

a fine which may not exceed fifty dollars (\$50.00) per day. In determining the amount of any fine to be imposed for a violation, the registrar shall consider the following factors:

- (1) the gravity of the violation or extent to which the provisions of the applicable statute or rule were violated;
- (2) any action taken by the alleged violator to correct the violation or assure that the violation will not reoccur;
- (3) any previous violation. [1949, ch. 72, § 26, p. 117; am. and redesign. 1983, ch. 7, § 35, p. 23; am. 1994, ch. 323, § 1, p. 1027.]

**Compiler's notes.** This section was formerly compiled as § 39-266. Former § 39-273 was amended and redesignated as § 39-261 by § 22 of S.L. 1983, ch. 7.

**39-274. Evidentiary character of records and copies of records.**

Any certificate filed in accordance with the provisions of this chapter and the regulations prescribed by the board, or any copy of such records or part thereof, duly certified by the state registrar, shall be prima facie evidence of the facts recited therein. [1949, ch. 72, § 23, p. 117; am. and redesign. 1983, ch. 7, § 36, p. 23.]

**Compiler's notes.** This section was formerly compiled as § 39-263. Cited in: Haman v. Prudential Ins. Co., 91 Idaho 19, 415 P.2d 305 (1966).

**Admissibility of Death Certificate.** A duly filed certificate of death, or a copy thereof certified by the state registrar, is prima facie evidence of the facts stated therein. Corey v. Wilson, 93 Idaho 54, 454 P.2d 951 (1969).

**39-275. Applicability.** — The provisions of this chapter also apply to all certificates of birth, death, marriage, divorce, stillbirth, and reports of induced abortion previously received by the vital statistics unit and in the custody of the state registrar. [I.C., § 39-275, as added by 1983, ch. 7, § 37,

**39-276. Uniformity of interpretation.** — This chapter shall be so construed as to effectuate its general purpose to make uniform the laws of this state and the states which enact it. [1949, ch. 72, § 31, p. 117; am. and redesign. 1983, ch. 7, § 38, p. 23.]

**Compiler's notes.** This section was formerly compiled as § 39-271. Section 39-271 of S.L. 1983, ch. 7 read: "The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this act."

CHAPTER 3

ALCOHOLISM AND INTOXICATION TREATMENT ACT

- SECTION.
- 39-303. Designation of state substance abuse authority.
- 39-303A. Regional advisory committees.

SECTION.  
 39-304. Comprehensive program for treatment.  
 39-305. Standards for public and private treatment facilities — Enforcement procedures — Penalties.  
 39-306. Acceptance for treatment — Rules.  
 39-307. Voluntary treatment of alcoholics and addicts.

SECTION.  
 39-307A. Protective custody.  
 39-308. Records of alcoholics, intoxicated persons.  
 39-309. Payment for treatment — Financial ability of patients.  
 39-310. Criminal law limitations.  
 39-311. Rules and regulations.  
 39-312 — 39-316. [Repealed.]

### 39-300. Definitions. [Repealed.]

**Compiler's notes.** This section, which comprised I.C., § 39-300, as added by 1955, ch. 257, § 1, p. 586, was repealed by S.L. 1971, ch. 2, § 1, p. 4.

**39-301. Declaration of policy.** — It is the policy of this state that alcoholics, intoxicated persons or drug addicts may not be subjected to criminal prosecution or incarceration solely because of their consumption of alcoholic beverages or addiction to drugs but rather should be afforded treatment in order that they may lead normal lives as productive members of society.

The legislature hereby finds and declares that it is essential to the health and welfare of the people of this state that action be taken by state government to effectively and economically utilize federal and state funds for alcoholism and drug addiction research, and the prevention and for the treatment and rehabilitation of alcoholics or drug addicts. To achieve this, it is necessary that existing fragmented, uncoordinated and duplicative alcoholism and drug treatment programs be merged into a comprehensive and integrated system for the prevention, treatment and rehabilitation of alcoholics.

