

IN THE SENATE

SENATE BILL NO. 1283

BY AGRICULTURAL AFFAIRS COMMITTEE

AN ACT

1 RELATING TO AGRICULTURAL PRODUCTS; AMENDING TITLE 37, IDAHO CODE, BY THE
2 ADDITION OF A NEW CHAPTER 2, TITLE 37, IDAHO CODE, TO PROVIDE FOR THE
3 IDAHO DIRECT-TO-CONSUMER COMMERCE ACT; AMENDING SECTION 22-703, IDAHO
4 CODE, TO REVISE PROVISIONS REGARDING THE SALE OF GRADED AND UNGRADED
5 PRODUCTS; AMENDING SECTION 22-801, IDAHO CODE, TO REVISE PROVISIONS
6 REGARDING FRUIT PACKAGING; AMENDING SECTION 22-901, IDAHO CODE, TO RE-
7 VISE PROVISIONS REGARDING APPLICATION; AMENDING SECTION 37-118, IDAHO
8 CODE, TO PROVIDE AN EXCEPTION TO THE TAGGING AND DETENTION OF ARTICLES
9 OR PRODUCTS SUSPECTED OF BEING ADULTERATED OR MISBRANDED AND TO MAKE
10 TECHNICAL CORRECTIONS; AMENDING SECTION 37-133, IDAHO CODE, TO REVISE
11 PROVISIONS REGARDING THE INSPECTION OF ESTABLISHMENTS; AMENDING SEC-
12 TION 37-1520, IDAHO CODE, TO REVISE DEFINITIONS AND TO DEFINE TERMS;
13 AMENDING SECTION 37-1523A, IDAHO CODE, TO PROVIDE AN EXCEPTION TO AS-
14 SESSMENTS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 39-1602,
15 IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 74-107, IDAHO CODE,
16 TO PROVIDE AN EXEMPTION TO THE PUBLIC RECORDS ACT AND TO MAKE TECHNICAL
17 CORRECTIONS; AND DECLARING AN EMERGENCY.
18

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

20 SECTION 1. That Title 37, Idaho Code, be, and the same is hereby amended
21 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-
22 ter 2, Title 37, Idaho Code, and to read as follows:

23 CHAPTER 2

24 IDAHO DIRECT-TO-CONSUMER COMMERCE ACT

25 37-201. SHORT TITLE. This chapter shall be known and may be cited as
26 the "Idaho Direct-to-Consumer Commerce Act."

27 37-202. PURPOSE. The purpose of this chapter is to facilitate the
28 production and direct sale of homemade food and nonalcoholic drink products
29 from producers to informed end consumers with minimal regulatory burden and
30 to encourage the expansion of agricultural sales at farm stands, ranches,
31 farms, and producer's homes by providing unimpeded access to food from Idaho
32 producers.

33 37-203. DEFINITIONS. As used in this chapter:

34 (1) "Animal share" means an ownership interest in an animal or herd of
35 animals that is created by a written contract or bill of sale between an in-
36 formed end consumer and a producer under which the consumer is entitled to
37 receive a share of meat from the animal or herd that may vary in weight, meat
38 product, or size.

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

1 (3) "Designated agent" means a person, cooperative market, consignment
2 model market, or other entity designated by a producer to facilitate pro-
3 ducer-to-consumer transactions, including marketing, transport, storage,
4 selling, and delivery of food or nonalcoholic drink products. A designated
5 agent shall be named in writing by the producer and shall not take ownership
6 of any food or drink product.

7 (4) "Farm stand" means a temporary or permanent structure operated by
8 a producer or designated agent for the sale of homemade shelf-stable food,
9 perishable food, or nonalcoholic drinks.

10 (5) "Homemade" means foods or nonalcoholic drinks that are grown,
11 prepared, or processed at a private or leased farm, home kitchen, or other
12 non-licensed facility. Homemade does not include food that is prepared,
13 cooked, or served on-site for immediate consumption, including restau-
14 rant-style food service, mobile food units, concession trailers, or other
15 facilities preparing ready-to-eat meals.

16 (6) "Informed end consumer" means a person who knowingly purchases
17 products available pursuant to the provisions of this chapter, who is the
18 final purchaser of such product, who does not resell or redistribute the
19 product, and for whom resale or redistribution is unlawful.

20 (7) "Perishable food" means homemade food and drinks that require time
21 or temperature control at a temperature of forty-one (41) degrees Fahrenheit
22 or below for cold foods or one hundred thirty-five (135) degrees Fahrenheit
23 or above for hot foods. Perishable food includes but is not limited to:

- 24 (a) Nonalcoholic drinks, including coffee, lemonade, tea, and soda;
- 25 (b) Chocolate, candies, and confectioneries;
- 26 (c) Condiments and sauces;
- 27 (d) Fruits and vegetables that remain uncut post-harvest;
- 28 (e) Milk and dairy products;
- 29 (f) Eggs and egg products;
- 30 (g) Nut, seed, and fruit butters;
- 31 (h) Fresh and dehydrated pastas;
- 32 (i) Raw doughs;
- 33 (j) Regular and sugar-free butters, jams, jellies, marmalades, pre-
34 serves, and syrups;
- 35 (k) Baked goods that include frosting or filling made from animal prod-
36 ucts or other perishable ingredients;
- 37 (l) Meat products produced pursuant to this chapter;
- 38 (m) Cooked vegetables; and
- 39 (n) Pickled products.

40 (8) "Process" means operations a producer performs in the making or
41 treatment of the producer's food or nonalcoholic drink product.

42 (9) "Producer" means any person who grows, harvests, prepares, or pro-
43 cesses any food or nonalcoholic drink product pursuant to the provisions of
44 this chapter.

