the plea of guilty. Provided further, that the magistrate hearing the case shall forthwith revoke the hunting, fishing, or trapping privileges for a period of not less than one (1) year for any of the following offenses:

1. Taking or possessing upland game birds, migratory waterfowl, salmon, steelhead, sturgeon, or any big game animal during closed season.
2. Exceeding the daily bag or possession limit of upland game birds, migratory waterfowl or big game animals.
3. Taking any fish by unlawful methods as set forth in section 36-902(a) or (c), Idaho Code.
4. Unlawfully purchasing, possessing or using any license, tag or permit as set forth in section 36-405(c), Idaho Code.
5. ~~Trespassing in violation of warning signs or failing to depart the real property of another after notification as set forth in~~ Violating section 36-1603, Idaho Code.
6. The unlawful release of any species of live fish into any public body of water in the state. For purposes of this paragraph, an "unlawful release of any species of live fish" shall mean a release of any species of live fish, or live eggs thereof, in the state without the permission of the director of the department of fish and game; provided, that no permission is required when fish are being freed from a hook and released at the same time and place where caught or when crayfish are being released from a trap at the same time and place where caught.

Provided further, that the magistrate hearing the case of a first-time hunting violation offender under the age of twenty-one (21) years may require that the offender attend a remedial hunter education course at the offender's expense. Upon successful completion of the course, the remainder of the revocation period shall be subject to a withheld judgment ~~so~~ as long as the offender is not convicted of any additional hunting violations during the period. The cost of the course shall be seventy-five dollars (\$75.00) to be paid to the department. The commission shall establish by rule the curriculum of the hunter education remedial course.

The revocation shall consist of cancellation of an existing license for the required length of time and/or denial of the privilege of purchasing an applicable license for the length of time required to meet the revocation period decreed. In the case of persons pleading guilty, convicted or found guilty of committing multiple offenses, the revocation periods may run consecutively. In the case of pleas of guilty, convictions or findings of guilt involving taking big game animals during closed season or exceeding the daily bag or possession limit of big game, the magistrate hearing the case shall revoke the hunting, fishing or trapping privileges of any person convicted or found guilty of those offenses for a period of not less than one (1) year for each big game animal illegally taken or possessed by the person convicted or found guilty.

1 It shall be a misdemeanor for any person to hunt, fish, or trap or pur-
 2 chase a license to do so during the period of time for which such privilege is
 3 revoked.

4 For the purpose of this title, the term "conviction" shall mean either a
 5 withheld judgment or a final conviction.

6 (f) Flagrant Violations. In addition to any other penalties assessed
 7 by the court, the magistrate hearing the case shall forthwith revoke the
 8 hunting, fishing or trapping privileges, for a period of not less than one
 9 (1) year and may revoke the privileges for a period up to and including the
 10 person's lifetime, for any person who enters a plea of guilty, who is found
 11 guilty, or who is convicted of any of the following flagrant violations:

12 1. Taking a big game animal after sunset by spotlighting, with use of
 13 artificial light, or with a night vision enhancement device.

14 2. Unlawfully taking two (2) or more big game animals within a twelve
 15 (12) month period.

16 3. Taking a big game animal with a rimfire or centerfire cartridge
 17 firearm during an archery or muzzleloader only hunt.

18 4. Hunting, fishing, trapping or purchasing a license when license
 19 privileges have been revoked pursuant to this section or section
 20 36-1501, Idaho Code.

21 5. Taking any big game animal during a closed season.

22 6. Any felony violation provided in section 36-1401, Idaho Code.

23 (g) For purposes of the wildlife violator compact, section 36-2301,
 24 Idaho Code, et seq., the department shall:

25 1. Suspend a violator's license for failure to comply with the terms of
 26 a citation from a party state. A copy of a report of failure to comply
 27 from the licensing authority of the issuing state shall be conclusive
 28 evidence.

29 2. Revoke a violator's license for a conviction in a party state. A
 30 report of conviction from the licensing authority of the issuing state
 31 shall be conclusive evidence.

32 (h) Disposition of Fines and Forfeitures. Distribution of fines and
 33 forfeitures remitted shall be in accordance with section 19-4705, Idaho
 34 Code.

35 SECTION 10. That Section 36-1602, Idaho Code, be, and the same is hereby
 36 repealed.

37 SECTION 11. That Section 36-1603, Idaho Code, be, and the same is hereby
 38 amended to read as follows:

39 36-1603. ~~TRESPASSING ON CULTIVATED LANDS OR IN VIOLATION OF WARNING~~
 40 ~~SIGNS -- POSTING OF PUBLIC LANDS -- HUNTING, FISHING AND TRAPPING.~~ (a) No
 41 person shall enter the real property of another and shoot any weapon or en-
 42 ter such property for the purposes of hunting, retrieving wildlife, fishing
 43 or trapping, ~~without the permission of the owner or person in charge of the~~
 44 ~~property, which property is either cultivated or:~~

45 ~~(1) Is posted with "No Trespassing" signs;~~

46 ~~(2) Is posted with a minimum of one hundred (100) square inches of fluo-~~
 47 ~~rescent orange, bright orange, blaze orange, safety orange or any simi-~~
 48 ~~lar high visibility shade of orange colored paint except that when metal~~

1 fence posts are used, a minimum of eighteen (18) inches of the top of the
2 post must be painted a high visibility shade of orange;

3 ~~(3) Is posted with other notices of like meaning, spaced at intervals~~
4 ~~of not less than one (1) sign, paint area or notice per six hundred sixty~~
5 ~~(660) feet along such real property; provided that where the geographi-~~
6 ~~cal configuration of the real property is such that entry can reasonably~~
7 ~~be made only at certain points of access, such property is posted suffi-~~
8 ~~ciently for all purposes of this section if said signs, paint or notices~~
9 ~~are posted at such points of access; or~~

10 ~~(4) Is posted with a conspicuous sign where a public road enters the~~
11 ~~real property, through which or along which road the public has a~~
12 ~~right-of-way, stating words substantially similar to "PRIVATE PROP-~~
13 ~~ERTY, NO TRESPASSING OFF (fill in relevant compass direction(s)) SIDE~~
14 ~~OF ROAD NEXT (fill in the distance) MILES," and which is posted with a~~
15 ~~conspicuous sign where the public road exits the real property stating~~
16 ~~words substantially similar to "LEAVING PRIVATE PROPERTY." The post-~~
17 ~~ings shall be placed on the private real property. In lieu of posting~~
18 ~~the compass direction(s), a map depicting the area of private property~~
19 ~~may be displayed on the sign;~~

20 For the purposes of this section, "cultivated" shall mean soil that is being
21 or has been prepared by loosening or breaking up for the raising of crops, or
22 used for the raising of crops, or artificially irrigated pasturage. No per-
23 son shall fail to depart immediately from the real property of another after
24 being notified in writing or orally by the owner of the real property or the
25 owner's authorized agent in violation of section 18-7008, Idaho Code.

26 (b) No person shall post, sign, or indicate that any public lands within
27 this state, not held under an exclusive control lease, are privately owned
28 lands.

29 (c) Remedies. Any violation of this section shall subject the violator
30 to the penalties set forth in this title, including, but not limited to, sec-
31 tion 36-1402(e), Idaho Code.

32 (d) Permission forms.

33 (1) The department shall produce permission forms for a landowner to
34 indicate that a land user has express written permission to use private
35 land. The permission forms produced must contain spaces for all of the
36 information required by section 18-7008(1) (f), Idaho Code. The permis-
37 sion forms must state clearly that the permission may be revoked at any
38 time by the landowner or his agent.

39 (2) The department shall make the permission forms available on the de-
40 partment's website, in all fish and game offices and in the sheriff's
41 office in each county in the state of Idaho, at no charge to any person
42 owning land in Idaho.