The legislature continues to recognize the need for criminal sanctions for those who violate the provisions of the uniform controlled substances act. [I.C., § 39-301, as added by 1975, ch. 149, § 1, p. 376; am. 1976, ch. 98, § 1, p. 416; am. 1987, ch. 289, § 1, p. 610.]

**Compiler's notes.** Former § 39-301, which comprised S.L. 1907, § 9, p. 182; am. R.C. § 1095; am. 1909, § 1, p. 153; am. 1913, ch. 140, § 1, p. 495; reen. C.L. § 1095; C.S., § 1655; I.C.A., § 38-301; am. 1955, ch. 257, § 2, p. 586; am. 1965, ch. 212, § 1, p. 486, was repealed by S.L. 1971, ch. 2, § 1, p. 4.

Section 2 of S.L. 1976, ch. 98 is compiled as § 39-303.

**Cited in:** St. Joseph Reg'l Med. Ctr. v. Nez Perce County Comm'rs, 134 Idaho 486, 5 P.3d 466 (2000).

#### ANALYSIS

Adequate medical care.

Application.

—Operation of motor vehicle.

Treatment not requirement.

#### Adequate Medical Care.

"Adequate medical care" has not been interpreted to require rehabilitation or treatment for chronic alcoholism. *State v. Hadley*, 122 Idaho 728, 838 P.2d 331 (Ct. App. 1992).

#### Application.

##### —Operation of Motor Vehicle.

The Alcoholism and Intoxication Treatment Act does not affect offenses involving the operation of a vehicle while intoxicated; therefore, it does not mandate that treatment for alcoholism be provided to a prison inmate. *State v. Puga*, 111 Idaho 874, 728 P.2d 398 (Ct. App. 1986).

#### Treatment Not Requirement.

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§ 38-302; am. 1955, ch. 257,

1965, ch. 212, § 2, p. 486, w

S.L. 1971, ch. 2, § 1, p. 4.

treatment. However, in no way does it impose a requirement to provide treatment for alcoholics convicted of substantive crimes. State v. Hadley, 122 Idaho 728, 838 P.2d 331 (Ct. App. 1992).

**39-302. Definitions.** — As used in this chapter, the terms defined in this section shall have the following meanings, unless the context clearly indicates another meaning:

(1) "Director" means the director of the Idaho department of health and welfare.

(2) "Department" means the Idaho department of health and welfare.

(3) "Drug addict" means a person who habitually lacks self-control with respect to the use of addictive drugs, or uses addictive drugs to the extent that his health is substantially impaired or endangered, or his social or economic functions are substantially disrupted.

(4) "Alcoholic" means a person who habitually lacks self-control with respect to the use of alcoholic beverages, or uses alcoholic beverages to the extent that his health is substantially impaired or endangered, or his social or economic functions are substantially disrupted.

(5) "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of drugs or alcohol.

(6) "Approved public treatment facility" means a treatment agency operating under this act through a contract with the department of health and welfare pursuant to section 39-304(6), Idaho Code, and meeting the standards prescribed in section 39-305(1), Idaho Code, and approved pursuant to section 39-305(3), Idaho Code, and rules and regulations promulgated by the board of health and welfare pursuant to this act.

(7) "Approved private treatment facility" means a private agency meeting the standards prescribed in section 39-305(1), Idaho Code, and approved under the provisions of section 39-305(3), Idaho Code, and rules and regulations promulgated by the board of health and welfare pursuant to this act.

(8) "Incapacitated by alcohol" means that a person, as a result of the use of alcohol or drugs, is unconscious or has his judgment otherwise so impaired that he is incapable of realizing and making a rational decision with respect to his need for treatment.

(9) "Incompetent person" means a person who has been adjudged incompetent by an appropriate court within this state.

(10) "Treatment" means the broad range of emergency, outpatient, intermediate, and inpatient services and care, including diagnostic evaluation, psychiatric, psychological, and social service care, vocational rehabilitation, and career counseling, which may be extended to alcoholics and drug addicts. [I.C., § 39-302, as added by S.L. 1975, ch. 149, § 1, p. 376; am. 1987, ch. 289, § 2, p. 610.]

