

IN THE SENATE

SENATE BILL NO. 1284

BY TRANSPORTATION COMMITTEE

AN ACT

1 RELATING TO BOOTING OF MOTOR VEHICLES; PROVIDING LEGISLATIVE INTENT; AMEND-
2 ING SECTION 49-103, IDAHO CODE, TO DEFINE THE TERM "BOOT"; AMENDING
3 SECTION 49-117, IDAHO CODE, TO DEFINE THE TERM "PARKING ENFORCEMENT
4 COMPANY"; AMENDING SECTION 49-208, IDAHO CODE, TO PROVIDE APPLICATION
5 TO PRIVATE PROPERTY; AMENDING SECTION 49-1806, IDAHO CODE, TO PROVIDE
6 FOR BOOTING OF UNAUTHORIZED VEHICLES ON PRIVATE PROPERTY; AMENDING
7 CHAPTER 18, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION
8 49-1806A, IDAHO CODE, TO PROVIDE FOR REGULATION OF PARKING ENFORCE-
9 MENT COMPANIES BY LOCAL GOVERNMENTS; AMENDING SECTION 49-1812, IDAHO
10 CODE, TO PROVIDE FOR CLAIMING OF BOOTED VEHICLES; AMENDING SECTION
11 49-104, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SEC-
12 TION 49-410, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES; AMENDING
13 SECTION 63-3022A, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AND
14 DECLARING AN EMERGENCY.
15

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

17 SECTION 1. LEGISLATIVE INTENT. It is the intent of the Legislature, as
18 immobilization of motor vehicles by booting in the state of Idaho vitally af-
19 fects the public interest and the public welfare, and that in order to pro-
20 mote the public interest and the public welfare, and in the exercise of its
21 police power, it is necessary to regulate those who operate motor vehicle
22 booting businesses in Idaho by local government, in order to prevent frauds,
23 impositions, and other abuses upon its citizens. The Legislature finds it
24 necessary to allow local governments to establish minimum consumer protec-
25 tion standards as well as remedies for motorists who suffer property damage
26 as a result of having their motor vehicles booted or who claim to have been
27 wrongfully booted.

28 SECTION 2. That Section 49-103, Idaho Code, be, and the same is hereby
29 amended to read as follows:

30 49-103. DEFINITIONS -- B. (1) "Bicycle" means every vehicle propelled
31 exclusively by human power upon which any person may ride, having two (2)
32 tandem wheels, and except scooters and similar devices.

33 (2) "Board" means the Idaho transportation board.

34 (3) "Boat transporter" means any vehicle combination designed and used
35 specifically to transport assembled boats and boat hulls.

36 (4) "Boot" means a device used by a towing or parking enforcement com-
37 pany to temporarily immobilize or disable a motor vehicle for purposes of en-
38 forcing parking restrictions.

39 (5) "Broker" means a person who, for a fee, commission, or other valu-
40 able consideration, arranges or offers to arrange a transaction involving
41 the sale, but not resale, of a new vehicle, and who is not:

- 1 (a) A representative or an agent or employee of a representative;
 2 (b) A distributor, agent or employee of a distributor; or
 3 (c) At any point in the transaction, the owner of the vehicle involved
 4 in the transaction.
 5 (56) "Bus" means every motor vehicle designed for carrying more than
 6 ten (10) passengers and used for the transportation of persons; and every mo-
 7 tor vehicle, other than a taxicab, designed and used for the transportation
 8 of persons for compensation. A motor vehicle used in a ridesharing arrange-
 9 ment that has a seating capacity for not more than fifteen (15) persons, in-
 10 cluding the driver, shall not be a "bus" under the provisions of this title
 11 relating to equipment requirements, rules of the road, or registration.
 12 (67) "Business district." (See "District", section 49-105, Idaho Code)
 13 (78) "Buy." (See "Sell", "sold", and "purchase", section 49-120, Idaho
 14 Code)

15 SECTION 3. That Section 49-117, Idaho Code, be, and the same is hereby
 16 amended to read as follows:

17 49-117. DEFINITIONS -- P. (1) "Park" or "parking" means the standing
 18 of a vehicle, whether occupied or not, other than temporarily for the pur-
 19 pose of and while actually engaged in loading or unloading property or pas-
 20 sengers.

21 (2) "Parking enforcement company" means a business entity engaged in
 22 the practice of immobilizing, booting or otherwise disabling vehicles for
 23 the purpose of enforcing parking restrictions either on public streets, pri-
 24 vate property or public parking lots restricted as to use.

25 (3) "Park model recreational vehicle" means a recreational vehicle
 26 that is designed to provide temporary accommodations for recreational,
 27 camping or seasonal use, is built on a single chassis, was originally mounted
 28 on wheels, has a gross trailer area not exceeding four hundred (400) square
 29 feet in the set-up mode and is certified by its manufacturer as complying
 30 with the American National Standards Institute (ANSI) A119.5 Standard for
 31 Recreational Park Trailers, and includes park models, park trailers and
 32 recreational park trailers.