43 (3) The department shall provide information to anyone holding li-
44 censes, tags or permits to take fish or wildlife in Idaho regarding
45 owners' rights and sportsmen's duties, at each point of sale and through
46 all reasonable means, including on the department's website and through
47 the public media.

48 (4) The restrictions in this section and section 18-7008, Idaho Code,
49 relating to trespass shall be stated in all hunting and fishing procla-
50 mations issued by the department.

1 (5) A landowner is not limited to using a permission form provided by
 2 the department under this subsection.

3 SECTION 12. That Section 36-1604, Idaho Code, be, and the same is hereby
 4 amended to read as follows:

5 36-1604. LIMITATION OF LIABILITY OF LANDOWNER. (a) Statement of Pur-
 6 pose. The purpose of this section is to encourage owners of land to make
 7 land, airstrips and water areas available to the public without charge for
 8 recreational purposes by limiting their liability toward persons entering
 9 thereon for such purposes.

10 (b) Definitions. As used in this section:

11 1. "Airstrips" means either improved or unimproved landing areas used
 12 by pilots to land, park, take off, unload, load and taxi aircraft.
 13 Airstrips shall not include landing areas which are or may become el-
 14 igible to receive federal funding pursuant to the federal airport and
 15 airway improvement act of 1982 and subsequent amendments thereto.

16 2. "Land" means private or public land, roads, airstrips, trails,
 17 water, watercourses, irrigation dams, water control structures,
 18 headgates, private or public ways and buildings, structures, and ma-
 19 chinery or equipment when attached to or used on the realty.

20 3. "Owner" means the possessor of a fee interest, a tenant, lessee, oc-
 21 cupant or person in control of the premises.

22 4. "Recreational purposes" includes, but is not limited to, any of
 23 the following activities or any combination thereof: hunting, fish-
 24 ing, swimming, boating, rafting, tubing, camping, picnicking, hiking,
 25 pleasure driving, the flying of aircraft, bicycling, running, playing
 26 on playground equipment, skateboarding, athletic competition, nature
 27 study, ~~water skiing~~ waterskiing, animal riding, motorcycling, snowmo-
 28 biling, recreational vehicles, winter sports, and viewing or enjoying
 29 historical, archeological, scenic, geological or scientific sites,
 30 when done without charge of the owner.

31 (c) Owner Exempt from Warning. An owner of land owes no duty of care
 32 to keep the premises safe for entry by others for recreational purposes, or
 33 to give any warning of a dangerous condition, use, structure, or activity on
 34 such premises to persons entering for such purposes. Neither the installa-
 35 tion of a sign or other form of warning of a dangerous condition, use, struc-
 36 ture, or activity, nor any modification made for the purpose of improving the
 37 safety of others, nor the failure to maintain or keep in place any sign, other
 38 form of warning, or modification made to improve safety, shall create lia-
 39 bility on the part of an owner of land where there is no other basis for such
 40 liability.

41 (d) Owner Assumes No Liability. An owner of land or equipment who ei-
 42 ther directly or indirectly invites or permits without charge any person to
 43 use such property for recreational purposes does not thereby:

44 1. Extend any assurance that the premises are safe for any purpose.

45 2. Confer upon such person the legal status of an invitee or licensee to
 46 whom a duty of care is owed.

47 3. Assume responsibility for or incur liability for any injury to per-
 48 son or property caused by an act of omission of such persons.

1 (e) Provisions Apply to Leased Public Land. Unless otherwise agreed in
 2 writing, the provisions of this section shall be deemed applicable to the du-
 3 ties and liability of an owner of land leased to the state or any subdivision
 4 thereof for recreational purposes.

5 (f) Provisions Apply to Land Subject to a Conservation Easement. Un-
 6 less otherwise agreed in writing, the provisions of this section shall be
 7 deemed applicable to the duties and liability of an owner of land subject to a
 8 conservation easement to any governmental entity or nonprofit organization.

9 (g) Owner Not Required to Keep Land Safe. Nothing in this section shall
 10 be construed to:

11 1. Create a duty of care or ground of liability for injury to persons or
 12 property.

13 2. Relieve any person using the land of another for recreational pur-
 14 poses from any obligation which he may have in the absence of this
 15 section to exercise care in his use of such land and in his activities
 16 thereon, or from legal consequences or failure to employ such care.

17 3. Apply to any person or persons who for compensation permit the land
 18 to be used for recreational purposes.

19 (h) User Liable for Damages. Any person using the land of another for
 20 recreational purposes, with or without permission, shall be liable for any
 21 damage to property, livestock or crops which he may cause while on said prop-
 22 erty, in addition to all remedies provided in section 6-202, Idaho Code, in
 23 the event the person has committed a civil trespass.

24 SECTION 13. That Section 36-1108, Idaho Code, be, and the same is hereby
 25 amended to read as follows:

26 36-1108. CONTROL OF DAMAGE BY PRONGHORN ANTELOPE, ELK, DEER OR MOOSE
 27 -- COMPENSATION FOR DAMAGES. (a) Prevention of depredation shall be a pri-
 28 ority management objective of the department, and it is the obligation
 29 of landowners to take all reasonable steps to prevent property loss from
 30 wildlife or to mitigate damages by wildlife. When any pronghorn antelope,
 31 elk, deer or moose is doing damage to or is destroying any property or is
 32 about to do so, the owner or lessee thereof may make complaint and verbally or
 33 electronically report the facts to the director or his designee who shall,
 34 within seventy-two (72) hours, investigate the conditions complained of. If
 35 it appears that the complaint is well-founded and the property of the com-
 36 plainant is being or is likely to be damaged or destroyed by such pronghorn
 37 antelope, elk, deer or moose, the director may:

38 1. Send a representative onto the premises to control, trap, and/or re-
 39 move such animals as will stop the damage to said property. Any ani-
 40 mals so taken shall remain the property of the state and shall be turned
 41 over to the director. The director may provide written authorization
 42 for possession of animals so taken.

43 2. Grant properly safeguarded permission to the complainant to con-
 44 trol, trap and/or remove such animals. Any animals so taken shall
 45 remain the property of the state and shall be turned over to the direc-
 46 tor. The director may provide written authorization for possession of
 47 animals so taken.

48 3. Make an agreement with the owner or lessee to allow continued use
 49 of lands by the animals where damage by them has occurred to stored,

growing or matured crops on private property whether owned or leased. The agreement made under the provisions of this subsection may provide for financial compensation to the owner or lessee. If made, financial compensation under the provisions of this subsection shall be governed by the provisions of section 36-115, Idaho Code, and shall not be in addition to any payments for the same crop losses from any other source. Compensation for damages under the provisions of this subsection shall be available for damages done to private lands, whether owned or leased, if the owner or lessee allowed hunters reasonable access to the property or through the property to public lands for hunting purposes during the preceding hunting season or as a measure of response to depredation. This provision shall not negate the provisions of section 36-16023, Idaho Code, relating to the necessity of obtaining permission to enter private land. If necessary, the arbitration panel provided for in subsection (b) of this section shall determine the reasonableness of access allowed.

(b) 1. In order to establish eligibility for submission of claims for damages, persons suffering crop damages on privately owned or leased land caused by pronghorn antelope, elk, deer or moose must:

(A) Notify the department within seventy-two (72) hours of discovery of damage.

(B) Follow up verbal notification with a written, which may be electronic, notice within twenty (20) days of the discovery of damages.

(C) The department shall not be held liable or accountable for any damages occurring more than twenty (20) days prior to the initial notification of damage. However, the department may extend the period up to thirty (30) days under exceptional circumstances.