**Editor's notes.** Former § 39-302, as amended S.L. 1907, § 20, p. 182; reen. S.L. 1917, § 1096; C.S., § 1656; I.C.A., § 16-1001, am. 1955, ch. 257, § 3, p. 586; am. 1975, ch. 149, § 2, p. 486, was repealed by S.L. 1975, ch. 149, § 1, p. 4.

The words "this act" refer to S.L. 1975, ch. 149, § 1 as amended, which is compiled as §§ 39-301 — 39-303, 39-304 — 39-307, 39-308 — 39-311.

**39-303. Designation of state substance abuse authority.** The Idaho department of health and welfare is hereby designated as the state substance abuse authority.

(a) The commission on alcohol-drug abuse is hereby established under the administrative direction of the department of health and welfare. The commission shall consist of not more than fourteen (14) members including such members as may be appointed by the governor. All members shall serve at the pleasure of the governor for terms of three (3) years. The commission shall have an advisory board comprised of such members as appointed by the governor who shall serve at the pleasure of the governor for three (3) years. The advisory board shall be comprised of representatives from public health, mental health, education, public welfare, corrections, transportation, public safety, vocational rehabilitation, and other appropriate public and private agencies with an interest in services related to alcohol and drug addiction. Commission and advisory board members shall serve without compensation but may be reimbursed for related travel and expenses pursuant to chapter 20, title 67, Idaho Code. The commission shall meet at least quarterly at the call of the chair. The commission shall provide for the coordination of, and exchange of information on, all programs relating to alcoholism and drug addiction, and shall act as a permanent liaison among the departments engaged in activities affecting alcoholics and intoxicated persons and/or drug addicts. The commission shall assist the director in formulating a comprehensive plan for prevention of alcoholism or drug addiction and for treatment of alcoholics, intoxicated persons and drug addicts.

(b) In exercising its coordinating functions, the commission shall assure that:

- (1) The appropriate agencies provide all necessary medical, social, treatment, and educational services for alcoholics, intoxicated persons and drug addicts and for the prevention of alcoholism or drug addiction, without unnecessary duplication of services;
- (2) The several agencies cooperate in the use of facilities and in the treatment of alcoholics, intoxicated persons and drug addicts; and
- (3) All agencies adopt approaches to the prevention of alcoholism or drug addiction and the treatment of alcoholics, intoxicated persons and drug addicts consistent with the policy of this act.

(c) The responsibilities of the commission shall be:

- (1) To address, through education and public awareness, conditions leading to the abuse of alcohol and drugs;
- (2) To be informed about alcohol-drug programs and services throughout the state and to advise the governor regarding alternatives and solutions;
- (3) To provide advocacy functions pertaining to programs and services related to alcohol-drug issues;
- (4) Under the administrative direction of the department of health and welfare, to apply for, accept, receive, disburse, expend, and carry out all responsibilities required, including monitoring and evaluation of federal, state, or private moneys made available to the commission to accomplish, in whole or part, any of the coordinating purposes administered by this commission;

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(5) To provide advice and consultation in the development and implemen-  
tation of improved policies for alcohol-drug programs or services in the  
state, including judicial, education, employment, rehabilitation, social  
services, medical and treatment; and

(6) To present to the governor and legislative council on July 15 of each  
year a report on the commission's achievements and impact on alcohol-  
drug services, programs and policies. [I.C., § 39-303, as added by 1975,  
ch. 149, § 1, p. 376; am. 1976, ch. 98, § 2, p. 416; am. 1987, ch. 289, § 3,  
p. 610; am. 1989, ch. 282, § 1, p. 691.]

**Compiler's notes.** Former § 39-303, For words "this act," see Compiler's notes,  
which comprised S.L. 1907, § 21, p. 182; reen. § 39-302.  
R.C. & C.L., § 1097; C.S., § 1657; I.C.A., Section 3 of S.L. 1976, ch. 98 is compiled as  
§ 39-303; am. 1955, ch. 257, § 4, p. 586, was § 39-307A.  
repealed by S.L. 1971, ch. 2, § 1, p. 4.