45 (10) "Shelf-stable food" means homemade food or drinks that do not re-
46 quire time or temperature control. Shelf-stable food includes but is not
47 limited to:

- 48 (a) Hermetically sealed butters, jams, jellies, marmalades, pre-
49 serves, and syrups;
- 50 (b) Fermented food products;

- 1 (c) Tallow;
- 2 (d) Lard;
- 3 (e) Fruit leathers, pies, and turnovers;
- 4 (f) Chocolates, candies, and confectioneries that do not need to be re-
- 5 frigerated;
- 6 (g) Nonalcoholic drinks that do not need to be refrigerated;
- 7 (h) Milk and dairy products that do not need to be refrigerated;
- 8 (i) Nut mixes;
- 9 (j) Granola;
- 10 (k) Dry soup mixes, excluding meat-based soup mixes;
- 11 (l) Roasted coffee beans;
- 12 (m) Popcorn;
- 13 (n) Honey;
- 14 (o) Dried, dehydrated, and freeze-dried foods, including jerky prod-
- 15 ucts; and
- 16 (p) Baked goods that do not include frosting or filling made from animal
- 17 products or other perishable ingredients.

18 37-204. PREEMPTION AND APPLICABILITY. (1) The legislature finds that
 19 uniform laws regarding the production, sale, and acquisition of products
 20 available pursuant to this chapter within Idaho are necessary to protect and
 21 promote the agricultural economy that is vital to Idaho and its citizens.
 22 It is the legislature's intent to wholly occupy the field of products made
 23 directly available to consumers pursuant to this chapter within this state.

24 (2) Except as expressly authorized by state statute, agencies and po-
 25 litical subdivisions of this state shall not adopt, continue in effect, or
 26 enforce any ordinance, rule, regulation, resolution, or policy pertaining
 27 to the licensing, permitting, inspection, packaging, or labeling of prod-
 28 ucts made available pursuant to this chapter that is more stringent than the
 29 corresponding state or federal requirement. Any law, rule, regulation, or-
 30 dinance, or policy that is in violation of this chapter is hereby declared to
 31 be unenforceable.

32 (3) Nothing in this chapter shall:

- 33 (a) Exempt any food product from law, regulations, or inspections for
- 34 weights and measures, representation, marketing or branding, the law-
- 35 ful use of pesticides or fertilizers, and the lawful use of pest, weed,
- 36 or disease prevention methods;
- 37 (b) Allow the sale of milk and dairy products or products derived there-
- 38 from, unless the producer or designated agent is in full compliance with
- 39 the applicable provisions of chapters 3, 4, 5, and 12, title 37, Idaho
- 40 Code;
- 41 (c) Allow the sale of raw milk and raw milk products or products derived
- 42 therefrom, unless the producer or designated agent is in full compli-
- 43 ance with applicable provisions of chapter 11, title 37, Idaho Code;
- 44 (d) Allow the use of a product made available pursuant to this chap-
- 45 ter as an ingredient in a food establishment, as that term is defined in
- 46 section 39-1602, Idaho Code, including in public school kitchen facili-
- 47 ties;
- 48 (e) Impede the department of health and welfare in any investigation of
- 49 confirmed foodborne illness; or

1 (f) Be construed to limit liability in cases of gross negligence or mis-
2 representation by a producer or designated agent.

3 37-205. DIRECT-TO-CONSUMER TRANSACTIONS AND REQUIREMENTS. (1) Pro-
4 ducers operating pursuant to this chapter may sell homemade shelf-stable or
5 perishable food products to the fullest extent permitted by applicable state
6 and federal law.

7 (2) Transactions conducted pursuant to this chapter shall:

8 (a) Occur between a producer or designated agent and informed end con-
9 sumer;

10 (b) Occur entirely within the state of Idaho and shall not constitute or
11 involve interstate commerce. All production, processing, packaging,
12 sale, and delivery activities shall take place wholly within the state
13 of Idaho; and

14 (c) Not involve the sale of meat or meat products, except:

15 (i) The sale of poultry and poultry products, if:

16 1. The producer slaughters no more than one thousand (1,000)
17 poultry of the producer's own raising during any one (1) cal-
18 endar year;

19 2. The producer does not engage in buying or selling poultry
20 products other than those produced from poultry of the pro-
21 ducer's own raising; and

22 3. The poultry or poultry product is not adulterated or mis-
23 branded;

24 (ii) The sale of live animals;

25 (iii) The sale of portions of live animals, including pursuant to
26 section 37-207, Idaho Code, before slaughter for future delivery;

27 (iv) The sale of domestic rabbit meat;

28 (v) The sale of farm-raised fish, provided that the fish is raised
29 in accordance with Idaho Code and the fish is not catfish; and

30 (vi) The sale of meat from cattle, sheep, swine, and goats that
31 have been inspected by the United States department of agriculture
32 or another approved inspector.

33 (3) (a) A producer or designated agent shall inform the end consumer
34 that any homemade shelf-stable or perishable food product sold pursuant
35 to this chapter is not subject to inspection or licensing.

36 (b) There shall be a conspicuously displayed sign, label affixed to the
37 food product, or card given to the informed end consumer that shall:

38 (i) State: "This product is not subject to government food safety
39 inspection or licensing requirements. It may contain aller-
40 gens.";

41 (ii) Include the name and contact information of the producer; and

42 (iii) Include a list of ingredients used in the product if such
43 product contains two (2) or more ingredients.

44 (4) (a) Perishable food shall be produced, processed, stored, trans-
45 ported, and sold under conditions reasonably intended to maintain the
46 safety and integrity of the product.

47 (b) Perishable food products shall include information on handling in-
48 structions sufficient to inform the consumer of safe storage and prepa-
49 ration practices.

1 (5) If a retail space is in any way associated with a commercial food
2 establishment or offers any food product available pursuant to this chapter
3 for sale, the retail space shall:

4 (a) Avoid intermingling by physically separating products available
5 pursuant to this chapter from other products, including shelving in
6 coolers, freezers, warehouses, or other storage areas; and

7 (b) Include signs or other markings clearly indicating which area of-
8 fers products available pursuant to this chapter.

9 37-206. DEPARTMENT TO PROVIDE EDUCATIONAL MATERIAL. (1) To prevent
10 foodborne illnesses and promote best safety practices, the department shall
11 compile educational information on food safety, shelf-stable and perishable
12 food storage, and prevention of the spread of foodborne illness and shall
13 make such information publicly available.

14 (2) Producers and designated agents shall become familiar with the edu-
15 cational material provided by the department.