The owner or lessee must have allowed hunters reasonable access to the property or through the property to public lands for hunting purposes during the preceding hunting season or as a measure of response to depredation, provided such access does not impact on their operations, or the claim for damages may be disallowed. Compensation for crop damages claims shall not be in addition to any payments for the same crop losses from any other source and shall not include fence or other types of property damage. While fences and irrigation equipment are not subject to claim for payment, the department is allowed to provide support and assistance, including provision of materials to design, construct, and maintain fences for control of depredation. The notice of damages caused must be in written form, shall be in the form of a claim for damages substantially the same as required by section 6-907, Idaho Code, shall be attested to by the claimant under oath, and the claim shall be at least seven hundred fifty dollars (\$750). The claim shall not be amended after it is filed, provided however, that a claimant may file an additional claim in the event additional damage occurs subsequent to filing the initial claim. The department shall prepare and make available suitable forms for notice and claim for damages. Claims may be submitted only for the fiscal year (July 1 through June 30) in which they occurred, with allowance for submission within the first sixty (60) days of the following fiscal year if the claim occurred within the

1 last sixty (60) days of the previous fiscal year. Any person submitting
 2 a fraudulent claim shall be prosecuted for a felony as provided in sec-
 3 tion 18-2706, Idaho Code. For purposes of this subsection, crop damages
 4 shall mean damage to plants grown or stored for profit and exclude orna-
 5 mental plants.

6 2. Upon receipt by the department, the department shall review the
 7 claim, and if approved, pay it as provided in section 36-115, Idaho
 8 Code, or order it paid as provided in section 36-115, Idaho Code.
 9 Failure on the part of the owner or lessee to allow on-site access for
 10 inspection and investigation of alleged losses shall void the claim for
 11 damages.

12 3. In the event the owner or lessee and the department fail to agree on
 13 the amount of damages within fifteen (15) business days of the written
 14 claim, either party may elect to retain the services of an independent
 15 certified insurance adjuster licensed in the state of Idaho to view the
 16 affected property and determine the amount of damages. In the event the
 17 owner or lessee and the department fail to agree on the amount of dam-
 18 ages and neither party elects to retain the services of an independent
 19 certified insurance adjuster, provisions of subsection (b)4. of this
 20 section shall apply. The independent certified adjuster shall complete
 21 his review and determination within twenty (20) days from the date he
 22 is retained, and will report his determination in writing by certified
 23 mail to the department and to the owner or lessee. Neither the owner or
 24 lessee, nor the department, shall disturb the affected property prior
 25 to review and determination by the independent insurance adjuster.
 26 Costs associated with the services of the independent insurance ad-
 27 juster shall be divided equally between the owner or lessee and the
 28 department, subject to reapportionment of the costs by an arbitration
 29 panel pursuant to the provisions of subsection (b)4. of this section.
 30 If the department, or the owner or lessee rejects the determination of
 31 the adjuster, they shall notify the other party in writing of the rejec-
 32 tion within five (5) business days of receipt of the adjuster's determi-
 33 nation. In the event that either party rejects the adjuster's determi-
 34 nation, the provisions of subsection (b)4. of this section shall apply.

35 4. Within five (5) business days of a rejection of an adjuster's deter-
 36 mination of damages or failure of the owner or lessee and the department
 37 to agree on damages when a certified insurance adjuster is not used, the
 38 director must convene an arbitration panel. To convene an arbitration
 39 panel, the director must, within five (5) business days, appoint the
 40 department's representative and notify the landholder of the appoint-
 41 ment. The landholder(s) shall, within the next five (5) business days
 42 following such notice from the department, appoint his representative
 43 and notify the department of the appointment. Within the next five (5)
 44 business days, the department representative and the landholder must
 45 mutually appoint the third arbitrator. The arbitration panel shall
 46 consist of three (3) members, as follows:

- 47 (A) The director of the department of fish and game or his de-
 48 signee;
- 49 (B) The owner or his designee, or the lessee or his designee;
- 50 (C) One (1) member selected by the two (2) members above.

1 The panel shall convene within thirty (30) days of the selection of the
 2 third arbitrator, and render its decision within fourteen (14) days
 3 after the hearing. When convened, the arbitration panel shall have
 4 the same authority to make on-site inspections as the department. The
 5 owner or lessee shall be responsible for payment of the expenses of his
 6 appointee; the director shall pay the expenses of his appointee from
 7 the expendable big game depredation fund; and the expenses of the third
 8 member shall be a joint responsibility of the owner or lessee, and the
 9 department. Provided however, the panel is authorized to review the
 10 costs associated with retaining the independent insurance adjuster and
 11 to determine whether those costs should instead be borne solely by the
 12 owner or lessee, solely by the department, or be apportioned between
 13 the owner or lessee and the department. In cases where an independent
 14 insurance adjuster was used, the party electing to use the adjuster
 15 shall assume the insurance adjuster's determination of damage as their
 16 estimate of damage. The panel shall consider the claim submitted by the
 17 owner or lessee, and the estimate of damages submitted by the depart-
 18 ment, and shall select one (1) amount or the other as being the closest
 19 to the actual damages sustained by the claimant. The arbitration panel
 20 shall report its decision in writing to both the owner or lessee and to
 21 the department within ten (10) days of the decision, and the decision
 22 of the panel shall be binding on the owner or lessee and the department.
 23 The fish and game advisory committee shall develop guidelines to govern
 24 arbitration procedures in accordance with chapter 52, title 67, Idaho
 25 Code.

26 (c) Any claim received by the department under the provisions of sub-
 27 section (b) of this section must be processed by the department within sixty
 28 (60) calendar days of receipt. If the claim is approved for payment, pay-
 29 ment must be made within forty-five (45) calendar days of such approval. Any
 30 damage claim determination by an independent insurance adjuster pursuant to
 31 subsection (b)3. of this section, accepted by the parties, must be paid by
 32 the department within forty-five (45) calendar days of the determination.
 33 If the claim is arbitrated, the arbitration must be completed within one hun-
 34 dred eighty (180) calendar days of filing the claim for such damages.

35 SECTION 14. SEVERABILITY. The provisions of this act are hereby de-
 36 clared to be severable and if any provision of this act or the application
 37 of such provision to any person or circumstance is declared invalid for any
 38 reason, such declaration shall not affect the validity of the remaining por-
 39 tions of this act.

40 SECTION 15. Section 4 of this act shall apply to causes of action accru-
 41 ing on or after July 1, 2018.

Prior Versions of Primary Statutes Affected



Idaho Statutes

Print Friendly

TITLE 6 ACTIONS IN PARTICULAR CASES CHAPTER 2

WASTE AND WILFUL TRESPASS ON REAL PROPERTY

6-202. ACTIONS FOR TRESPASS. Any person who, without permission of the owner, or the owner's agent, willfully and intentionally enters upon the real property of another person which property is posted with "No Trespassing" signs or other notices of like meaning, spaced at intervals of not less than one (1) notice per six hundred sixty (660) feet along such real property; or who willfully and intentionally cuts down or carries off any wood or underwood, tree or timber, or girdles, or otherwise willfully and intentionally injures any tree or timber on the land of another person, or on the street or highway in front of any person's house, village, or city lot, or cultivated grounds; or on the commons or public grounds of or in any city or town, or on the street or highway in front thereof, without lawful authority, is liable to the owner of such land, or to such city or town, for treble the amount of damages which may be assessed therefor or fifty dollars (\$50.00), plus a reasonable attorney's fee which shall be taxed as costs, in any civil action brought to enforce the terms of this act if the plaintiff prevails. Provided however, the owner or operator of any right-of-way or easement for any ditch, canal or other conduit governed by the provisions of chapter 11 or chapter 12, title 42, Idaho Code, who is found in violation of this section shall be liable only for actual damages and not for any treble damages or attorney fees otherwise provided for under this section.

History:

[(6-202) C.C.P. 1881, sec. 473; R.S., R.C., & C.L., sec. 4531; C.S., sec. 6958; I.C.A., sec. 9-202; am. 1976, ch. 155, sec. 1, p. 553; am. 2013, ch. 62, sec. 2, p. 138; am. 2015, ch. 298, sec. 1, p. 1178.]

How current is this law?