**39-303A. Regional advisory committees.** — Regional advisory com-  
mittees are established composed of regional directors of the department or  
their designees, regional substance abuse program staff, a member of the  
commission on alcohol-drug abuse, and representatives of other appropriate  
public and private agencies. Members shall be appointed by the regional  
director for terms determined by the regional director. The committees shall  
meet at least quarterly at the call of the chair, who shall also be appointed  
by the regional director. The committees shall provide for the coordination  
and exchange of information on all programs relating to alcoholism and  
drug addiction, and shall act as liaison among the departments engaged in  
programs affecting alcoholics and intoxicated persons. The regional advisory  
committees shall provide to the commission on alcohol-drug abuse informa-  
tion pertaining to local substance abuse program needs and other informa-  
tion that pertains to the treatment and prevention of alcoholism and other  
drug addiction. [I.C., § 39-303A, as added by 1989, ch. 282, § 2, p. 691.]

**39-304. Comprehensive program for treatment.** — (1) The depart-  
ment shall establish a comprehensive and coordinated program for the  
treatment of alcoholics, intoxicated persons and drug addicts.  
The program shall include:

- (a) emergency detoxification treatment and medical treatment directly  
affiliated with or part of the medical  
department of a general hospital;
  - (b) treatment;
  - (c) immediate treatment;
  - (d) patient and follow-up treatment; and
  - (e) community detoxification provided by an approved facility.
- The department shall provide for adequate and appropriate treatment  
of persons admitted pursuant to section 39-307, Idaho Code. Treatment  
provided at a correctional institution except for inmates.  
The department shall maintain, supervise, and control all facilities  
for the treatment of alcoholics, intoxicated persons and drug addicts.  
The administrator of each such facility shall make an annual  
report of its activities to the director in the form and manner the director

(5) All appropriate public and private resources shall be coordinated and utilized in the program whenever possible.

(6) The department shall prepare, publish and distribute annually of all approved public and private treatment facilities.

(7) The department may contract for the use of any facility at an approved public treatment facility if the director considers this to be an effective and economical course to follow.

(8) The program shall include an individualized treatment plan prepared and maintained for each client. [I.C., § 39-304, as added by S.L. 1975, ch. 149, § 1, p. 376; am. 1987, ch. 289, § 4, p. 610; am. 1989, ch. 282, § 3, p. 691.]

**Compiler's notes.** Former § 39-304, which comprised R.C., § 1097a, as added by 1909, § 2, p. 153; am. 1913, ch. 140, § 1, subd. 1097a, p. 497; am. 1917, ch. 111, p. 389; reen. C.L., § 1097a; C.S., § 1658; am. 1927, ch. 65, § 1, p. 81; I.C.A., § 38-304; am. 1955,

ch. 257, § 5, p. 586, was repealed by S.L. 1971, ch. 2, § 1, p. 4.

Section 5 of S.L. 1987, ch. 289 is compiled as § 39-306.

**Sec. to sec. ref.** This section is referred to in § 39-302.

### 39-305. Standards for public and private treatment facilities — Enforcement procedures — Penalties.

(1) The board of health and welfare shall establish standards for approved treatment facilities, which shall be met in order for a treatment facility to be approved as a public or private treatment facility. The standards shall prescribe the health standards to be met and standards of treatment to be afforded patients.

(2) The department shall periodically inspect approved public and private treatment facilities.

(3) The department shall maintain a list of approved public and private treatment facilities.

(4) Each approved public and private treatment facility shall file with the department any data, statistics, records, and information the department reasonably requires. An approved public or private treatment facility that, without good cause, fails to furnish any data, statistics, records, or information as requested, or that files fraudulent returns thereof, shall be removed from the list of approved treatment facilities.

(5) The board of health and welfare, after holding a hearing, may suspend, revoke, limit, or restrict an approval, or refuse to grant an approval, for failure to meet its standards.