33 (34) "Part-time salesman" means any person employed as a vehicle sales-
 34 man on behalf of a dealer less than thirty (30) hours per week.

35 (45) "Peace officer." (See section 19-5101(d), Idaho Code)

36 (56) "Pedestrian" means any person afoot and any person operating a
 37 wheelchair or a motorized wheelchair or an electric personal assistive mo-
 38 bility device.

39 (67) "Pedestrian path" means any path, sidewalk or way set aside and
 40 used exclusively by pedestrians.

41 (78) (a) "Person" means every natural person, firm, fiduciary, copart-
 42 nership, association, corporation, trustee, receiver or assignee for
 43 the benefit of creditors, political subdivision, state or federal gov-
 44 ernmental department, agency, or instrumentality and, for the purposes
 45 of chapter 22, title 49, Idaho Code, shall include a private, common or
 46 contract carrier operating a vehicle on any highway of this state.

47 (b) "Person with a disability" means:

48 (i) A person who is unable to walk two hundred (200) feet or more
 49 unassisted by another person;

1 (ii) A person who is unable to walk two hundred (200) feet or more
2 without the aid of a walker, cane, crutches, braces, prosthetic
3 device or a wheelchair; or

4 (iii) A person who is unable to walk two hundred (200) feet or
5 more without great difficulty or discomfort due to the following
6 impairments: neurological, orthopedic, respiratory, cardiac,
7 arthritic disorder, blindness, or the loss of function or absence
8 of a limb.

9 (iv) For the purposes of chapters 3 and 4, title 49, Idaho Code,
10 a person with a permanent disability is one whose physician certi-
11 fies that the person qualifies as a person with a disability pur-
12 suant to this paragraph and further certifies that there is no ex-
13 pectation for a fundamental or marked change in the person's con-
14 dition at any time in the future.

15 (~~89~~) "Personal delivery device" means an electrically powered device
16 that is operated on sidewalks and crosswalks and is intended primarily to
17 transport property; weighs less than eighty (80) pounds, excluding cargo;
18 has a maximum speed of ten (10) miles per hour; and is equipped with technol-
19 ogy to allow for operation of the device with or without the active control
20 or monitoring of a natural person. A personal delivery device shall not be
21 defined as a vehicle or motor vehicle in any section of the law, unless ex-
22 pressly so stated.

23 (~~910~~) "Personal delivery device operator" means an entity or its agent
24 that exercises direct physical control or monitoring over the navigation
25 system and operation of a personal delivery device. For the purposes of this
26 subsection, the term "agent" means a person charged by the entity with the
27 responsibility of navigating and operating the personal delivery device.
28 The term "personal delivery device operator" does not include an entity
29 or person who requests the services of a personal delivery device for the
30 purpose of transporting property or an entity, nor does it include a person
31 who merely arranges for and dispatches the requested services of a personal
32 delivery device.

33 (~~101~~) "Personal information" means information that identifies an
34 individual, including an individual's photograph or computerized image,
35 social security number, driver identification number, name, address, tele-
36 phone number, and medical or disability information, but does not include
37 information on vehicular accidents, driving or equipment-related viola-
38 tions, the five-digit zip code of the person's address, or status of the
39 driver's license or motor vehicle registration.

40 (~~112~~) "Pneumatic tire." (See "Tires," section 49-121, Idaho Code)

41 (~~123~~) "Pole trailer." (See "Trailer," section 49-121, Idaho Code)

42 (~~134~~) "Possessory lien" means a lien dependent upon possession for com-
43 pensation to which a person is legally entitled for making repairs or per-
44 forming labor upon, and furnishing supplies or materials for, and for the
45 towing, storage, repair, or safekeeping of, any vehicle of a type subject to
46 registration.

47 (~~145~~) "Possessory lienholder" means any person claiming a lien, which
48 lien claimed to have accrued on a basis of services rendered to the vehicle
49 that is the subject of the lien.

1 (156) "Preceding year" means, for the purposes of section 49-435, Idaho
2 Code, a period of twelve (12) consecutive months fixed by the department,
3 prior to July 1 of the year immediately preceding the commencement of the
4 registration or license year for which proportional registration is sought.
5 The department in fixing the period shall make it conform to the terms, con-
6 ditions and requirements of any applicable agreement or arrangement for the
7 proportional registration of vehicles.

8 (167) "Pressure regulator valve" means a device or system that governs
9 the load distribution and controls the weight borne by a variable load sus-
10 pension axle in accordance with a predetermined valve setting.