Search the Idaho Statutes and Constitution



Idaho Statutes

TITLE 6

ACTIONS IN PARTICULAR CASES

CHAPTER 2

WASTE AND WILFUL TRESPASS ON REAL PROPERTY

6-202A. DEFINITION OF TERMS. As used in section 6-202, Idaho Code, "enters" and "entry" mean going upon or over real property, either in person or by causing any object, substance or force to go upon or over real property.

History:

[6-202A, added 1976, ch. 155, sec. 2, p. 554.]

How current is this law?

Search the Idaho Statutes and Constitution



Idaho Statutes

TITLE 18

CRIMES AND PUNISHMENTS

CHAPTER 70

TRESPASS AND MALICIOUS INJURIES TO PROPERTY

18-7008. TRESPASS – ACTS CONSTITUTING. A. Every person who willfully commits any trespass, by either:

1. Cutting down, destroying or injuring any kind of wood or timber belonging to another, standing or growing upon the lands of another; or

2. Carrying away any kind of wood or timber lying on such lands; or

3. Maliciously injuring or severing from the freehold of another, anything attached thereto, or the produce thereof; or

4. Digging, taking, or carrying away from any lot situated within the limits of any incorporated city, without the license of the owner or legal occupant thereof, any earth, soil or stone; or

5. Digging, taking, or carrying away from any land in any of the cities of the state, laid down on the map or plan of such city, or otherwise recognized or established as a street, alley, avenue, or park, without the license of the proper authorities, any earth, soil or stone; or

6. Willfully opening, tearing down, or otherwise destroying any fence on the enclosed land of another, or opening any gate, bar, or fence of another and willfully leaving it open, or using the corral or corrals of another without the permission of the owner; or

7. Willfully covering up or encumbering in any manner the land or city lot of another, without written permission from the owner or custodian thereof; or

8. Every person, except under landlord-tenant relationship, who, being first notified in writing, or verbally by the owner or authorized agent of the owner of real property, to immediately depart from the same and who refuses to so depart, or who, without permission or invitation, returns and enters said property within a year, after being so notified; or

9. Entering without permission of the owner or the owner's agent, upon the real property of another person which:

(a) Is posted with "No Trespassing" signs;

(b) Is posted with a minimum of one hundred (100) square inches of fluorescent orange, bright orange, blaze orange, safety orange or any similar high visibility shade of orange colored paint except that when metal fence posts are used, a minimum of eighteen (18) inches of the top of the post must be painted a high visibility shade of orange;

(c) Is posted with other notices of like meaning, spaced at intervals of not less than one (1) sign, paint area or notice per six hundred sixty (660) feet along such real property; provided that where the geographical configuration of the real property is such that entry can reasonably be made only at certain points of access, such property is posted sufficiently for all purposes of this section if said signs, paint or notices are posted at such points of access; or

*Korsen & Pentecost
apply this sub-
to public
property*

(d) Is posted with a conspicuous sign where a public road enters the real property, through which or along which road the public has a right-of-way, stating words substantially similar to "PRIVATE PROPERTY, NO TRESPASSING OFF (fill in relevant compass direction(s)) SIDE OF ROAD NEXT (fill in the distance) MILES," and which is posted with a conspicuous sign where the public road exits the real property stating words substantially similar to "LEAVING PRIVATE PROPERTY." The postings shall be placed on the private real property. In lieu of posting the compass direction(s), a map depicting the area of private property may be displayed on the sign; or

10. Entering the property of another and, being unprovoked, intentionally and without the consent of the animal's owner, kills or injures a domestic animal not his own:

Is guilty of a misdemeanor.

B. Every person who while committing any trespass, intentionally and without consent of the animal's owner kills or injures a domestic animal of another, not including upland game birds or birds of any species not protected by law, shall be guilty of a misdemeanor. In addition to any other sentence of jail or a criminal fine imposed, a court may, for violation of this subsection or subsection A.10. of this section, impose a civil penalty in an amount up to double the value of the animal or for injuries sustained and payable to the owner of the animal.

History:

[18-7008, added 1972, ch. 336, sec. 1, p. 974; am. 1976, ch. 154, sec. 1, p. 550; am. 1992, ch. 283, sec. 1, p. 874; am. 1999, ch. 106, sec. 1, p. 333; am. 2000, ch. 147, sec. 1, p. 376; am. 2013, ch. 150, sec. 1, p. 347; am. 2014, ch. 28, sec. 1, p. 39.]

How current is this law?

Search the Idaho Statutes and Constitution



Idaho Statutes

TITLE 18 CRIMES AND PUNISHMENTS CHAPTER 70

TRESPASS AND MALICIOUS INJURIES TO PROPERTY

18-7011. CRIMINAL TRESPASS – DEFINITION AND PUNISHMENT. (1) Any person who, without consent of the owner or person in charge of any lands which are inclosed by fences of any description sufficient to show the boundaries of the land inclosed, shall go upon such lands and shall leave open any gates on or about said premises, or who shall tear down or lay down any fencing, or who shall willfully remove, mutilate, damage or destroy any "No Trespassing" signs or markers, or who shall go through cultivated crops that have not been harvested, or who shall damage any property thereon, or who without permission of the owner or the owner's agent enters the real property of another person where such real property:

- (a) Is posted with "No Trespassing" signs;
- (b) Is posted with a minimum of one hundred (100) square inches of fluorescent orange, bright orange, blaze orange, safety orange or any similar high visibility shade of orange colored paint except that when metal fence posts are used, a minimum of eighteen (18) inches of the top of the post must be painted a high visibility shade of orange;
- (c) Is posted with other notices of like meaning, spaced at intervals of not less than one (1) sign, paint area or notice per six hundred sixty (660) feet along such real property; provided that where the geographical configuration of the real property is such that entry can reasonably be made only at certain points of access, such property is posted sufficiently for all purposes of this section if said signs, paint or notices are posted at such points of access; or
- (d) Is posted with a conspicuous sign where a public road enters the real property, through which or along which road the public has a right-of-way, stating words substantially similar to "PRIVATE PROPERTY, NO TRESPASSING OFF (fill in relevant compass direction(s)) SIDE OF ROAD NEXT (fill in the distance) MILES," and which is posted with a conspicuous sign where the public road exits the real property stating words substantially similar to "LEAVING PRIVATE PROPERTY." The postings shall be placed on the private real property. In lieu of posting the compass direction(s), a map depicting the area of private property may be displayed on the sign;

is guilty of a misdemeanor and on conviction thereof shall be punished by imprisonment in a county jail not exceeding six (6) months or by a fine of not less than twenty-five dollars (\$25.00) and not more than one thousand dollars (\$1,000) or by both such fine and imprisonment.

As used in this subsection and in section 18-7008, Idaho Code: "enters," "entry" and "entering" mean going upon or over real property either in person or by causing any object, substance or force to go upon or over real property.

(2) No motor vehicle shall be willfully or intentionally driven into, upon, over or through any private land actively devoted to cultivated crops without the consent of the owner of the land or the tenant, lessee or agent of the owner of the land actively devoted to

cultivated crops. Violation of the provisions of this section shall be a misdemeanor. For the purpose of this subsection, motor vehicle shall be defined as set forth in sections 49-114 and 49-123, Idaho Code. Land actively devoted to cultivated crops shall be defined as land that is used to produce field crops including, but not limited to, grains, feed crops, legumes, fruits and vegetables.

History:

[18-7011, added 1972, ch. 336, sec. 1, p. 975; am. 1976, ch. 154, sec. 2, p. 551; am. 1984, ch. 37, sec. 1, p. 63; am. 1984, ch. 55, sec. 2, p. 95; am. 1988, ch. 265, sec. 561, p. 857; am. 2005, ch. 359, sec. 12, p. 1139; am. 2014, ch. 28, sec. 2, p. 40.]

How current is this law?