(6) A district court may restrain any violation of this act, review any denial, restriction, or revocation of approval, and grant other relief required to enforce its provisions. [I.C., § 39-305, as added by S.L. 1975, ch. 149, § 1, p. 376.]

**Compiler's notes.** Former § 39-305, which comprised R.S., § 1153; am. 1903, p. 364, § 1; reen. R.C., § 1112; am. by repeal and substitution R.C., § 1097b, as added by 1909, p. 153, § 2; am. 1913, ch. 140, § 1, p. 497; reen. C.L., § 1097b; C.S., § 1659; I.C.A., § 38-305; am. 1955, ch. 257, § 6, p. 586, was repealed by S.L. 1971, ch. 2, § 1, p. 4.

For words "this act," see Compiler's notes, § 39-302.

**Cross ref.** Idaho Health Planning Act, §§ 39-4901 — 39-4904.

**Sec. to sec. ref.** This section is referred to in § 39-302.

1907, ch. 140, § 1, p. 497; reen. 1916; I.C.A., § 38-306;

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1907, ch. 140, § 1, p. 497; reen. 1916; I.C.A., § 38-306;

1907, ch. 140, § 1, p. 497; reen. 1916; I.C.A., § 38-306;

**39-306. Acceptance for treatment — Rules.** — The board of health and welfare shall adopt rules for the acceptance of persons into the treatment program, considering available treatment resources and facilities, for the purpose of early and effective treatment of alcoholics, intoxicated persons and drug addicts. In establishing the rules the board shall be guided by the following standards:

(1) If possible a patient shall be treated on a voluntary rather than an involuntary basis.

(2) A patient shall be initially assigned or transferred to outpatient or intermediate treatment, unless he is found to require inpatient treatment.

(3) A person shall not be denied treatment solely because he has withdrawn from treatment against medical advice on a prior occasion or because he has relapsed after earlier treatment.

(4) An individualized treatment plan shall be prepared and maintained on a current basis for each patient.

(5) Provision shall be made for a continuum of coordinated treatment services, so that a person who leaves a facility or a form of treatment will have available and utilize other appropriate treatment. [I.C., § 39-306, as added by S.L. 1975, ch. 149, § 1, p. 376; am. 1987, ch. 289, § 5, p. 610.]

**Compiler's notes.** Former § 39-306, § 7, p. 586, was repealed by S.L. 1971, ch. 2, which comprised 1907, p. 182, § 22; reen. § 1, p. 4. R.C., § 1098; am. 1909, p. 153, § 1; am. 1913, Section 4 of S.L. 1987, ch. 289 is compiled ch. 140, § 1, p. 497; reen. C.L., § 1098; C.S., as § 39-304. § 1660; I.C.A., § 38-306; am. 1955, ch. 257,

**39-307. Voluntary treatment of alcoholics and addicts.** — (1) An alcoholic or an addict may apply for voluntary treatment directly to any approved public treatment facility. If the proposed patient is a minor or an incompetent person, he, a parent, legal guardian, or other legal representative shall make the application.

(2) Subject to rules adopted by the board of health and welfare, the director or his designee may determine who shall be admitted to an approved public treatment facility.

(3) If a patient receiving inpatient care leaves an approved public treatment facility, he shall be encouraged to consent to appropriate outpatient or intermediate treatment, and the department shall assist in obtaining supportive services and residential facilities.

(4) If a patient leaves an approved public treatment facility, upon the recommendation of departmental staff, the department shall make reasonable provisions for his transportation to another facility or to his home. If he has no home, he shall be assisted in obtaining shelter. If the patient is a minor or an incompetent person, the request for discharge from an inpatient facility shall be made by a parent, legal guardian, or other legal representative or by the minor or incompetent if he were the original applicant. [I.C., § 39-307, as added by S.L. 1975, ch. 149, § 1, p. 376; am. 1987, ch. 289, § 6, p. 610.]