11 (178) "Principal place of business" means an enclosed commercial struc-
12 ture located within the state, easily accessible and open to the public at
13 all reasonable times, with an improved display area large enough to display
14 five (5) or more vehicles of the type the dealer is licensed to sell, imme-
15 diately adjoining the building, and at which the business of a dealership,
16 including the display and repair of vehicles, may be lawfully carried on
17 in accordance with the terms of all applicable building codes, zoning and
18 other land-use regulatory ordinances, and in which building the public shall
19 be able to contact the dealer or his salesmen in person or by telephone at
20 all reasonable times. The books, records and files necessary to conduct
21 the business of the dealership must be kept or reproduced electronically at
22 the dealership's licensed location(s). A dealership keeping its physical
23 books, records and files at an off-site location must notify the department
24 in writing of such location at least thirty (30) days in advance of moving
25 such books, records and files off site. Physical books, records and files
26 must be made available to the department upon request within three (3) busi-
27 ness days of such request. The principal place of business shall display
28 an exterior sign permanently affixed to the land or building, with letters
29 clearly visible to the major avenue of traffic. In no event shall a room or
30 rooms in a hotel, rooming house, or apartment house building or a part of any
31 single or multiple unit dwelling house be considered a "principal place of
32 business" within the terms and provisions of this title unless the entire
33 ground floor of that hotel, apartment house, or rooming house building or
34 dwelling house be devoted principally to and occupied for commercial pur-
35 poses, and the office or offices of the dealer be located on the ground floor.

36 (189) "Private property open to the public" means real property not
37 owned by the federal government or the state of Idaho or any of its political
38 subdivisions, but is available for vehicular traffic or parking by the gen-
39 eral public with the permission of the owner or agent of the real property.

40 (1920) "Private road" means every way or place in private ownership and
41 used for vehicular travel by the owner and those having express or implied
42 permission from the owner, but not by other persons.

43 (201) "Proof of financial responsibility" means proof of ability to re-
44 spond in damages for liability, on account of accidents occurring subsequent
45 to the effective date of the proof, arising out of the ownership, mainte-
46 nance or use of a motor vehicle, in the amount of twenty-five thousand dol-
47 lars (\$25,000) because of bodily injury to or death of one (1) person in any
48 one (1) accident and, subject to the limit for one (1) person, in the amount
49 of fifty thousand dollars (\$50,000) because of bodily injury to or death of
50 two (2) or more persons in any one (1) accident, and in the amount of fifteen

1 thousand dollars (\$15,000) because of injury to or destruction of property
2 of others in any one (1) accident.

3 (212) "Proper authority" means a public highway agency.

4 (223) "Public highway agency" means the state transportation depart-
5 ment, any city, county, highway district or any other state agency that has
6 jurisdiction over public highway systems and public rights-of-way.

7 (234) "Public right-of-way" means a right-of-way open to the public and
8 under the jurisdiction of a public highway agency, where the public highway
9 agency has no obligation to construct or maintain said right-of-way for ve-
10 hicular traffic.

11 (245) "Public road jurisdiction" means a public highway agency.

12 (256) "Purchase." (See "Sell," "sold," and "buy," section 49-120, Idaho
13 Code)

14 SECTION 4. That Section 49-208, Idaho Code, be, and the same is hereby
15 amended to read as follows:

16 49-208. POWERS OF LOCAL AUTHORITIES. (1) The provisions of this title
17 shall not be deemed to prevent local authorities with respect to highways un-
18 der their jurisdiction and to private property within their jurisdiction and
19 within the reasonable exercise of the police power from:

20 (a) Regulating or prohibiting stopping, standing or parking;

21 (b) Regulating traffic by means of peace officers or traffic-control
22 devices;

23 (c) Regulating or prohibiting processions or assemblages on the high-
24 ways;

25 (d) Designating particular highways for use by traffic moving in one
26 (1) direction;

27 (e) Establishing speed limits for vehicles in public parks;

28 (f) Designating any highway as a through highway or designating any in-
29 tersection or junction of highways as a stop or yield intersection or
30 junction;

31 (g) Restricting the use of highways as authorized in chapter 10, title
32 49, Idaho Code;

33 (h) Regulating or prohibiting the turning of vehicles or specified
34 types of vehicles;

35 (i) Altering or establishing speed limits;

36 (j) Designating no-passing zones;

37 (k) Prohibiting or regulating the use of controlled-access highways by
38 any class or kind of traffic;

39 (l) Prohibiting or regulating the use of heavily traveled highways by
40 any class or kind of traffic found to be incompatible with the normal and
41 safe movement of traffic;

42 (m) Establishing minimum speed limits;

43 (n) Prohibiting pedestrians from crossing a highway in a business dis-
44 trict or any designated highway except in a crosswalk;

45 (o) Restricting pedestrian crossings at unmarked crosswalks;

46 (p) Establishing the maximum speed of vehicles on a bridge or other ele-
47 vated structure;

48 (q) Requiring written accident reports;

49 (r) Regulating persons propelling pushcarts;

1 (s) Regulating persons upon skates, coasters, sleds and other toy vehi-
2 cles;

3 (t) Adopting and enforcing temporary or experimental regulations as
4 may be necessary to cover emergencies or special conditions;

5 (u) Prohibiting drivers of ambulances from exceeding maximum speed
6 limits;

7 (v) Adopting such other traffic regulations as are specifically autho-
8 rized by this title.