Search the Idaho Statutes and Constitution



Idaho Statutes

TITLE 36

FISH AND GAME

CHAPTER 14

GENERAL PENAL PROVISIONS

36-1401. VIOLATIONS. (a) Infractions. Any person who pleads guilty to or is found guilty of a violation of the following provisions of the fish and game code or the following rules or proclamations promulgated pursuant thereto is guilty of an infraction:

1. Statutes.

(A) Take, transport, use or have in possession bait fish as set forth in section 36-902(d), Idaho Code.

(B) Chumming as set forth in section 36-902(e), Idaho Code.

(C) Nonresident child under the age of fourteen (14) years fishing without a valid license and not accompanied by a valid license holder as set forth in section 36-401(a)2., Idaho Code.

(D) Use or cut a hole larger than ten (10) inches in the ice for ice fishing as set forth in section 36-1509(a), Idaho Code.

(E) Store fish without required tags/permits/statements as set forth in section 36-503, Idaho Code.

(F) Own, possess or harbor any dog found running loose and which is tracking, pursuing, harassing or attacking a big game animal as set forth in section 36-1101(b)7.(B), Idaho Code.

(G) Hunt migratory waterfowl without having in possession a signed federal migratory bird hunting stamp as set forth in section 36-1102(b)2., Idaho Code.

(H) Hunt migratory game birds without having in possession a license validated for the federal migratory bird harvest information program permit as set forth in section 36-409(k), Idaho Code.

(I) Trap in or on, destroy or damage any muskrat house as provided in section 36-1103(c), Idaho Code.

(J) Hunt migratory game birds with a shotgun capable of holding more than three (3) shells as provided and incorporated in section 36-1102(b), Idaho Code.

(K) Fail to purchase a muzzleloader permit as set forth in section 36-409(f), Idaho Code.

(L) Fail to purchase an archery permit as set forth in section 36-409(e), Idaho Code.

2. Rules or Proclamations.

(A) Fish from a raft or boat with motor attached in waters where motors are prohibited.

(B) Fish with hooks larger than allowed in that water.

(C) Fish with barbed hooks in waters where prohibited.

(D) Exceed any established bag limit for fish by one (1) fish, except bag limits for anadromous fish, landlocked chinook salmon, kamloops rainbow trout, lake trout, or bull trout.

(E) Fish with more than the approved number of lines or hooks.

- (F) Fail to leave head and/or tail on fish while fish are in possession or being transported.
- (G) Snag or hook fish other than in the head and fail to release, excluding anadromous fish.
- (H) Fail to attend fishing line and keep it under surveillance at all times.
- (I) Fail to comply with mandatory check and report requirements.
- (J) Fail to leave evidence of sex or species attached as required on game birds.
- (K) Hunt or take migratory game birds or upland game birds with shot exceeding the allowable size.
- (L) Fail to release, report or turn in nontarget trapped animals.
- (M) Fail to complete required report on trapped furbearer.
- (N) Fail to present required furbearer animal parts for inspection.
- (O) Fail to attach identification tags to traps.
- (P) Possess not more than one (1) undersized bass.
- (Q) Park or camp in a restricted area, except length of stay violations.
- (R) Fail to leave evidence of sex attached as required on game animals.
- (S) Fail to purchase sage grouse or sharp-tailed grouse hunting permit when hunting for sage grouse or sharp-tailed grouse anywhere within the state, except licensed shooting preserves.
- (T) Fail to wear at least thirty-six (36) square inches of visible hunter orange above the waist when hunting on wildlife management areas where pheasants are stocked.
- (U) Fail to comply with upland game bird shooting hours restrictions established by commission rule or proclamation.
- (V) Public use restrictions. Activities prohibited unless specifically authorized by the commission or under lease, permit, contract or agreement issued by the director, regional supervisor or other authorized agent:
 - (i) Use watercraft on any waters that are posted against such use;
 - (ii) Conduct dog field trials of any type during the period of October 1 through July 31. All dog field trials and dog training with the use of artificially propagated game birds between August 1 and September 30 will be under department permit as authorized by the director;
 - (iii) Construct blinds, pits, platforms or tree stands where the soil is disturbed, trees are cut or altered, and artificial fasteners such as wire, rope or nails are used. All blinds shall be available to the public on a first-come, first-served basis. Portable manufactured blinds and tree stands are allowed but may not be left overnight;
 - (iv) Shoot within, across or into posted safety zones;
 - (v) Leave decoys unattended. Decoys cannot be put in place any earlier than two (2) hours prior to official shooting hours for waterfowl, and all decoys must be picked up and removed from the hunting site no later

than two (2) hours after official shooting hours for waterfowl that particular day;
 (vi) Discharge any paintball guns;
 (vii) Place a geocache;
 (viii) Use for group events of more than fifteen (15) people;
 (ix) Use or transport any hay, straw or mulch that is not weed seed free certified.

(W) Evidence of species. In seasons restricted to mule deer only or white-tailed deer only, if the head is removed, the fully-haired tail must be left naturally attached to the carcass.

(X) Continue to fish on Henry's lake after reaching limit.

(b) Misdemeanors. Any person who pleads guilty to, is found guilty or is convicted of a violation of the provisions of this title or rules or proclamations promulgated pursuant thereto, or orders of the commission, except where an offense is expressly declared to be an infraction or felony, shall be guilty of a misdemeanor.

(c) Felonies. Any person who pleads guilty to, is found guilty or is convicted of a violation of the following offenses shall be guilty of a felony:

1. Knowingly and intentionally selling or offering for sale or exchange, or purchasing or offering to purchase or exchange, any wildlife, or parts thereof, which has been unlawfully killed, taken or possessed.
2. Releasing into the wild, without a permit from the director, any of the following wildlife, whether native or exotic: ungulates, bears, wolves, large felines, swine, or peccaries.
3. Unlawfully killing, possessing or wasting of any combination of numbers or species of wildlife within a twelve (12) month period which has a single or combined reimbursable damage assessment of more than one thousand dollars (\$1,000), as provided in section 36-1404, Idaho Code.
4. Conviction within ten (10) years of three (3) or more violations of the provisions of this title, penalties for which include either or both a mandatory license revocation or a reimbursable damage assessment.

History:

[36-1401, added 1976, ch. 95, sec. 2, p. 363; am. 1991, ch. 44, sec. 2, p. 83; am. 1991, ch. 130, sec. 1, p. 285; am. 1992, ch. 172, sec. 1, p. 536; am. 1994, ch. 94, sec. 2, p. 216; am. 1997, ch. 270, sec. 1, p. 781; am. 1997, ch. 347, sec. 1, p. 1032; am. 1998, ch. 58, sec. 1, p. 214; am. 1998, ch. 170, sec. 12, p. 586; am. 1999, ch. 32, sec. 3, p. 67; am. 2000, ch. 211, sec. 31, p. 569; am. 2012, ch. 107, sec. 2, p. 287; am. 2015, ch. 106, sec. 1, p. 259; am. 2017, ch. 124, sec. 1, p. 293.]

How current is this law?

Search the Idaho Statutes and Constitution



Idaho Statutes

TITLE 36 FISH AND GAME CHAPTER 14

GENERAL PENAL PROVISIONS

36-1402. PENALTY - INFRACTION - MISDEMEANOR - FELONY - REVOCATION OF LICENSE - DISPOSITION OF MONEYS. (a) Infraction Penalty. Except as provided for in subsection (b) of this section, any person who pleads guilty to or is found guilty of an infraction of this code, or rules or proclamations promulgated pursuant thereto, shall be subject to a fine of seventy-two dollars (\$72.00).

(b) A violation of section 36-1401(a)1.(K) through (L) or (a)2.(S) through (X), Idaho Code, shall constitute an infraction subject to a fine of two hundred fifty dollars (\$250).