16 37-207. ANIMALS SHARES. (1) The acquisition of meat from animals by
17 an informed end consumer shall not constitute the sale of meat products and
18 shall not be prohibited if:

19 (a) The meat is delivered pursuant to an animal share and is received by
20 the consumer from the producer within the state of Idaho;

21 (b) Ownership interest of each animal is established prior to slaugh-
22 ter;

23 (c) The slaughter is conducted pursuant to section 25-1120, Idaho Code,
24 if applicable; and

25 (d) The producer or designated agent affixes a label to the meat packag-
26 ing that states "not for sale."

27 (2) An animal share may be created in any size or portion as agreed on by
28 the producer and the informed end consumer.

29 (a) Multiple informed end consumers may hold ownership interests in the
30 same animal or herd.

31 (b) Nothing in this section shall be construed to require an ownership
32 interest to be limited to a fixed amount of meat products.

33 (3) A person who obtains meat pursuant to an animal share shall not
34 sell, donate, or commercially redistribute the meat.

35 37-208. RECORDKEEPING. (1) A producer or designated agent operating
36 pursuant to this chapter shall, except as provided by subsection (2) of this
37 section, maintain records of transactions that identify the type and quan-
38 tity of product sold, the date of the sale, the date of production, where the
39 homemade food product was produced, and where each ingredient was produced
40 or acquired.

41 (2) Producers or designated agents operating pursuant to section
42 37-207, Idaho Code, shall maintain the written contract or bill of sale evi-
43 dencing an animal share agreement as a record.

44 (3) Producers who utilize a designated agent shall name the designated
45 agent in the records for each transaction that the designated agent con-
46 ducted.

1 (4) Records shall be retained by the producer or designated agent for a
2 period of at least two (2) years from the date on the record.

3 (5) Records required to be kept pursuant to this section shall be con-
4 sidered confidential records that are not subject to disclosure pursuant to
5 chapter 1, title 74, Idaho Code, and shall not be disclosed or surrendered
6 to any state agency, political subdivision, or health district except in the
7 event of a confirmed foodborne illness investigation.

8 (6) A producer or designated agent who maintains and provides records
9 in good faith pursuant to this section shall not be held civilly liable for
10 any subsequent use, resale, or misuse of the product by the informed end con-
11 sumer or any other third party.

12 (7) If, during an investigation of a foodborne illness, the department
13 finds that a producer or designated agent has not maintained the recordkeep-
14 ing required by this section, the producer or designated agent may be subject
15 to a fine not to exceed five hundred dollars (\$500).

16 (8) Nothing in this section shall be construed to require routine re-
17 porting, inspection, or submission of records absent a confirmed foodborne
18 illness investigation.

19 SECTION 2. That Section 22-703, Idaho Code, be, and the same is hereby
20 amended to read as follows:

21 22-703. SALE OF GRADED AND UNGRADED PRODUCTS. Whenever any standard
22 for the grade or other classification of any farm product becomes effective
23 under this chapter, no person thereafter shall pack for sale, offer to sell,
24 or sell within this state any such farm product to which such standard is
25 applicable unless it conforms to the standard, subject to such reasonable
26 variations therefrom as may be allowed ~~in the rules and regulations made~~
27 ~~under this chapter: provided, that any~~ pursuant to the rules promulgated
28 in accordance with this chapter or allowed pursuant to chapter 2, title 37,
29 Idaho Code. A farm product may be packed for sale, offered for sale, or sold
30 without conformity to the standard or grade or other classification appli-
31 cable thereto when such product will be consumed or used for manufacturing
32 purposes wholly within this state, if it is not specifically described as
33 state graded or packed under state standard, in accordance with such regula-
34 tions as the department of agriculture may prescribe.

35 SECTION 3. That Section 22-801, Idaho Code, be, and the same is hereby
36 amended to read as follows:

37 22-801. FRUIT BOXES -- HOW MARKED -- MISUSE OF LABELS -- CANNED OR
38 DRIED FRUIT EXCEPTED.

39 (1) (a) It shall be the duty of every person growing or packing and sell-
40 ing, offering for sale ~~(or)~~, or shipping in boxes or packages, any fruit
41 grown in this state, or imported into this state, to plainly mark the
42 same on the outside of the box or package with the name of the variety
43 contained therein or with the words "variety unknown," the name of the
44 place or locality where grown and the name of the grower, or, in the case
45 of sale or shipment through an association or organization of growers,
46 the name of such association, and the lot number of the grower, and, in

1 case of apples, pears, or peaches, the net weight or the number con-
2 tained in the package, ~~and it.~~

3 (b) In addition to the marks required to be placed on any closed pack-
4 age of fruit grown in this state, the grower thereof, or association or
5 organization of growers packing the same, shall mark on the outside of
6 such package the grade of the fruit contained therein.

7 (2) It shall be unlawful for:

8 (a) For any person to mark:

9 (i) Mark or place upon, on any package the name of any other place
10 or locality than the place where such fruit was grown, except the
11 place to which shipped, or to falsely;

12 (ii) Falsely mark any such package as to variety, name of grower,
13 association or organization, or place where grown, or to obliter-
14 ate;

15 (iii) Obliterate or change the original marks on any such package
16 or to remark the same; or

17 (iv) Remark a package with the name of any other grower or of any
18 other place than that by or in which the contents were grown, or in
19 case such package is marked with the name of an association or or-
20 ganization of growers to remark the same with the name of any other
21 association or organization, and it shall be unlawful for;

22 (b) For any person, having in his possession for sale, or offering for
23 sale, or selling any fruit grown in this state and shipped in closed
24 packages, to repack the same in the boxes or packages of any other grower
25 or shipper or from any other place, or to sell or offer for sale in closed
26 packages any such fruit except in the original packages, or to pack in
27 or offer for sale, from any marked box or package, any fruit other than
28 that originally contained or shipped therein. In addition to the marks
29 required to be placed upon any closed package of fruit grown in this
30 state, as hereinabove provided, the grower thereof, or association or
31 organization of growers packing the same, shall mark upon the outside of
32 such package the grade of the fruit contained therein, and it shall be
33 unlawful for;

34 (c) For any person to remark any such closed package as a higher or supe-
35 rior grade than that originally marked by the grower thereof or associa-
36 tion or organization packing the same, or for; and

37 (d) For any person other than the grower or association or organization
38 packing such fruit grown in this state to place (on) on any such closed
39 package, not marked with the grade of the contents thereof, any mark or
40 brand indicating the grade of such contents. Provided, that nothing

41 (3) Nothing in this section shall be construed to apply to canned:

42 (a) Canned or dried fruit; or

43 (b) Those operating pursuant to chapter 2, title 37, Idaho Code.