9 (2) No ordinance or regulation enacted under paragraphs (d) through (p)
10 of subsection (1) of this section shall be effective until traffic-control
11 devices giving notice of local traffic regulations are erected upon or at the
12 entrances to the highway or part affected as may be most appropriate.

13 (3) No local authority shall erect or maintain any traffic-control de-
14 vice at any location so as to require traffic on any state highway to stop be-
15 fore entering or crossing any intersecting highway unless approval in writ-
16 ing has first been obtained from the department.

17 (4) Local authorities by ordinance may adopt by reference all or any
18 part of title 49, Idaho Code, without publishing or posting in full the pro-
19 visions thereof, provided that not less than one (1) copy is available for
20 public use and examination in the office of the clerk.

21 (5) Local authorities may adopt an ordinance establishing procedures
22 for the abatement and removal of abandoned, junk, dismantled or inoperative
23 vehicles or their parts from private or public property, including highways,
24 provided the ordinance is not in conflict with the provisions of this title.

25 SECTION 5. That Section 49-1806, Idaho Code, be, and the same is hereby
26 amended to read as follows:

27 49-1806. REMOVAL -- BOOTING OF UNAUTHORIZED AND ABANDONED VEHICLE
28 FROM REAL PROPERTY. (1) Any person having possession or control of real
29 property who finds an unauthorized vehicle standing upon his property is
30 permitted to have the vehicle removed or booted if there is posted on or near
31 the property in a clearly conspicuous location, in large print, a sign or
32 notice that unauthorized vehicles will be removed or booted at the owner's
33 expense and designating the name of the towing firm or parking enforcement
34 company. Unauthorized vehicles need not meet the provision of section
35 49-102(2), Idaho Code, in this instance.

36 (2) Any person having possession or control of real property who finds
37 an abandoned vehicle standing on his property, where the property is not
38 posted as set out in subsection (1) of this section, may contact an au-
39 thorized officer, who must in turn comply with the provisions of section
40 49-1804, Idaho Code, in accomplishing the removal of the vehicle except un-
41 der those circumstances set out in subsection (3) of this section.

42 (3) Where access into or out of private property or substantial in-
43 terference with the use and enjoyment of private property is created by an
44 unauthorized or abandoned vehicle being parked or otherwise left on pri-
45 vate property, the person owning or controlling the property may contact an
46 authorized officer who may, without regard for the provisions of section
47 49-1804, Idaho Code, immediately proceed to have the vehicle removed to a
48 garage or nearest place of safety. All other provisions of this chapter
49 shall be complied with.

1 SECTION 6. That Chapter 18, Title 49, Idaho Code, be, and the same is
2 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
3 ignated as Section 49-1806A, Idaho Code, and to read as follows:

4 49-1806A. PARKING ENFORCEMENT COMPANY. Any person engaged in the
5 business of a parking enforcement company in any county or municipality in
6 the state of Idaho shall comply with all the requirements of this chapter
7 and all the licensing and other requirements of any ordinance regulating
8 such business by the county or municipality in which the person engages in
9 such business. No person shall boot a motor vehicle parked on private prop-
10 erty unless such person has a written contract with the owner of the private
11 property or his authorized representative to boot motor vehicles parked on
12 any such property. No person shall boot a motor vehicle parked on private
13 property unless a sign is posted at each lot entrance. In addition, each sign
14 shall contain the information, which may be prescribed by the county or mu-
15 nicipality. The ordinance of the county or municipality shall provide that
16 a parking enforcement company shall use all reasonable care not to damage a
17 motor vehicle being booted, and the ordinance shall provide how the owner may
18 recover damages from the parking enforcement company if such damage occurs
19 at the hands of the parking enforcement company, its employees or agents.
20 Nothing in the chapter shall be deemed to affect civil or criminal remedies
21 or lien rights available to a parking enforcement company for damage or theft
22 of a lawfully applied boot to a motor vehicle.

23 SECTION 7. That Section 49-1812, Idaho Code, be, and the same is hereby
24 amended to read as follows:

25 49-1812. CLAIMING OF VEHICLES. (1) The owner of any vehicle removed or
26 booted under the provisions of this chapter except those vehicles impounded
27 for investigation or suspected stolen, may take possession of the vehicle at
28 any time prior to sale by proving ownership and paying the costs relative to
29 towing and storing or booting the vehicle and costs of advertising except as
30 otherwise provided in section 49-1805, Idaho Code.