(c) Misdemeanor Penalty. Any person entering a plea of guilty for, found guilty of or convicted of a misdemeanor under the provisions of this title or rules or proclamations promulgated pursuant thereto shall, except in cases where a higher penalty is prescribed, be fined in a sum of not less than twenty-five dollars (\$25.00) nor more than one thousand dollars (\$1,000) and/or by commitment to jail for not more than six (6) months. The minimum fine, per animal, fish or bird, for the illegal taking, illegal possession or the illegal waste of the following animals, fish or birds shall be as indicated below:

Animal, Fish or Bird	Minimum Fine
Bighorn sheep, mountain goat and moose	\$500
Elk	\$300
Any other big game animal	\$200
Wild turkey, swan and sturgeon	\$200
Chinook salmon, wild steelhead and bull trout	\$100
Any other game bird, game fish or furbearer	\$ 25

(d) Felony Penalty. Any person entering a plea of guilty for, found guilty of or convicted of a felony under the provisions of this title shall be punished in accordance with section 18-112, Idaho Code. Provided further, that the judge hearing the case shall forthwith revoke for life, the hunting, fishing or trapping license and privileges of any person who, within a five (5) year period, pleads guilty to, is found guilty of or is convicted of three (3) or more felony violations of the provisions of this title.

(e) License Revocation. Any person entering a plea of guilty or being found guilty or convicted of violating any of the provisions of this title, or who otherwise fails to comply with the requirements of a citation in connection with any such offense, may, in addition to any other penalty assessed by the court, have his hunting, fishing, or trapping privileges revoked for such period of time as may be determined by the court not to exceed three (3) years, except that violations classified as felonies under section 36-1401, Idaho Code,

or as flagrant violations as defined in subsection (f) of this section, shall authorize the court to impose license revocations for periods of time up to and including life, with said period beginning on the date of conviction, finding of guilt or the entry of the plea of guilty. Provided further, that the magistrate hearing the case shall forthwith revoke the hunting, fishing, or trapping privileges for a period of not less than one (1) year for any of the following offenses:

1. Taking or possessing upland game birds, migratory waterfowl, salmon, steelhead, sturgeon, or any big game animal during closed season.
2. Exceeding the daily bag or possession limit of upland game birds, migratory waterfowl or big game animals.
3. Taking any fish by unlawful methods as set forth in section 36-902(a) or (c), Idaho Code.
4. Unlawfully purchasing, possessing or using any license, tag or permit as set forth in section 36-405(c), Idaho Code.
5. Trespassing in violation of warning signs or failing to depart the real property of another after notification as set forth in section 36-1603, Idaho Code.
6. The unlawful release of any species of live fish into any public body of water in the state. For purposes of this paragraph, an "unlawful release of any species of live fish" shall mean a release of any species of live fish, or live eggs thereof, in the state without the permission of the director of the department of fish and game; provided, that no permission is required when fish are being freed from a hook and released at the same time and place where caught or when crayfish are being released from a trap at the same time and place where caught.

Provided further, that the magistrate hearing the case of a first-time hunting violation offender under the age of twenty-one (21) years may require that the offender attend a remedial hunter education course at the offender's expense. Upon successful completion of the course, the remainder of the revocation period shall be subject to a withheld judgment so long as the offender is not convicted of any additional hunting violations during the period. The cost of the course shall be seventy-five dollars (\$75.00) to be paid to the department. The commission shall establish by rule the curriculum of the hunter education remedial course.

The revocation shall consist of cancellation of an existing license for the required length of time and/or denial of the privilege of purchasing an applicable license for the length of time required to meet the revocation period decreed. In the case of persons pleading guilty, convicted or found guilty of committing multiple offenses, the revocation periods may run consecutively. In the case of pleas of guilty, convictions or findings of guilt involving taking big game animals during closed season or exceeding the daily bag or possession limit of big game, the magistrate hearing the case shall revoke the hunting, fishing or trapping privileges of any person convicted or found guilty of those offenses for a period of not less than one (1) year for each big game animal illegally taken or possessed by the person convicted or found guilty.

It shall be a misdemeanor for any person to hunt, fish, or trap or purchase a license to do so during the period of time for which such privilege is revoked.

For the purpose of this title, the term "conviction" shall mean either a withheld judgment or a final conviction.

(f) **Flagrant Violations.** In addition to any other penalties assessed by the court, the magistrate hearing the case shall forthwith revoke the hunting, fishing or trapping privileges, for a period of not less than one (1) year and may revoke the privileges for a period up to and including the person's lifetime, for any person who enters a plea of guilty, who is found guilty, or who is convicted of any of the following flagrant violations:

1. Taking a big game animal after sunset by spotlighting, with use of artificial light, or with a night vision enhancement device.
2. Unlawfully taking two (2) or more big game animals within a twelve (12) month period.
3. Taking a big game animal with a rimfire or centerfire cartridge firearm during an archery or muzzleloader only hunt.
4. Hunting, fishing, trapping or purchasing a license when license privileges have been revoked pursuant to this section or section 36-1501, Idaho Code.
5. Taking any big game animal during a closed season.
6. Any felony violation provided in section 36-1401, Idaho Code.

(g) For purposes of the wildlife violator compact, section 36-2301, Idaho Code, et seq., the department shall:

1. Suspend a violator's license for failure to comply with the terms of a citation from a party state. A copy of a report of failure to comply from the licensing authority of the issuing state shall be conclusive evidence.
2. Revoke a violator's license for a conviction in a party state. A report of conviction from the licensing authority of the issuing state shall be conclusive evidence.

(h) **Disposition of Fines and Forfeitures.** Distribution of fines and forfeitures remitted shall be in accordance with section 19-4705, Idaho Code.

History:

[36-1402, added 1976, ch. 95, sec. 2, p. 363; am. 1978, ch. 92, sec. 4, p. 176; am. 1979, ch. 95, sec. 1, p. 234; am. 1981, ch. 42, sec. 1, p. 64; am. 1984, ch. 112, sec. 1, p. 256; am. 1985, ch. 188, sec. 3, p. 486; am. 1987, ch. 176, sec. 1, p. 349; am. 1987, ch. 261, sec. 1, p. 552; am. 1990, ch. 4, sec. 1, p. 6; am. 1990, ch. 5, sec. 1, p. 9; am. 1990, ch. 364, sec. 2, p. 995; am. 1991, ch. 49, sec. 3, p. 89; am. 1991, ch. 128, sec. 1, p. 282; am. 1992, ch. 172, sec. 2, p. 538; am. 1992, ch. 216, sec. 1, p. 651; am. 1995, ch. 318, sec. 1, p. 1080; am. 1997, ch. 219, sec. 1, p. 648; am. 1997, ch. 270, sec. 2, p. 783; am. 1997, ch. 365, sec. 1, p. 1077; am. 1997, ch. 379, sec. 1, p. 1209; am. 1998, ch. 170, sec. 13, p. 588; am. 1998, ch. 251, sec. 1, p. 819; am. 2000, ch. 256, sec. 1, p. 724; am. 2005, ch. 34, sec. 1, p. 148; am. 2015, ch. 106, sec. 2, p. 262; am. 2016, ch. 47, sec. 20, p. 113.]

How current is this law?

Search the Idaho Statutes and Constitution



Idaho Statutes

TITLE 36 FISH AND GAME CHAPTER 16

RECREATIONAL TRESPASS – LANDHOLDER LIABILITY LIMITED

36-1602. HUNTING ON CULTIVATED, POSTED, OR ENCLOSED LANDS WITHOUT PERMISSION. No person shall hunt with a dog or weapon upon lands of another that are cultivated, posted, or enclosed by fences of any description sufficient to show the boundaries of the land enclosed without first obtaining permission from the owner or occupant thereof or his agent. Any person so hunting shall be responsible to the owner of said lands for all damages. Any person or persons violating the provisions of this section resulting in injuring or killing any livestock on said lands shall be found guilty in accordance with section 36-1401, Idaho Code.