44 SECTION 4. That Section 22-901, Idaho Code, be, and the same is hereby
45 amended to read as follows:

46 22-901. APPLICATION OF ACT. (1) When potatoes are marketed or offered
47 for shipment, within the state of Idaho, for packing, repacking, or process-
48 ing purposes, or when potatoes are offered for sale by the grower direct to
49 the consumer ~~in lots of less than one (1) earload within the state or when~~

1 "Idaho Certified" seed stock, as defined by the Idaho state seed certifica-
 2 tion officials, are offered for sale, the provisions of this act prescrib-
 3 ing grades and requiring grading shall not apply; but in all other cases when
 4 potatoes are packed for sale, offered for sale, sold, or offered for shipment
 5 within or outside the state of Idaho, such potatoes shall be graded either
 6 as "Idaho Deluxe," "Idaho Standard," or "Idaho Utility": ~~provided, however,~~
 7 ~~that all potatoes.~~ Potatoes marketed within the state of Idaho or outside
 8 the state of Idaho may conform to grades promulgated by an act of congress
 9 or ~~promulgated~~ by authority of the secretary of agriculture of the United
 10 States, if the shipper or grower so desires.

11 ~~(2) It is further provided that all~~ All potatoes not meeting the re-
 12 quirements of grade hereinabove provided for and hereinafter set out are
 13 hereby declared to be detrimental to the potato industry of the state of
 14 Idaho and shall not be marketed, except as provided in this section.

15 (3) All potatoes conforming to the grades hereinabove and here-
 16 inafter set out shall be packed in containers or bags in conformity with the
 17 ~~following prescribed rules~~ provisions of this chapter and rules promulgated
 18 pursuant thereto.

19 (4) When potatoes are to be shipped out of state in bulk, permission
 20 shall first be obtained from the Idaho department of agriculture. All per-
 21 mits issued hereunder shall be issued subject to the requirement that the
 22 potatoes to be shipped must be graded and must either meet the Idaho grades or
 23 the United States department of agriculture grades for potatoes; except that
 24 potatoes shipped outside the state for processing into ~~some~~ a changed form or
 25 product do not need to be graded.

26 (5) The Idaho department of agriculture may promulgate the necessary
 27 rules and forms to carry out ~~this paragraph~~ the provisions of this chapter.

28 SECTION 5. That Section 37-118, Idaho Code, be, and the same is hereby
 29 amended to read as follows:

30 37-118. TAGGING AND DETENTION OF ARTICLE OR PRODUCT SUSPECTED OF BE-
 31 ING ADULTERATED OR MISBRANDED -- EMBARGO AND CONDEMNATION UNDER CERTAIN CON-
 32 DITIONS AND BY CERTAIN PROCEDURES. (a) Whenever a duly authorized agent of
 33 the director finds, or has probable cause to believe, that any food, drug,
 34 device, or cosmetic is adulterated, or so misbranded as to be dangerous or
 35 fraudulent, within the meaning of this act, he shall affix to such article a
 36 tag or other appropriate marking, giving notice that such article is, or is
 37 suspected of being, adulterated or misbranded and has been detained or em-
 38 bargoed, and warning all persons not to remove or dispose of such article by
 39 sale or otherwise until permission for removal or disposal is given by such
 40 agent or the court. It shall be unlawful for any person to remove or dispose
 41 of such detained or embargoed article by sale or otherwise without such per-
 42 mission.

43 (b) When an article detained or embargoed under subsection (a) of this
 44 section has been found by such agent to be adulterated, or misbranded, he
 45 shall petition the probate court or district court in the county in whose ju-
 46 risdiction the article is detained or embargoed for a libel for condemnation
 47 of such article. When such agent has found that an article so detained or em-
 48 bargoed is not adulterated or misbranded, he shall remove the tag or other
 49 marking.

1 (c) If the court finds that a detained or embargoed article is adul-
2 terated or misbranded, such article shall, after entry of the decree be de-
3 stroyed at the expense of the claimant thereof, under the supervision of such
4 agent, and all court costs and fees, and storage and other proper expenses,
5 shall be taxed against the claimant of such article or his agent; provided,
6 that when the adulteration or misbranding can be corrected by proper label-
7 ing or processing of the article, the court, after entry of the decree and
8 after such costs, fees, and expenses have been paid and a good and suffi-
9 cient bond, conditioned that such article shall be so labeled or processed,
10 has been executed, may by order direct that such article be delivered to the
11 claimant thereof for such labeling or processing under the supervision of an
12 agent of the director. The expense of such supervision shall be paid by the
13 claimant. Such bond shall be returned to the claimant of the article on rep-
14 resentation to the court by the director that the article is no longer in vio-
15 lation of this act, and that the expenses of such supervision have been paid.

16 (d) Whenever the director or any of ~~its~~ the director's authorized
17 agents shall find in any room, building, vehicle of transportation, or other
18 structure, any meat, sea food, poultry, vegetable, fruit, or other perish-
19 able articles ~~which~~ that are unsound, or contain any filthy, decomposed, or
20 putrid substance, or that may be poisonous or deleterious to health or other-
21 wise unsafe, the same being hereby declared to be a nuisance, the director or
22 ~~its~~ the director's authorized agent, shall forthwith condemn or destroy the
23 same, or in any other manner render the same unsaleable as human food.