31 (2) A lienholder of any vehicle removed or booted under the provisions
32 of this chapter except those vehicles impounded for investigation or sus-
33 pected stolen, may take possession of the vehicle at any time prior to the
34 sale by proving the presence of the lien and by paying the costs relative to
35 towing and storing the vehicle and costs of advertising. The lienholder may
36 also take possession of the vehicle by purchasing the vehicle at the sale.
37 Nothing in this chapter shall be construed to abate any cause of action that a
38 lienholder has against the owner of an abandoned vehicle.

39 (3) Any insurer having a claim made against it pertaining to any vehi-
40 cle removed or booted under the provisions of this chapter, except those ve-
41 hicles impounded for investigation or suspected stolen, may take possession
42 of the vehicle at any time prior to the settlement of such claim following
43 determination by such insurer that the vehicle has been determined by such
44 insurer to be a total loss, obtaining verbal consent of the owner and by pay-
45 ing the lawfully entitled costs relative to towing and storing the vehicle.
46 The insurer holding facility shall allow access to the vehicle owner or their
47 representative upon the vehicle owner or their representative providing ev-
48 idence of ownership. Personal property unrelated to the vehicle must be re-

1 turned to the vehicle owner in conformance with section 49-1809(2), Idaho
2 Code. If no total loss settlement is reached, the insurer shall return the
3 vehicle to a mutually agreed upon location. Any holding facility that re-
4 leases a vehicle consistent with the provisions of this subsection shall be
5 held harmless for the release of such vehicle. The insurer shall provide the
6 location and telephone number of the insurer holding facility to the vehicle
7 owner or their representative.

8 SECTION 8. That Section 49-104, Idaho Code, be, and the same is hereby
9 amended to read as follows:

10 49-104. DEFINITIONS -- C. (1) "Cancellation of driver's license"
11 means the annulment or termination by formal action of the department of a
12 person's driver's license because of some error or defect in the driver's
13 license or because the licensee is no longer entitled to the driver's li-
14 cense. The cancellation of a driver's license is without prejudice and after
15 compliance with requirements, the individual may apply for a new driver's
16 license at any time after cancellation.

17 (2) "Caravaning" means the transportation of any motor vehicle into,
18 out of, or within the state operating on its own wheels or in tow for the pur-
19 pose of sale or offer of sale by any agent, dealer, manufacturer's represen-
20 tative, purchaser, or prospective purchaser, regardless of residence unless
21 the motor vehicle is licensed by the state of Idaho, or is owned by an auto-
22 mobile dealer, duly licensed as a dealer by this state. It shall also be con-
23 sidered as the transportation of property for hire by a motor vehicle upon
24 the highways of this state.

25 (3) "Certificate of liability insurance" means a certificate of lia-
26 bility insurance issued by an insurance company authorized to do business
27 in this state or a certificate of liability insurance issued by the depart-
28 ment of insurance which demonstrates current insurance against loss result-
29 ing from liability imposed by law for bodily injury or death or damage to
30 property suffered by any person caused by accident and arising out of the op-
31 eration, maintenance or use of a motor vehicle described in the certificate
32 in an amount not less than that required by section 49-117(201), Idaho Code,
33 and also demonstrates the current existence of any other coverage required
34 by title 41, Idaho Code, or a certificate of self-insurance issued pursuant
35 to law for each motor vehicle to be registered. A certificate of liability
36 insurance shall contain the information required by the department of insur-
37 ance, including the name and address of the owner of the motor vehicle and a
38 description of the motor vehicle including identification number if there is
39 one, or a statement that all vehicles owned by a person or entity are covered
40 by insurance, the inception date of coverage, and the name of the insurer.
41 "Certificate of liability insurance" may also include the original contract
42 of liability insurance or a true copy, demonstrating the current existence
43 of the liability insurance described in this subsection.

44 (4) "Certification of safety compliance" means that a motor carrier
45 certifies as part of its registration process that it has knowledge of the
46 federal regulations and rules promulgated by the Idaho transportation de-
47 partment and the Idaho state police applicable to motor carriers.

48 (5) "Chains" means metal traction devices required pursuant to section
49 49-948, Idaho Code, which consist of two (2) circular metal loops, one (1)

1 on each side of the tire, connected by not less than nine (9) evenly spaced
2 chains across the tire tread.

3 (6) "Coerce" means to compel or attempt to compel by threat or use of
4 force.

5 (7) "Commercial coach." (See section 39-4301, Idaho Code)

6 (8) "Commercial driver's license" means any class A, class B or class C
7 driver's license as defined in section 49-105, Idaho Code.

8 (9) "Commercial driver license information system (CDLIS)" is the in-
9 formation system established to serve as a clearinghouse for locating infor-
10 mation related to the licensing and identification of motor vehicle drivers.

11 (10) "Commercial driver training school" means a business enterprise
12 conducted by an individual, association, partnership, or corporation, for
13 the education and training of persons, either practically or theoretically,
14 or both, to operate or drive motor vehicles, and charging a consideration or
15 tuition for such services.