**Compiler's notes.** Former § 39-307, § 1099; am. 1909, p. 153, § 1; am. 1913, ch. 140, § 1, p. 498; compiled and reen. C.L., which comprised 1907, p. 182, § 23; am. R.C.,

§ 1099; C.S., § 1661; I.C.A., § 38-307; am. 1947, ch. 167, § 1, p. 423; am. 1955, ch. 257, § 8, p. 586, was repealed by S.L. 1971, ch. 2, § 1, p. 4.

Sec. to sec. ref. This section is referred to in § 39-304.

**39-307A. Protective custody.** — (a) An intoxicated or drug addicted person may come voluntarily to an approved public treatment facility for emergency treatment. A person who appears to be intoxicated in a public place and to be in need of help, if he consents to the proffered help, may be assisted to his home, an approved public treatment facility, an approved private treatment facility, or other health facility by a law enforcement officer.

(b) A person who appears to be incapacitated by alcohol or drugs shall be taken into protective custody by a law enforcement officer and forthwith brought to an approved treatment facility for emergency treatment. If an approved treatment facility is readily available he may be taken to a city or county jail where he may be held until he can be transported to an approved treatment facility, but in no event shall such confinement extend more than twenty-four (24) hours. A law enforcement officer, in detaining the person and in taking him to an approved treatment facility, is taking him into protective custody and shall make every reasonable effort to protect his health and safety. In taking the person into protective custody, the detaining officer may take reasonable steps to protect himself. A taking into protective custody under this section is not an arrest. No entry or other record shall be made to indicate that the person has been arrested or charged with a crime.

(c) A person who comes voluntarily or is brought to an approved treatment facility shall be examined as soon as possible. He may then be admitted as a patient or referred to another health facility. The referring approved treatment facility shall arrange for his transportation.

(d) A person who by examination is found to be incapacitated by alcohol or drugs at the time of his admission or to have become incapacitated at any time after his admission, may not be detained at the facility (1) once he is no longer incapacitated by alcohol or drugs or (2) if he remains incapacitated by alcohol or drugs for more than seventy-two (72) hours after admission as a patient. A person may consent to remain in the facility as long as the person in charge believes appropriate.

(e) If a patient is admitted to an approved treatment facility, his family or next of kin shall be notified as promptly as possible. If an adult patient who is not incapacitated requests that there be no notification, his request shall be respected.

(f) Law enforcement officers, personnel of the department, and personnel of an alcohol or drug treatment facility who act in compliance with this section are acting in the course of their official duty and are not criminally or civilly liable therefor.

(g) If the person in charge of the approved treatment facility determines it is for the patient's benefit, the patient shall be encouraged to agree to further diagnosis and appropriate voluntary treatment.

(h) That any person taken to a seventy-two (72) hour evaluation and treatment facility shall be informed immediately that he has the right to

test and take a chemical test and take a chemical test if he is intoxicated or addicted to a narcotic or other drug. A professional person may be taken to the facility for emergency treatment and release him. A record shall be made of the test. [I.C., § 39-307, ch. 289, § 7, p. 61]

Compiler's notes. Section 39-307 is compiled as § 39-307.

### 39-308. Records of

The registration and records are confidential, and are private. (2) Notwithstanding the foregoing, available information from the records shall be made available under this subsection shall include names or other identifying information. 1975, ch. 149, § 1, p. 37.

Compiler's notes. For the records which comprised 1907, p. 1; I.C., § 1100; am. 1913, ch. 1; I.C., § 1100; am. 1919, ch. 1; C.S., § 1662; am. 1929, ch. 1; I.C.A., § 38-308; am. 1935, ch. 1.

### 39-309. Payment for

(1) If treatment is provided and the patient has not paid for the services, the patient is not entitled for the services provided to the patient from any private source available to the patient.

(2) A patient in an approved treatment facility, or a person obligated to pay for sufficient financial ability to pay for transportation, maintenance, and other expenses with rates established by the board of health.

(3) The board of health shall determine the governing financial ability of a patient and other personal and other expenses as any support being provided to the patient required by law to support the patient. § 1, p. 376; am. 1976, ch. 1.

Compiler's notes. For the records which comprised 1927, ch. 1.