24 (e) Whenever the director or ~~its~~ the director's duly authorized agent
25 shall find, or have probable cause to believe, that any food, drug, device,
26 or cosmetic is offered or exposed for sale, or held in possession with intent
27 to distribute or sell, or is intended for distribution or sale in violation
28 of any provision of this act, whether it is in the custody of a common carrier
29 or any other person, the director may affix to such article a tag or other ap-
30 propriate marking, giving notice that such article is, or is suspected of be-
31 ing, in violation of this act, and has been embargoed. Within seven (7) days
32 after an embargo has been placed ~~upon~~ on any article, the embargo shall be re-
33 moved by the director or a summary proceeding for the confiscation of the ar-
34 ticle shall be instituted by the director. No person shall remove or dispose
35 of such embargoed article by sale or otherwise without the permission of the
36 director or agent; or after summary proceedings have been instituted, with-
37 out permission from the court. If the embargo shall be removed by the direc-
38 tor or by the court, neither the director nor the state shall be held liable
39 for damages because of such embargo in the event that the court shall find
40 that there was probable cause for the embargo.

41 (f) Such proceeding shall be by complaint, verified by affidavit, which
42 may be made on information and belief in the name of the director or agent
43 against the article to be confiscated.

44 (g) The complaint shall contain: (1) a particular description of the
45 article, (2) the name of the place where the article is located, (3) the name
46 of the person in whose possession or custody the article was found, if such
47 name be known to the person making the complaint or can be ascertained by rea-
48 sonable effort, and (4) a statement as to the manner in which the article is
49 adulterated or misbranded or the characteristics which render its distribu-
50 tion or sale illegal.

1 (h) Upon the filing of the verified complaint, the court shall issue a
 2 warrant directed to the proper officer to seize and take in his possession
 3 the article described in the complaint and bring the same before the court
 4 who issued the warrant and to summon the person named in the warrant, and any
 5 other person who may be found in possession of the article, to appear at the
 6 time and place therein specified.

7 (i) Any such person shall be summoned by service of a copy of the warrant
 8 in the same manner as a summons issuing out of the court in which the warrant
 9 has been issued.

10 (j) The hearing ~~upon~~ on the complaint shall be at the time and place
 11 specified in the warrant, which time shall not be less than five (5) days or
 12 more than fifteen (15) days from the date of issuing the warrant, but, if the
 13 execution and service of the warrant has been less than three (3) days be-
 14 fore the return of the warrant, either party shall be entitled to a reason-
 15 able continuance. Upon the hearing, the complaint may be amended.

16 (k) Any person who shall appear and claim the food, drug, device, or
 17 cosmetic seized under the warrant shall be required to file a claim in writ-
 18 ing.

19 (l) If, upon the hearing, it shall appear that the article was offered
 20 or exposed for sale, or was in possession with intent to distribute or sell,
 21 or was intended for distribution or sale, in violation of any provision of
 22 this act, it shall be confiscated and disposed of by destruction or sale as
 23 the court may direct, but no such article shall be sold contrary to any provi-
 24 sion of this act. The proceeds of any sale, less the legal costs and charges,
 25 shall be paid into the state treasury.

26 (m) This section shall not apply to food products produced, processed,
 27 packaged, or sold pursuant to chapter 2, title 37, Idaho Code. A food prod-
 28 uct shall not be deemed adulterated, misbranded, or otherwise in violation
 29 of this chapter solely because it is produced, processed, packaged, or sold
 30 pursuant to chapter 2, title 37, Idaho Code.

31 SECTION 6. That Section 37-133, Idaho Code, be, and the same is hereby
 32 amended to read as follows:

33 37-133. INSPECTION OF ESTABLISHMENTS -- EXAMINATION OF SPECIMENS --
 34 REPORTS -- RECEIPT FOR SAMPLES. (a) The director or his duly authorized agent
 35 shall have free access at all reasonable hours to any factory, warehouse, or
 36 food establishment, as that term is defined in section 39-1602, Idaho Code,
 37 in which foods, drugs, devices, or cosmetics are manufactured, processed,
 38 packed, or held for introduction into commerce, or to enter any vehicle being
 39 used to transport or hold such foods, drugs, devices, or cosmetics in com-
 40 merce, for the ~~purpose~~ purposes of:

41 (1) ~~of inspecting~~ Inspecting such factory, warehouse, food establish-
 42 ment, or vehicle to determine if any of the provisions of this act are
 43 being violated; and

44 (2) ~~to secure~~ Securing samples or specimens of any food, drug, device,
 45 or cosmetic after paying or offering to pay for such sample.

46 (b) It shall be the duty of the director to make or cause to be made ex-
 47 aminations of samples secured under the provisions of this section to deter-
 48 mine whether or not any provision of this act is being violated.

1 ~~(a)~~ (c) Upon the completion of any inspection of a factory, warehouse,
 2 or other establishment and prior to leaving the premises, the director or his
 3 duly authorized agent making the inspection shall give to the owner, opera-
 4 tor, or agent in charge, a report in writing setting forth any condition or
 5 practice observed by him which in his judgment indicates that any food, drug,
 6 device, or cosmetic in the establishment ~~(1) consists of,~~ in whole or in part
 7 ~~of,~~ any filthy, putrid, or decomposed substances~~;~~, or ~~(2) has been prepared,~~
 8 packed, or held in unsanitary condition whereby it may have become contami-
 9 nated with filth or whereby it may be rendered injurious to health.

10 ~~(b)~~ (d) If the director or his duly authorized agent making any such in-
 11 spection of any warehouse, factory, or other establishment has obtained any
 12 samples in the process of the inspection, upon completion of the inspection
 13 and prior to his leaving the premises, he shall give to the owner, operator,
 14 or agent in charge, a receipt describing the samples obtained.

15 ~~(c)~~ (e) Whenever in the course of any such inspection of the factory,
 16 or other establishment where food is manufactured, processed, or packed, the
 17 director or his duly authorized agent making the inspection obtains a sample
 18 of any such food and if analysis is made of such sample for the purpose of de-
 19 termining whether such food consists of, in whole or in part ~~of,~~ any filthy,
 20 putrid, or decomposed substance, or is otherwise unfit for food, a copy of
 21 the results of such analysis shall be sent promptly to the owner, operator,
 22 or agent in charge.

23 SECTION 7. That Section 37-1520, Idaho Code, be, and the same is hereby
 24 amended to read as follows:

25 37-1520. DEFINITIONS. ~~When used in this act~~ As used in this chapter:

26 (a) ~~The term "candling" shall refer to~~ "Candling" means the act or func-
 27 tion of determining the grade of eggs; and the term "candler" shall refer to
 28 the person performing that act or function.