16 (11) "Commercial learner's permit" means a permit issued to an indi-
17 vidual by a state or other jurisdiction of domicile, in accordance with the
18 standards contained in 49 CFR 383.5, that when carried with a valid driver's
19 license issued by the same state or jurisdiction, authorizes the individual
20 to operate a commercial vehicle when accompanied by a holder of a valid com-
21 mercial driver's license (CDL) for purposes of behind-the-wheel training.

22 (12) "Commercial vehicle" or "commercial motor vehicle." (See "Vehi-
23 cle," section 49-123, Idaho Code)

24 (13) "Compliance review" means an on-site examination of motor car-
25 rier operations, which may be at the carrier's place of business, including
26 driver's hours of service, vehicle maintenance and inspection, driver
27 qualifications, commercial driver's license requirements, financial re-
28 sponsibility, accidents, hazardous materials, and such other related safety
29 and transportation records to determine safety fitness.

30 (14) "Controlled substance" means any substance so classified under
31 section 102(6) of the controlled substances act, 21 U.S.C. 802(6), and in-
32 cludes all substances listed on schedules I through V, of 21, CFR part 1308,
33 as they may be revised from time to time.

34 (15) "Conviction" means:

35 (a) The person has pled guilty or has been found guilty, notwithstand-
36 ing the form of the judgment or withheld judgment. A conviction for pur-
37 poses of this title shall also include an infraction judgment.

38 (b) For purposes of disqualification or withdrawal of commercial vehi-
39 cle driving privileges only, "conviction" means an unvacated adjudica-
40 tion of guilt, or determination that a person has violated or failed to
41 comply with the law in a court of original jurisdiction or by an autho-
42 rized administrative tribunal, an unvacated forfeiture of bail or col-
43 lateral deposited to secure the person's appearance in court, a plea of
44 guilty or nolo contendere accepted by the court, the payment of a fine or
45 court cost, or violation of a condition of release without bail, regard-
46 less of whether or not the penalty is rebated, suspended or probated.

47 (16) "Crosswalk" means:

48 (a) That part of a highway at an intersection included within the con-
49 nections of the lateral lines of the sidewalks on opposite sides of the
50 highway measured from the curbs or in the absence of curbs, from the

1 edges of the traversable highway; and in the absence of a sidewalk on one
 2 side of the highway, that part of a highway included within the exten-
 3 sion of the lateral lines of the existing sidewalk at right angles to the
 4 centerline.

5 (b) Any portion of a highway at an intersection or elsewhere distinctly
 6 indicated for pedestrian crossing by lines or other markings on the sur-
 7 face.

8 SECTION 9. That Section 49-410, Idaho Code, be, and the same is hereby
 9 amended to read as follows:

10 49-410. SPECIAL LICENSE PLATES AND PLACARDS FOR PERSONS WITH A DIS-
 11 ABILITY -- PARKING PRIVILEGES -- PLACARDS FOR CERTAIN TEMPORARILY DISABLED
 12 PERSONS -- ENFORCEMENT. (1) Any person with a disability as defined in sec-
 13 tion 49-117, Idaho Code, or any parent or guardian of a dependent child with
 14 a disability as defined in section 49-117, Idaho Code, without regard to the
 15 age of the dependent child, shall be eligible for the use of special license
 16 plates bearing the international accessible symbol, for any vehicle owned
 17 by such person or owned by a qualified parent or guardian, but excluding any
 18 commercial vehicle with a registered maximum gross weight over twenty-six
 19 thousand (26,000) pounds. The parking privileges granted under the provi-
 20 sions of subsection (7) of this section shall apply to any vehicle displaying
 21 special license plates or placard issued pursuant to this section.

22 (2) Registration and license plate fees for vehicles owned by a per-
 23 son with a disability or qualified parent or guardian of a dependent child
 24 with a disability, shall be as provided, respectively, in sections 49-402,
 25 49-434(1) and 49-450, Idaho Code. Nothing in this section shall be construed
 26 as abrogating provisions of section 49-445, Idaho Code. The use of the spe-
 27 cial placard issued under the provisions of subsection (4) of this section,
 28 shall not exempt the owner of a motor vehicle from otherwise properly regis-
 29 tering and licensing the motor vehicle.

30 (3) Special license plates for persons with a disability and for the
 31 parent or guardian of a dependent child with a disability, shall be the
 32 same size and color as other license plates, and shall have displayed upon
 33 them the registration numbers assigned to the vehicle and to the owner. The
 34 plates shall be numbered in a manner prescribed by the department, but the
 35 plates shall display the international accessible symbol.



