

IN THE SENATE

SENATE BILL NO. 1053

BY AGRICULTURAL AFFAIRS COMMITTEE

AN ACT

1
2 RELATING TO FENCES; AMENDING SECTION 35-104, IDAHO CODE, TO ESTABLISH PRO-
3 VISIONS REGARDING RESPONSIBILITY FOR THE ERECTION OF FENCES BORDERING
4 FEDERALLY MANAGED LANDS AND TO MAKE A TECHNICAL CORRECTION; AND DECLAR-
5 ING AN EMERGENCY.

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

7 SECTION 1. That Section 35-104, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 35-104. CARE OF FENCES BY ADJOINING OWNERS -- FENCES BORDERING FED-
10 ERAL LAND. (1) Each adjoining land owner, unless both otherwise agree, or
11 unless other arrangements have heretofore been made, must construct and
12 keep in repair that half of the line fence between their respective tracts
13 of land that is to his left when he is standing on his own land facing the
14 other; unless the owner of one (1) of said tracts chooses to allow his land
15 to be ~~uninclosed~~ unenclosed: provided, that one (1) party may, for his own
16 convenience, strengthen, or render hog-tight, the whole or any part of said
17 fence by stretching one (1) or more additional wires thereon or otherwise;
18 in which event the other shall not be liable for his proportion of the ad-
19 ditional cost. Provided further, if one (1) of the parties shall render
20 such fence hog-tight and the other shall at any time use his field for the
21 pasture of hogs, sheep or goats, without a herder, such other shall become
22 liable as a joint user or owner and shall, upon demand of the party building
23 the hog-tight fence, pay his just proportion thereof. In case viewers are
24 appointed, as provided in section 35-106, Idaho Code, the report of such
25 viewers must be in conformity with this section.

26 (2) Notwithstanding the provisions of subsection (1) of this section,
27 any landowner who intends to prevent livestock on adjacent federally managed
28 land from entering his private property shall be solely responsible to erect
29 and maintain a lawful fence on the property line.

30 SECTION 2. An emergency existing therefor, which emergency is hereby
31 declared to exist, this act shall be in full force and effect on and after its
32 passage and approval.