29 (b) ~~The term "carton" shall mean~~ "Carton" means a container containing
 30 one (1) dozen eggs.

31 ~~(c) The term "director" shall refer to the director of the department of~~
 32 ~~agriculture.~~

33 ~~(d) (c) The term "consumer" shall mean~~ "Consumer" means a person who
 34 purchases eggs or egg products for use as food and not for resale in any form.

35 ~~(e) (d) The term "container" shall mean~~ "Container" means any carton,
 36 case, box, basket, sack, bag, or other receptacle.

37 ~~(f) (e) The term "dealer" "Dealer" or "egg handler" shall mean~~ means any
 38 person who acquires eggs or egg products from a producer or distributor for
 39 resale to consumers.

40 (f) "Director" means the director of the department of agriculture.

41 (g) ~~The term "distributor" shall refer to~~ "Distributor" means any per-
 42 son having possession or control of eggs or egg products for the purpose of
 43 candling, grading, packing, selling, peddling, distributing, dealing in, or
 44 trading in eggs or egg products for resale to a dealer in the state of Idaho,
 45 but shall not refer to a producer when engaging in the sale of eggs or egg
 46 products to a distributor or when engaging in the sale of eggs directly to a
 47 consumer at the place of production. Distributor shall not include those op-
 48 erating pursuant to chapter 2, title 37, Idaho Code.

1 (h) ~~The term "grade"~~ "Grade," when used as a verb shall mean to classify
2 eggs as to quality and size, and when used as a noun shall mean the classifi-
3 cation as to quality and size so established.

4 (i) "Intrastate commerce" means eggs or egg products are intended for
5 sale, held for sale, offered for sale, sold, stored, transported, or handled
6 in this state in any manner and prepared for eventual distribution in this
7 state whether at wholesale or retail.

8 ~~(i) (j) The term "person" shall include "Person" means an individual,~~
9 ~~partnership, corporation, firm, association and, or agent thereof.~~

10 ~~(j) (k) The term "producer" shall mean "Producer" means a person en-~~
11 ~~gaged in the business of operating or controlling the operation of one (1) or~~
12 ~~more farms, ranches, or establishments on which eggs or egg products are pro-~~
13 ~~duced in the state of Idaho.~~

14 ~~(k) (l) The term "sale" or "sell" or "selling" or "sold" shall include~~
15 ~~"Sale," "sell," "selling," or "sold" means and includes sale, offer of sale,~~
16 ~~display for sale, have in possession for sale, exchange, barter, trade, or~~
17 ~~other dealing.~~

18 ~~(l) "Intrastate commerce" means any eggs or egg products in intrastate~~
19 ~~commerce whether such eggs or egg products are intended for sale, held for~~
20 ~~sale, offered for sale, sold, stored, transported or handled in this state~~
21 ~~in any manner and prepared for eventual distribution in this state whether at~~
22 ~~wholesale or retail.~~

23 SECTION 8. That Section 37-1523A, Idaho Code, be, and the same is hereby
24 amended to read as follows:

25 37-1523A. ASSESSMENTS -- EXEMPTIONS TO ASSESSMENTS -- PREPAYMENT --
26 AUDIT. (1) There is hereby levied an assessment not to exceed four (4) mills
27 per dozen eggs (4/10 of a cent per dozen eggs) entering intrastate commerce
28 as prescribed by rules and regulations issued by the director. Such assess-
29 ment shall be applicable to all eggs entering intrastate commerce in retail
30 cartons. Such assessment shall be paid to the department of agriculture on
31 a monthly basis on or before the 25th day following the month such eggs en-
32 ter intrastate commerce. The director may require reports by egg handlers,
33 dealers, or distributors along with the payment of the assessment fee. Such
34 reports may include any and all pertinent information necessary to carry out
35 the purpose of this act. The director, ~~may,~~ by regulations, require egg con-
36 tainer manufacturers to report on a monthly basis on agriculture containers
37 sold to any egg handler, dealer, or distributor.

38 (2) The assessment provided in this section shall not apply to:

39 (a) Sale and shipment to points outside of this state;

40 (b) Sale to the United States government and its instrumentalities;

41 (c) Sale to breaking plants for processing into egg products;

42 (d) Sale to consumers at the place of production or processing;

43 (e) Sale between egg distributors;

44 (f) Idaho shell egg producers having three hundred (300) or less hens
45 may sell ungraded shell eggs produced ~~upon~~ on their premises to retail-
46 ers, provided that each carton or other container of ungraded shell eggs
47 sold shall be clearly marked "ungraded" and shall bear the name and ad-
48 dress of the Idaho producer; ~~and~~

49 (g) Those operating pursuant to chapter 2, title 37, Idaho Code.

1 (3) Any egg handler, dealer, or distributor may prepay the assessment
 2 provided ~~for~~ in subsection (1) of this section by purchasing Idaho state
 3 egg seals from the director to be placed on egg containers showing that the
 4 proper assessment has been paid. Any carton manufacturer may apply to the
 5 director for a permit to place reasonable facsimiles of the Idaho state egg
 6 seals to be imprinted on egg containers. The director shall from time to time
 7 prescribe rules and regulations governing the affixing of seals and he is au-
 8 thorized to cancel any such permit issued pursuant to this chapter whenever
 9 he finds that a violation of the terms of which the permit has been granted
 10 has been violated.

11 (4) Every egg handler, dealer, or distributor who pays assessments re-
 12 quired ~~under~~ pursuant to the provisions of this section on a monthly basis in
 13 lieu of seals shall be subject to audit by the director on an annual basis or
 14 more frequently if necessary. Failure to pay assessments when due or refusal
 15 to allow an audit may be cause for a suspension or revocation of an egg han-
 16 dler's, dealer's, or distributor's license. The conditions and assessments
 17 applicable to egg handlers, dealers, and distributors set forth in section
 18 37-1523, Idaho Code, shall also be applicable to payments to the director for
 19 facsimiles of seals placed on egg containers.

20 SECTION 9. That Section 39-1602, Idaho Code, be, and the same is hereby
 21 amended to read as follows:

22 39-1602. DEFINITIONS. As used in this chapter:

23 (1) "Commissary" means a place where food, containers, or supplies are
 24 stored, prepared, or packaged for transit, sale, or service at other loca-
 25 tions.