36 International Accessible Symbol

37 (4) The department shall issue a special placard bearing the interna-
 38 tional accessible symbol and other information the department may require,
 39 to:

40 (a) Any qualified person with a disability who does not own a motor ve-
 41 hicle;

1 (b) Any qualified person with a disability who owns a motor vehicle,
2 without regard to weight or use of the vehicle;

3 (c) Any parent or guardian of a dependent child with a disability who
4 owns a motor vehicle without regard to weight or use of the vehicle;

5 (d) Any business entity which is engaged in transportation of persons
6 with a disability, which business shall not be required to submit a
7 physician's certification. In addition to other application require-
8 ments, a business applicant shall sign a declaration that he is engaged
9 in the transportation of persons with a disability. A business entity
10 may include, but not be limited to, hospitals, nursing homes, federal,
11 state and local governmental agencies and taxicabs.

12 (5) Any person or business issued a special placard shall affix the spe-
13 cial placard to a motor vehicle in a conspicuous place designated by the de-
14 partment. The placard shall bear distinguishing marks, letters or numerals
15 indicating the vehicle is utilized by a permanently disabled person. When
16 the placard is affixed to a motor vehicle and the motor vehicle is transport-
17 ing a person with a disability, special parking privileges are granted as
18 provided in subsection (7) of this section.

19 (6) Application for special license plates, a special placard, or
20 both as applicable and at the option of the applicant, shall be made upon
21 a form furnished by the department and shall include a written certifica-
22 tion by a licensed physician, licensed physician assistant, or licensed
23 advanced practice professional nurse verifying that the applicant's stated
24 impairment qualifies as a disability according to the provisions of section
25 49-117, Idaho Code.

26 (7) Any motor vehicle displaying special license plates for a person
27 with a disability, without regard to the state of residence or displaying the
28 special placard provided in subsections (4) and (8) of this section, shall
29 be allowed to park for unlimited periods of time in parking zones or areas
30 which are otherwise restricted as to the length of time parking is permitted,
31 to park in spaces and zones designated for persons with a disability, and to
32 park in any public parking space with metered parking without being required
33 to pay any parking meter fee. The provisions of this subsection shall not be
34 applicable to those zones or areas in which the stopping, parking, or stand-
35 ing of all vehicles is prohibited or which are reserved for special types of
36 vehicles, to areas where vehicular parking is prohibited for periods in ex-
37 cess of forty-eight (48) hours, or to areas where parking is prohibited for
38 certain periods of time in order to allow snow removal, street construction
39 or maintenance or for other emergency purposes. Nothing herein shall pro-
40 hibit the designation of parking spaces for use by disabled persons for un-
41 limited periods of time.

42 (8) Any person who shall submit satisfactory proof to the department
43 that he is so temporarily disabled as defined in section 49-117(78)(b),
44 Idaho Code, shall be entitled to receive for one (1) motor vehicle only,
45 a special placard to be affixed to a motor vehicle in a conspicuous place
46 designated by the department, bearing distinguishing marks, letters or nu-
47 merals indicating that the vehicle is utilized by a temporarily disabled
48 person. This special temporary placard shall be valid between one (1)
49 and six (6) months depending on the written authorization of the licensed

1 physician, licensed physician assistant, or licensed advanced practice pro-
2 fessional nurse and as specified by the department on the placard.

3 (9) Any use of the plate or placard by any person other than those meet-
4 ing the definition of disability under section 49-117(78) (b), Idaho Code, or
5 as otherwise authorized by this section, to obtain parking shall constitute
6 an infraction punishable by a fine of one hundred dollars (\$100).

7 (10) Any person who unlawfully possesses, sells, copies, duplicates,
8 distributes, manufactures or aids and abets in the unlawful possession,
9 sale, copying, duplicating, distributing or manufacturing of a special
10 plate or placard is guilty of a misdemeanor punishable by a fine not to exceed
11 one thousand dollars (\$1,000), or by imprisonment in the county jail for a
12 period not to exceed thirty (30) days or by both. The court shall also impose
13 as a term of the sentence a period not to exceed forty (40) hours of commu-
14 nity service provided to a nonprofit organization which serves people with
15 disabilities. The unlawfully obtained special plate or placard shall be
16 subject to confiscation by law enforcement officials. Following conviction
17 or dismissal, the special plate or placard confiscated by law enforcement
18 shall be sent to the department.

19 Law enforcement officials and/or their designees as authorized by a
20 city or county shall enforce the provisions of subsections (1) through (9)
21 of this section and are empowered, using reasonable discretion, to check
22 personal identification to determine if the user of the plate or placard is
23 authorized to use accessible parking privileges. Any fines collected shall
24 be retained by the city or county whose law enforcement official issued the
25 citation.

26 SECTION 10. That Section 63-3022A, Idaho Code, be, and the same is
27 hereby amended to read as follows:

28 63-3022A. DEDUCTION OF CERTAIN RETIREMENT BENEFITS. (a) An amount
29 specified by subsection (b) of this section of the following retirement ben-
30 efits may be deducted by an individual from taxable income if such individual
31 has either attained age sixty-five (65) years, or has attained age sixty-two
32 (62) years and is classified as disabled:

33 (1) Retirement annuities paid to a retired employee or the unmarried
34 widow or widower of a retired employee by the United States of America
35 under the:

36 (i) Civil service retirement system; or

37 (ii) Foreign service retirement and disability system; or

38 (iii) Offset program of the civil service retirement system or
39 foreign service retirement and disability system.