History:

[36-1602, added 1976, ch. 95, sec. 2, p. 367; am. 1987, ch. 116, sec. 1, p. 229; am. 1992, ch. 81, sec. 37, p. 248.]

How current is this law?

Search the Idaho Statutes and Constitution



Idaho Statutes

TITLE 36 FISH AND GAME CHAPTER 16

RECREATIONAL TRESPASS – LANDHOLDER LIABILITY LIMITED

36-1603. TRESPASSING ON CULTIVATED LANDS OR IN VIOLATION OF WARNING SIGNS – POSTING OF PUBLIC LANDS. (a) No person shall enter the real property of another and shoot any weapon or enter such property for the purposes of hunting, retrieving wildlife, fishing or trapping, without the permission of the owner or person in charge of the property, which property is either cultivated or:

- (1) Is posted with "No Trespassing" signs;
- (2) Is posted with a minimum of one hundred (100) square inches of fluorescent orange, bright orange, blaze orange, safety orange or any similar high visibility shade of orange colored paint except that when metal fence posts are used, a minimum of eighteen (18) inches of the top of the post must be painted a high visibility shade of orange;
- (3) Is posted with other notices of like meaning, spaced at intervals of not less than one (1) sign, paint area or notice per six hundred sixty (660) feet along such real property; provided that where the geographical configuration of the real property is such that entry can reasonably be made only at certain points of access, such property is posted sufficiently for all purposes of this section if said signs, paint or notices are posted at such points of access; or
- (4) Is posted with a conspicuous sign where a public road enters the real property, through which or along which road the public has a right-of-way, stating words substantially similar to "PRIVATE PROPERTY, NO TRESPASSING OFF (fill in relevant compass direction(s)) SIDE OF ROAD NEXT (fill in the distance) MILES," and which is posted with a conspicuous sign where the public road exits the real property stating words substantially similar to "LEAVING PRIVATE PROPERTY." The postings shall be placed on the private real property. In lieu of posting the compass direction(s), a map depicting the area of private property may be displayed on the sign;

For the purposes of this section, "cultivated" shall mean soil that is being or has been prepared by loosening or breaking up for the raising of crops, or used for the raising of crops, or artificially irrigated pasturage. No person shall fail to depart immediately from the real property of another after being notified in writing or orally by the owner of the real property or the owner's authorized agent.

(b) No person shall post, sign, or indicate that any public lands within this state, not held under an exclusive control lease, are privately owned lands.

History:

[36-1603, added 1976, ch. 95, sec. 2, p. 367; am. 1987, ch. 116, sec. 2, p. 230; am. 1992, ch. 283, sec. 2, p. 875; am. 1998, ch. 251, sec. 2, p. 821; am. 2005, ch. 112, sec. 1, p. 363; am. 2013, ch. 150, sec. 2, p. 348; am. 2014, ch. 28, sec. 3, p. 41.]

How current is this law?

Other statutes relevant to HB658



Idaho Statutes

TITLE 18 CRIMES AND PUNISHMENTS CHAPTER 70

TRESPASS AND MALICIOUS INJURIES TO PROPERTY

18-7001. MALICIOUS INJURY TO PROPERTY. (1) Except as otherwise provided in subsection (2) of this section, every person who maliciously injures or destroys any real or personal property not his own, or any jointly owned property without permission of the joint owner, or any property belonging to the community of the person's marriage, in cases otherwise than such as are specified in this code, is guilty of a misdemeanor and shall be punishable by imprisonment in the county jail for up to one (1) year or a fine of not more than one thousand dollars (\$1,000), or both.

(2) A person is guilty of a felony, and shall be punishable by imprisonment in the state prison for not less than one (1) year nor more than five (5) years, and may be fined not more than one thousand dollars (\$1,000), or by both such fine and imprisonment, if:

(a) The damages caused by a violation of this section exceed one thousand dollars (\$1,000) in value; or

(b) Any series of individual violations of this section are part of a common scheme or plan and are aggregated in one (1) count, and the damages from such violations when considered together exceed one thousand dollars (\$1,000) in value.

History:

[18-7001, added 1972, ch. 336, sec. 1, p. 973; am. 1973, ch. 186, sec. 1, p. 432; am. 1998, ch. 354, sec. 1, p. 1112; am. 2005, ch. 118, sec. 1, p. 378.]

How current is this law?

Search the Idaho Statutes and Constitution



Idaho Statutes

TITLE 18
CRIMES AND PUNISHMENTS
CHAPTER 70

TRESPASS AND MALICIOUS INJURIES TO PROPERTY

18-7009. DESTRUCTION OF TIMBER ON STATE LANDS. Every person who wilfully and without authority enters upon the public lands of the state and cuts down, destroys or injures any kind of wood or timber, standing or growing upon such lands, or who wilfully and without authority carries away any kind of wood or timber lying on such lands, is guilty of a misdemeanor.

History:

[18-7009, added 1972, ch. 336, sec. 1, p. 975.]

How current is this law?

Search the Idaho Statutes and Constitution



Idaho Statutes

TITLE 18

CRIMES AND PUNISHMENTS

CHAPTER 70

TRESPASS AND MALICIOUS INJURIES TO PROPERTY

18-7010. CUTTING STATE TIMBER FOR SHIPMENT. Every person who wilfully and without authority enters upon the public lands of the state and cuts down, destroys or injures any kind of wood or timber growing upon such lands, for the purpose of shipping, freighting, floating or otherwise transporting such wood or timber out of the state, or who shall ship, freight or float, or otherwise transport out of the state, any wood or timber cut upon the public lands of the state, shall be guilty of a felony.

History:

[18-7010, added 1972, ch. 336, sec. 1, p. 975.]

How current is this law?

Search the Idaho Statutes and Constitution

Property of another includes public land
State v. Pentice 151 Idaho 906
State v. Korsen 138 Idaho 706



Idaho Statutes

TITLE 20 STATE PRISON AND COUNTY JAILS CHAPTER 5

JUVENILE CORRECTIONS ACT

20-520. SENTENCING. (1) Upon the entry of an order finding the juvenile offender is within the purview of the act, the court shall then hold a sentencing hearing in the manner prescribed by the Idaho juvenile rules to determine the sentence that will promote accountability, competency development and community protection. Prior to the entry of an order disposing of the case, other than an order of discharge or dismissal, the court may request and, if requested, shall receive a report containing the results of an inquiry into the home environment, past history, competency development, prevention or out of home placement services provided, and the social, physical and mental condition of the juvenile offender. The court shall not consider or review the report prior to the entry of an order of adjudication. Upon presentation and consideration of the report by the court, the court may proceed to sentence the juvenile offender as follows:

(a) Place the juvenile offender on formal probation for a period not to exceed three (3) years from the date of the order, except the court may place a juvenile offender on formal probation for a period not to exceed the juvenile offender's twenty-first birthday if the court finds that the juvenile offender has committed a crime of a sexual nature. If a juvenile offender is committed to the Idaho department of juvenile corrections pursuant to paragraph (r) of this subsection, the court may place the juvenile offender on probation from the date of sentencing up to three (3) years past the date of release from custody or the juvenile offender's twenty-first birthday, whichever occurs first; provided the court shall conduct a review hearing within thirty (30) days following release of the juvenile offender from the department of juvenile corrections in order to determine the conditions and term of such probation;

(b) Sentence the juvenile offender to detention pursuant to this act for a period not to exceed thirty (30) days for each act, omission or status which is prohibited by the federal, state, local or municipal law or ordinance by reason of minority only. The sentence shall not be executed unless the act, omission or status is in violation of 18 U.S.C. section 922(x), or the court finds that the juvenile offender has violated the court's decree imposing the sentence as provided in this subsection.

