

IN THE SENATE

SENATE BILL NO. 1317

BY RESOURCES AND ENVIRONMENT COMMITTEE

AN ACT

1 RELATING TO FISH AND GAME; AMENDING CHAPTER 70, TITLE 18, IDAHO CODE, BY THE
2 ADDITION OF A NEW SECTION 18-7008A, IDAHO CODE, TO PROHIBIT INTERFER-
3 ENCE WITH CERTAIN LANDS, HIGHWAYS, AND NAVIGABLE STREAMS, TO CLARIFY
4 THAT SPECIFIED LAW SHALL NOT APPLY TO CERTAIN ACTIVITIES, TO PROVIDE FOR
5 VIOLATIONS AND PENALTIES, AND TO PROVIDE FOR CIVIL DAMAGES.
6

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

8 SECTION 1. That Chapter 70, Title 18, Idaho Code, be, and the same is
9 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
10 ignated as Section 18-7008A, Idaho Code, and to read as follows:

11 18-7008A. PROHIBITION OF INTERFERENCE -- LANDS -- HIGHWAYS -- NAVIGA-
12 BLE STREAMS. (1) No person shall willfully post, sign, or otherwise indicate
13 or communicate that any of the following are privately owned or not open for
14 public use, unless otherwise permitted under a valid existing exclusive con-
15 trol lease or special use permit:

16 (a) Public land open to use by the public;

17 (b) Private land open to use by the public pursuant to a valid accessi-
18 ble easement, access agreement, or right-of-way agreement;

19 (c) Highways as defined in section 49-109, Idaho Code; or

20 (d) Navigable streams as defined in and as access is permitted by sec-
21 tion 36-1601, Idaho Code.

22 (2) (a) No person knowingly or having reason to know shall act to will-
23 fully obstruct, block, or otherwise interfere, including but not lim-
24 ited to through the use of locks, with a person's attempt to lawfully en-
25 ter upon or lawfully use any of the following unless otherwise permitted
26 under a valid existing exclusive control lease or special use permit:

27 (i) Public land open to use by the public;

28 (ii) Private land open to use by the public pursuant to a valid ac-
29 cessible easement, access agreement, or right-of-way agreement;

30 (iii) Highways as defined in section 49-109, Idaho Code; or

31 (iv) Navigable streams as defined in and as access is permitted by
32 section 36-1601, Idaho Code.

33 (b) Nothing in this subsection shall alter or limit, in any way, the use
34 of canals and the facilities for the diversion, appropriation, and use
35 of water as provided in chapters 11 and 12, title 42, Idaho Code.

36 (3) (a) The conduct declared unlawful in this section shall not include
37 any incidental interference arising from lawful activity by land users
38 or interference by a landowner or members of his immediate family aris-
39 ing from activities on his own property, including normal and accepted
40 agricultural practices.

41 (b) The conduct declared unlawful in this section shall not include
42 constitutionally protected activity.

1 (4) Every person who violates this section shall first be given a writ-
2 ten warning by law enforcement that shall be kept on record for two (2) years
3 by the law enforcement agency issuing the warning. Every person convicted or
4 entering a plea of guilty or of nolo contendere for violation of this section
5 for the second time shall be guilty of an infraction and subject to a fine
6 of two hundred dollars (\$200). Every person convicted or entering a plea of
7 guilty or of nolo contendere for violation of this section for the third or
8 subsequent time shall be guilty of a misdemeanor and subject to a fine of not
9 to exceed one thousand dollars (\$1,000).

10 (5) In addition to the penalties provided in subsection (4) of this sec-
11 tion, after seventy-two (72) hours written notice to the person or entity
12 alleged to have violated this section, any person who is damaged by any act
13 prohibited in this section may recover actual damages or five hundred dol-
14 lars (\$500), whichever is greater. A party seeking civil damages under this
15 subsection may recover such damages upon proof of a violation of the provi-
16 sions of this section by a preponderance of the evidence. The state of Idaho
17 or any person may have relief by injunction against violations of the provi-
18 sions of this section. Any party recovering judgment under this subsection
19 may be awarded reasonable attorney's fees.