40 (2) Retirement benefits paid from the firemen's retirement fund of the
41 state of Idaho to a retired fireman or the unremarried widow or widower
42 of a retired fireman.

43 (3) Retirement benefits paid to a retired Idaho city police officer:

44 (i) By a city or its agent in regard to a policeman's retirement
45 fund that no longer admits new members and on January 1, 2012, was
46 administered by a city in this state; or

47 (ii) In regard to a policeman's retirement fund that no longer ad-
48 mits new members and on January 1, 2012, was administered by the
49 public employee retirement system of Idaho; or

1 (iii) By the public employee retirement system of Idaho to a re-
2 tired police officer in regard to Idaho employment not included in
3 the federal social security retirement system; or

4 (iv) An unremarried widow or widower of a person described in sub-
5 paragraph (i), (ii) or (iii) of this paragraph.

6 (4) Retirement benefits paid by the United States of America to a re-
7 tired member of the military services of the United States or the unre-
8 married widow or widower of such member.

9 (b) The amount of retirement benefits that may be deducted from tax-
10 able income shall be an amount not in excess of maximum retirement benefits
11 under the social security act, as amended, on the date on which this act is
12 passed and approved, including adjustments to be made based upon consumer
13 price index adjustments provided in section 215 of the social security act.
14 The state tax commission shall ascertain benefit changes made in accordance
15 with the social security act and publish the appropriate deduction amounts
16 provided by this section reflecting such changes annually. Maximum retire-
17 ment benefits under the social security act shall mean:

18 (1) In the case of a taxpayer who files a joint return with his spouse
19 for the tax year, an amount equal to the maximum social security bene-
20 fits payable for the tax year to a person attaining full retirement age
21 in the tax year who has earned the maximum earnings creditable under so-
22 cial security for the years used in the computation of his benefits, and
23 whose spouse has no social security benefits except those payable on his
24 record of earnings.

25 (2) In the case of a taxpayer who is not married, an amount equal to max-
26 imum social security benefits payable for the tax year to a person at-
27 taining full retirement age in the tax year who has earned the maximum
28 earnings creditable under social security for the years used in the com-
29 putation of his benefits.

30 (3) In the case of an unremarried widow or widower, an amount equal
31 to the maximum social security benefits payable for the tax year to a
32 widow or widower attaining full retirement age in the tax year who has
33 no social security benefits except those to which he or she is entitled
34 on his or her deceased spouse's record and whose spouse had received no
35 reduced retirement benefits prior to his or her death and whose spouse
36 had earned the maximum earnings creditable under social security for
37 the years used in the computation of his or her benefits under social
38 security.

39 (4) Maximum retirement benefits shall, in every case, take into con-
40 sideration and be adjusted to reflect adjustments that would be made to
41 such amounts had they been received as social security benefits as the
42 result of the receipt of earnings in excess of earnings limitations.
43 The terms in this paragraph are those defined in the social security
44 act.

45 (5) Taxpayers not described in paragraphs (1), (2), (3) and (4) of this
46 subsection may not deduct any amount of retirement benefits under this
47 section. This includes retirement benefits paid by the federal employ-
48 ees retirement system or foreign service pension system.

49 (c) The total deduction under this section may not exceed the total
50 amount of retirement benefits or annuities which are described in subsection

1 (a) of this section and which are included in the taxpayer's gross income in
2 the tax year. If the taxpayer or the taxpayer's spouse receives retirement
3 benefits under the federal railroad retirement act or the federal social
4 security act in the tax year, then the amount of any retirement annuities
5 computed under subsection (b) of this section shall be reduced by the amount
6 of such federal railroad retirement act and federal social security act re-
7 tirement benefits received by either the taxpayer or the taxpayer's spouse,
8 and the lesser of the amount so computed or the total amount of retirement
9 benefits or annuities which are described in subsection (a) of this section
10 and which are included in the taxpayer's gross income shall constitute the
11 allowable deduction. Furthermore, the allowable deduction as calculated
12 under this section may be subject to additional limitations under section
13 63-3026A(6), Idaho Code, and the rules promulgated thereunder.

14 (d) As used in this section, the word "disabled" shall mean an indi-
15 vidual who is a disabled person described in section 63-701, Idaho Code, or
16 an individual who qualifies as a person with a "permanent disability" under
17 section 49-117(78) (b) (iv), Idaho Code.

18 SECTION 11. An emergency existing therefor, which emergency is hereby
19 declared to exist, this act shall be in full force and effect on and after its
20 passage and approval.