26 (2) "Food establishment" means those operations in the food business,
 27 such as, but not limited to, food processing establishments, canning fac-
 28 tories, salvage processing facilities, food service establishments, cold
 29 storage plants, commissaries, warehouses, food vending machine operations
 30 and location, caterers, mobile food units, and retail food stores. Such
 31 operations include all activities under the control of the license holder,
 32 including preparation, processing, storage, service, transportation vehi-
 33 cles, satellite locations, divisions and departments, and remote feeding
 34 sites. The term includes operations ~~which that~~ are conducted in perma-
 35 nent, temporary, or mobile facilities or locations. It includes any food
 36 operation regardless of whether consumption is on or off the premises and re-
 37 gardless of whether there is a charge for the food. Individual divisions and
 38 departments on one (1) premises and under common ownership shall, as a whole,
 39 be considered a single food establishment. The term "food establishment"
 40 does not include:

41 (a) Private homes where food is prepared or served for individual fam-
 42 ily consumption;

43 (b) Fraternal, benevolent, or nonprofit charitable organizations
 44 ~~which that~~ do not prepare or serve food on a regular basis. Food shall
 45 not be considered to be served on a regular basis if the food is served
 46 for a period not to exceed five (5) consecutive days on no more than
 47 three (3) occasions per year for foods ~~which that~~ are not potentially
 48 hazardous, or if the food is served no more than one (1) meal a week for
 49 all other foods;

1 (c) Bed and breakfast establishments with ten (10) or fewer beds;
 2 (d) Establishments ~~which that~~ offer only factory-sealed foods that are
 3 not potentially hazardous;

4 (e) Any nonretail activity subject to regulation pursuant to the United
 5 States food and drug administration food safety modernization act,
 6 provided that such nonretail activity is subject to registration ~~under~~
 7 pursuant to section 415 of the federal food, drug and cosmetic act. Such
 8 activities shall be subject to regulation by the Idaho state depart-
 9 ment of agriculture pursuant to the provisions of section 22-113, Idaho
 10 Code, in the event the state enacts legislation providing that it should
 11 seek federal authorization of such regulation;

12 (f) Agricultural markets; ~~and~~

13 (g) Agricultural equipment used for the extraction or harvest of an
 14 agricultural product, including, but not limited to, mint stills; and

15 (h) Those operating pursuant to chapter 2, title 37, Idaho Code.

16 (3) "Intermittent food establishment" means a food vendor that oper-
 17 ates for a period of time, not to exceed ~~three (3)~~ six (6) consecutive days
 18 per week, at a single, specified location in conjunction with a recurring
 19 event ~~and that offers potentially hazardous food to the general public~~. Ex-
 20 amples of a recurring event may be a farmers' or community market or a hol-
 21 iday market. "Intermittent food establishment" does not include the vendor
 22 of farm-fresh ungraded eggs at a recurring event.

23 (4) "Mobile food establishment" means a food establishment selling
 24 or serving food for human consumption from any vehicle or other temporary
 25 or itinerant station and includes any movable food service establishment,
 26 truck, van, trailer, pushcart, bicycle, watercraft, or other movable food
 27 service with or without wheels, including hand-carried, portable contain-
 28 ers in or on which food or beverage is transported, stored, or prepared for
 29 retail sale or given away at temporary locations.

30 (5) "Potentially hazardous food" means any food or ingredient, natu-
 31 ral or synthetic, in a form capable of supporting the rapid and progressive
 32 growth of infectious or toxigenic microorganisms or the slower growth of
 33 clostridium botulinum. Included is any food of animal origin, either raw or
 34 heat-treated, and any food of plant origin ~~which that~~ has been heat-treated
 35 or ~~which that~~ is raw seed sprouts, cut melons, and garlic and oil mixtures.
 36 The term "potentially hazardous food" does not include:

37 (a) Air-dried hard-boiled eggs with shells intact;

38 (b) Foods with a water activity (aw) value of eighty-five hundredths
 39 (0.85) or less;

40 (c) Foods with a pH (hydrogen ion concentration) level of four and
 41 six-tenths (4.6) or below when measured at seventy-five (75) degrees
 42 Fahrenheit;

43 (d) Foods in unopened ~~hermetically-sealed~~ hermetically sealed con-
 44 tainers ~~which that~~ have been commercially processed to achieve and
 45 maintain commercial sterility under conditions of nonrefrigerated
 46 storage and distribution;

47 (e) Foods for which laboratory evidence, acceptable to the regulatory
 48 authority, demonstrates that rapid and progressive growth of infec-
 49 tious and toxigenic microorganisms or the slower growth of clostridium
 50 botulinum cannot occur;

1 (f) Milk, half-and-half cream, butter products, frozen dairy desserts,
2 and other fluid milk products, in the original unopened container; and

3 (g) Any other food items determined by the department of health and wel-
4 fare not to be potentially hazardous.

5 (6) "Regulatory authority" means the director of the Idaho department
6 of health and welfare or the director's designee.

7 (7) "Temporary food establishment" means a food establishment that op-
8 erates for a period of not more than fourteen (14) consecutive days in con-
9 junction with a single event or celebration.

10 SECTION 10. That Section 74-107, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 74-107. RECORDS EXEMPT FROM DISCLOSURE -- TRADE SECRETS, PRODUCTION
13 RECORDS, APPRAISALS, BIDS, PROPRIETARY INFORMATION, TAX COMMISSION, UN-
14 CLAIMED PROPERTY, PETROLEUM CLEAN WATER TRUST FUND. The following records
15 are exempt from disclosure:

16 (1) Trade secrets, including those contained in response to public
17 agency requests for proposal, requests for clarification, requests for in-
18 formation, and similar requests. "Trade secrets," as used in this section,
19 means information, including a formula, pattern, compilation, program,
20 computer program, device, method, technique, process, or unpublished or
21 in-progress research that:

22 (a) Derives independent economic value, actual or potential, from not
23 being generally known to, and not being readily ascertainable by proper
24 means by other persons who can obtain economic value from its disclosure
25 or use; and

26 (b) Is the subject of efforts that are reasonable under the circum-
27 stances to maintain its secrecy.