If the court, after notice and hearing, finds that a juvenile offender has violated the court's decree imposing the sentence under circumstances that bring the violation under the valid court order exception of the federal juvenile justice and delinquency prevention act of 1974, as amended, the court may commit the juvenile offender to detention for the period of detention previously imposed at sentencing;

(c) Commit the juvenile offender to a period of detention, pursuant to this act, for a period of time not to exceed ninety (90) days for each unlawful or criminal act the juvenile offender is found to have committed, if the unlawful or criminal act would

be a misdemeanor if committed by an adult, or where the juvenile offender has been adjudicated as an habitual status offender;

(d) If the juvenile offender has committed an unlawful or criminal act which would be a felony if committed by an adult, the court may commit the juvenile offender to detention for a period not to exceed one hundred eighty (180) days for each unlawful or criminal act;

(e) Whenever a court commits a juvenile offender to a period of detention, the juvenile detention center shall notify the school district where the detention center is located. No juvenile offender who is found to come within the purview of the act for the commission of a status offense shall be sentenced to detention in a jail facility unless an adjudication has been made that the juvenile offender is an habitual status offender;

(f) Commit the juvenile offender to detention and suspend the sentence on specific probationary conditions;

(g) The court may suspend or restrict the juvenile offender's driving privileges for such periods of time as the court deems necessary, and the court may take possession of the juvenile offender's driver's license. The juvenile offender may request restricted driving privileges during a period of suspension, which the court may allow if the juvenile offender shows by a preponderance of evidence that driving privileges are necessary for his employment or for family health needs;

(h) The court may order that the juvenile offender be examined or treated by a physician, surgeon, psychiatrist or psychologist, or that he receive other special care, or that he submit to an alcohol or drug evaluation, if needed, and for such purposes may place the juvenile offender in a hospital or other suitable facility;

(i) The court may order that the county probation office authorize a comprehensive substance abuse assessment of the juvenile offender. After receiving the comprehensive substance abuse assessment, and upon a finding by the court that treatment will provide a cost-effective means of achieving the sentencing goals of accountability, competency development and community protection, the court may order that the juvenile offender receive immediate treatment for substance abuse in keeping with a plan of treatment approved by the court. The initial cost of the assessment and treatment shall be borne by the department of juvenile corrections with funds allocated to the county probation office. The director of the department of juvenile corrections may promulgate rules consistent with this paragraph to establish a schedule of fees to be charged to parents by the county probation office for such services based upon the cost of the services and the ability of parents to pay;

(j) In support of an order under the provisions of this section, the court may make an additional order setting forth reasonable conditions to be complied with by the parents, the juvenile offender, his legal guardian or custodian, or any other person who has been made a party to the proceedings, including, but not limited to, restrictions on visitation by the parents or one (1) parent, restrictions on the juvenile offender's associates, occupation and other activities, and requirements to be observed by the parents, guardian or custodian;

(k) The court may make any other reasonable order which is in the best interest of the juvenile offender or is required for the

protection of the public, except that no person under the age of eighteen (18) years may be committed to jail, prison or a secure facility which does not meet the standards set forth in section 20-518, Idaho Code, unless jurisdiction over the individual is in the process of being waived or has been waived pursuant to section 20-508 or 20-509, Idaho Code. The court may combine several of the above-listed modes of disposition where they are compatible;

(l) An order under the provisions of this section for probation or placement of a juvenile offender with an individual or an agency may provide a schedule for review of the case by the court;

(m) Order the proceeding expanded or altered to include consideration of the cause pursuant to chapter 16, title 16, Idaho Code;

(n) Order the case and all documents and records connected therewith transferred to the magistrate division of the district court for the county where the juvenile offender and/or parents reside if different than the county where the juvenile offender was charged and found to have committed the unlawful or criminal act, for the entry of a dispositional order;

(o) Order such other terms, conditions, care or treatment as appears to the court will best serve the interests of the juvenile offender and the community;

(p) The court shall assess a twenty dollar (\$20.00) detention/probation training academy fee against the juvenile offender for every petition filed where there has been an adjudication that the juvenile offender is within the purview of this chapter. All moneys raised pursuant to this paragraph shall be transmitted by the court for deposit in the juvenile corrections fund which is created in section 20-542, Idaho Code;

(q) Additionally, the court shall assess a fee of sixty cents (60¢) per hour of community service against the juvenile offender for every petition filed where there has been an adjudication that the juvenile offender is within the purview of this chapter and the court is ordering community service. Such fee is to be remitted by the court to the state insurance fund for purposes of providing worker's compensation insurance for persons performing community service pursuant to this chapter. However, if a county is self-insured and provides worker's compensation insurance for persons performing community service pursuant to the provisions of this chapter, then remittance to the state insurance fund is not required;

(r) Commit the juvenile offender to the legal custody of the department of juvenile corrections for an indeterminate period of time not to exceed the juvenile offender's nineteenth birthday, unless the custody review board determines that extended time in custody is necessary to address competency development, accountability, and community protection; provided however, that no juvenile offender shall remain in the custody of the department beyond the juvenile offender's twenty-first birthday. The department shall adopt rules implementing the custody review board and operations and procedures of such board. Juvenile offenders convicted as adults and placed in the dual custody of the department of juvenile corrections and the state board of correction under section 19-2601A, Idaho Code, are under the retained jurisdiction of the court and are not within the purview of the custody review board;

(s) Notwithstanding any other provision of this section, a court may not commit a juvenile offender under the age of ten (10) years to a period of detention or to the custody of the department of juvenile corrections for placement in secure confinement.

(2) When an order is entered pursuant to this section, the juvenile offender shall be transported to the facility or program so designated by the court or the department, as applicable, by the sheriff of the county where the juvenile offender resides or is committed, or by an appointed agent. When committing a juvenile offender to the department, or another entity, the court shall at once forward to the department or entity a certified copy of the order of commitment.

(3) Unless the court determines that an order of restitution would be inappropriate or undesirable, it shall order the juvenile offender or his parents or both to pay restitution to or make whole any victim who suffers an economic loss as a result of the juvenile offender's conduct in accordance with the standards and requirements of sections 19-5304 and 19-5305, Idaho Code. The amount of restitution which may be ordered by the court shall not be subject to the limitations of section 6-210, Idaho Code. Court-ordered restitution shall be paid prior to any other court-ordered payments unless the court specifically orders otherwise. The clerk of the district court, with the approval of the administrative district judge, may use the procedures set forth in section 19-4708, Idaho Code, for the collection of the restitution.

(4) The court may order the juvenile offender's parents or custodian to pay the charges imposed by community programs ordered by the court for the juvenile offender, or the juvenile offender's parents or custodian.

(5) Any parent, legal guardian or custodian violating any order of the court entered against the person under the provisions of this chapter shall be subject to contempt proceedings under the provisions of chapter 6, title 7, Idaho Code.

History:

[20-520 added 1996, ch. 301, sec. 2, p. 989; am. 1996, ch. 301, sec. 3, p. 992; am. 1996, ch. 359, sec. 2, p. 1209; am. 1997, ch. 76, sec. 1, p. 158; am. 1997, ch. 262, sec. 1, p. 747; am. 1999, ch. 155, sec. 1, p. 431; am. 2000, ch. 329, sec. 1, p. 1106; am. 2000, ch. 466, sec. 1, p. 1444; am. 2001, ch. 15, sec. 1, p. 17; am. 2002, ch. 73, sec. 1, p. 160; am. 2002, ch. 97, sec. 1, p. 265; am. 2002, ch. 309, sec. 1, p. 880; am. 2007, ch. 308, sec. 1, p. 862; am. 2008, ch. 41, sec. 1, p. 96; am. 2009, ch. 102, sec. 3, p. 313; am. 2009, ch. 154, sec. 2, p. 449; am. 2012, ch. 19, sec. 16, p. 54; am. 2012, ch. 257, sec. 6, p. 712; am. 2015, ch. 87, sec. 1, p. 213; am. 2015, ch. 113, sec. 8, p. 291.]

How current is this law?

Search the Idaho Statutes and Constitution