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request and take a chemical test in order to ascertain whether he is an intoxicated or addicted person. If the person requests to take the test and the professional person in charge of the facility then determines that the person taken to the facility is not intoxicated or addicted, he shall immediately release him. A record shall be maintained by the facility of the results of the test. [I.C., § 39-307A, as added by S.L. 1976, ch. 98, § 3, p. 416; am. 1987, ch. 289, § 7, p. 610.]

**Compiler's notes.** Section 4 of S.L. 1976, ch. 98 is compiled as § 39-309.

### **39-308. Records of alcoholics, intoxicated or addicted persons. —**

(1) The registration and other records of treatment facilities shall remain confidential, and are privileged to the patient.

(2) Notwithstanding subsection (1) of this section, the director may make available information from patients' records for purposes of research into the causes and treatment of alcoholism or drug addiction. Information under this subsection shall not be published in a way that discloses patients' names or other identifying information. [I.C., § 39-308, as added by S.L. 1975, ch. 149, § 1, p. 376; am. 1987, ch. 289, § 8, p. 610.]

**Compiler's notes.** Former § 39-308, which comprised 1907, p. 182, § 24; reen. R.C., § 1100; am. 1913, ch. 140, § 2, p. 499; reen. C.L., § 1100; am. 1919, ch. 10, § 1, p. 71; C.S., § 1662; am. 1929, ch. 18, § 1, p. 18; I.C.A., § 38-308; am. 1935, ch. 34, § 1, p. 58; am. 1945, ch. 53, § 1, p. 67; am. 1955, ch. 257, § 9, p. 586, was repealed by S.L. 1971, ch. 2, § 1, p. 4. Section 9 of S.L. 1987, ch. 289 is compiled as § 39-310.

### **39-309. Payment for treatment — Financial ability of patients. —**

(1) If treatment is provided by an approved public treatment facility and the patient has not paid the charge therefor, the department is entitled to any income or payment received by the patient or to which he may be entitled for the services rendered, and to any payment from any public or private source available to the department because of the treatment provided to the patient.

(2) A patient in an approved treatment facility, or the estate of the patient, or a person obligated to provide for the cost of treatment and having sufficient financial ability, is liable to the department for the cost of transportation, maintenance and treatment of the patient therein in accordance with rates established by the department.

(3) The board of health and welfare shall adopt rules and regulations governing financial ability that take into consideration the income, savings and other personal and real property of the person required to pay, as well as any support being furnished by him to any person whom he may be required by law to support. [I.C., § 39-309, as added by S.L. 1975, ch. 149, § 1, p. 376; am. 1976, ch. 98, § 4, p. 416.]

**Compiler's notes.** Former § 39-309, which comprised 1927, ch. 122, § 1, p. 166; I.C.A., § 38-309, was repealed by S.L. 1971, ch. 2, § 1, p. 4.

**39-310. Criminal law limitations.** — (1) With the exception of persons below the statutory age for consuming alcoholic beverages and of persons affected by the provisions of subsection (3) herein, no person shall be incarcerated or prosecuted criminally or civilly for the violation of any law, ordinance, resolution or rule that includes drinking, being a common drunkard, or being found in an intoxicated or addicted condition as one of the elements of the offense giving rise to criminal or civil penalty or sanction.

(2) No county, municipality, or other political subdivision may interpret or apply any law of general application to circumvent the provision of subsection (1) of this section.

(3) Nothing in this chapter shall affect any law, ordinance, resolution, or rule against drunken driving, driving under the influence of alcohol or drugs, or other similar offense involving the operation of a vehicle, aircraft, boat, machinery, or other equipment, or regarding the sale, purchase, dispensing, possessing, or use of alcoholic beverages or drugs at stated times and places or by a particular class of persons, or regarding the carrying of a concealed weapon when intoxicated or under the influence of an intoxicating drink or drug, or regarding pedestrians who are under the influence of alcohol or drugs to a degree which renders them a hazard and who walk or are otherwise upon a highway except on a sidewalk, or regarding persons who are using or are under the influence of controlled substances or narcotic drugs and who are on public property, roadways or conveyances or on private property open to the public.

(4) This chapter shall not limit or alter the terms or effect of section 18-116, Idaho Code.

(5) Nothing in this chapter shall affect the enforcement of any other provisions of the uniform controlled substances act. [I.C., § 39-310, as added by S.L. 1975, ch. 149, § 1, p. 376; am. 1987, ch. 289, § 9, p. 610; am. 2002, ch. 189, § 1, p. 543.]

**Compiler's notes.** Former § 39-310, which comprised 1907, p. 182, § 25; reen. R.C. & C.L., § 1101; C.S., § 1663; I.C.A., § 38-310; am. 1955, ch. 257, § 10, p. 586, was repealed by S.L. 1971, ch. 2, § 1, p. 4.

Section 8 of S.L. 1987, ch. 289 is compiled as § 39-308.

**Cited in:** Nowoj v. State, 115 Idaho 34, 764 P.2d 111 (Ct. App. 1988).

**Operation of Vehicle While Intoxicated.**

The Alcoholism and Intoxication Treatment Act does not affect offenses involving the operation of a vehicle while intoxicated; therefore, it does not mandate that treatment

for alcoholism be provided to a prison inmate. State v. Puga, 111 Idaho 874, 728 P.2d 398 (Ct. App. 1986).

Where the record showed that the court chose incarceration as a means of protecting society after numerous attempts had proved unsuccessful in deterring the defendant from operating motor vehicles while he was under the influence of alcohol, a five-year sentence for driving while under the influence and a concurrent three-year sentence for driving without privileges were not invalid under this section as punishment for alcoholism. State v. Garza, 115 Idaho 32, 764 P.2d 109 (Ct. App. 1988).

**39-311. Rules and regulations.** — The board of health and welfare shall promulgate such rules and regulations as are deemed necessary to carry out the provisions of this act, subject to the provisions of chapter 52, title 67, Idaho Code. [I.C., § 39-311, as added by S.L. 1975, ch. 149, § 1, p. 376.]

**Compiler's notes.** Former § 39-311, which comprised 1907, p. 182, § 26; reen. R.C., § 1102; am. 1913, ch. 140, § 2, p. 1; reen. C.L., § 1102; C.S., § 1664; I.C.A., § 38-311; am. 1955, ch. 257, § 11, p. 586, was repealed by S.L. 1971, ch. 2, § 1, p. 4.

For words "this act," see Compiler's notes to § 39-302.

Section 2 of S.L. 1975, ch. 149, as amended.

**39-312 — 39-314. Disinfection of exposed persons — Hospital for**

**Compiler's notes.** These sections, which comprised 1907, p. 182, §§ 27-30; reen. R.C. & C.L., §§ 1103, 1105; reen. R.C., § 1104; am. 1913, ch. 140, § 2, subd. 1104, p. 501;

**39-315. Cremation and burial**

**Compiler's notes.** This section, which comprised S.L. 1907, p. 182, § 31; am. 1913, ch. 140, § 2, subd. 1105, p. 501;

**39-316. Quarantine of cities**

**Compiler's notes.** This section, which comprised 1907, p. 182, § 32; reen. R.C. & C.L., § 1107; C.S., § 1669; I.C.A., § 38-316;

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SECTION.

- 39-401. Legislative intent.
- 39-402 — 39-407. [Repealed.]
- 39-408. Establishment of districts.
- 39-409. District health department establishment — Service
- 39-410. District board of health — Establishment
- 39-411. Composition of district board of health — Qualifications of members — Appointment and removal — Terms — Trustee selection — Board of trustees or boards of health.
- 39-412. Meetings of the district board of health — Compensation of members
- 39-413. District health director — Appointment — Powers and duties
- 39-414. Powers and duties of district health director
- 39-414A. Audit of health district financial accounts
- 39-415. Quarantine.
- 39-416. Rules adopted by district board of health — Procedure.
- 39-417. Hearings by district board of health — Witnesses — Subpoena