28 (2) Production records, housing production, rental and financing
29 records, sale or purchase records, catch records, mortgage portfolio loan
30 documents, or similar business records of a private concern or enterprise
31 required by law to be submitted to or inspected by a public agency or sub-
32 mitted to or otherwise obtained by an independent public body corporate and
33 politic. Nothing in this subsection shall limit the use ~~which~~ that can be
34 made of such information for regulatory purposes or its admissibility in any
35 enforcement proceeding.

36 (3) Records relating to the appraisal of real property, timber, or min-
37 eral rights prior to its acquisition, sale, or lease by a public agency.

38 (4) Any estimate prepared by a public agency that details the cost of a
39 public project until such time as disclosed or bids are opened, or upon award
40 of the contract for construction of the public project.

41 (5) Examination, operating, or condition reports and all documents re-
42 lating thereto, prepared by or supplied to any public agency responsible for
43 the regulation or supervision of financial institutions, including but not
44 limited to banks, savings and loan associations, regulated lenders, busi-
45 ness and industrial development corporations, credit unions, and insurance
46 companies, or for the regulation or supervision of the issuance of securi-
47 ties.

48 (6) Records gathered by a local agency or the Idaho department of com-
49 merce, as described in chapter 47, title 67, Idaho Code, for the specific

1 purpose of assisting a person to locate, maintain, invest in, or expand busi-
2 ness operations in the state of Idaho.

3 (7) Shipping and marketing records of commodity commissions used to
4 evaluate marketing and advertising strategies and the names and addresses of
5 growers and shippers maintained by commodity commissions.

6 (8) Financial statements and business information and reports submit-
7 ted by a legal entity to a port district organized ~~under~~ pursuant to title 70,
8 Idaho Code, in connection with a business agreement, or with a development
9 proposal or with a financing application for any industrial, manufacturing,
10 or other business activity within a port district.

11 (9) Names and addresses of seed companies, seed crop growers, seed crop
12 consignees, locations of seed crop fields, variety name, and acreage by va-
13 riety. Upon the request of the owner of the proprietary variety, this infor-
14 mation shall be released to the owner. Provided however, that if a seed crop
15 has been identified as diseased or has been otherwise identified by the Idaho
16 department of agriculture, other state departments of agriculture, or the
17 United States department of agriculture to represent a threat to that par-
18 ticular seed or commercial crop industry or to individual growers, informa-
19 tion as to test results, location, acreage involved, and disease symptoms
20 of that particular seed crop, for that growing season, shall be available
21 for public inspection and copying. This exemption shall not supersede the
22 provisions of section 22-436, Idaho Code, nor shall this exemption apply to
23 information regarding specific property locations subject to an open burn-
24 ing of crop residue pursuant to section 39-114, Idaho Code, names of persons
25 responsible for the open burn, acreage and crop type to be burned, and time
26 frames for burning.

27 (10) Information obtained from books, records, and accounts required in
28 chapter 47, title 22, Idaho Code, to be maintained by the Idaho oilseed com-
29 mission and pertaining to the individual production records of oilseed grow-
30 ers.

31 (11) Records of any risk retention or self-insurance program prepared
32 in anticipation of litigation or for analysis of or settlement of potential
33 or actual money damage claims against a public entity and its employees or
34 against the industrial special indemnity fund except as otherwise discov-
35 erable under the Idaho or federal rules of civil procedure. These records
36 shall include, but are not limited to, claims evaluations, investigatory
37 records, computerized reports of losses, case reserves, internal documents,
38 and correspondence relating thereto. At the time any claim is concluded,
39 only statistical data and actual amounts paid in settlement shall be deemed
40 a public record unless otherwise ordered to be sealed by a court of competent
41 jurisdiction. Provided however, nothing in this subsection is intended to
42 limit the attorney-client privilege or attorney work product privilege oth-
43 erwise available to any public agency.

44 (12) Records of laboratory test results provided by or retained by the
45 Idaho food quality assurance laboratory. Nothing in this subsection shall
46 limit the use ~~which~~ that can be made, or availability of such information if
47 used, for regulatory purposes or its admissibility in any enforcement pro-
48 ceeding.

1 (13) Reports required to be filed ~~under~~ pursuant to chapter 13, title
2 62, Idaho Code, identifying electrical or natural or manufactured gas con-
3 sumption data for an individual customer or account.

4 (14) Voluntarily prepared environmental audits, and voluntary disclo-
5 sures of information submitted on or before December 31, 1997, to an environ-
6 mental agency, which are claimed to be confidential business information.

7 (15) Computer programs developed or purchased by or for any public
8 agency for its own use. As used in this subsection, "computer program" means
9 a series of instructions or statements ~~which~~ that permit the functioning of
10 a computer system in a manner designed to provide storage, retrieval, and
11 manipulation of data from the computer system, and any associated documenta-
12 tion and source material that explain how to operate the computer program.
13 Computer program does not include:

14 (a) The original data, including, but not limited to, numbers, text,
15 voice, graphics, and images;

16 (b) Analysis, compilation, and other manipulated forms of the original
17 data produced by use of the program; or

18 (c) The mathematical or statistical formulas that would be used if the
19 manipulated forms of the original data were to be produced manually.

20 (16) Active investigative records and trademark usage audits of the
21 Idaho potato commission specifically relating to the enforcement of chapter
22 12, title 22, Idaho Code, until the commencement of formal proceedings as
23 provided by rules of the commission, purchase and sales information submit-
24 ted to the Idaho potato commission during a trademark usage audit, and inves-
25 tigation or enforcement proceedings. Inactive investigatory records shall
26 be disclosed unless the disclosure would violate the standards set forth in
27 subsection (1) (a) through (f) of section 74-124, Idaho Code. Nothing in this
28 subsection shall limit the use ~~which~~ that can be made, or availability of
29 such information if used, for regulatory purposes or its admissibility in
30 any enforcement proceeding.

31 (17) All records copied or obtained by the director of the department of
32 agriculture or his designee as a result of an inspection pursuant to section
33 25-3806, Idaho Code, except:

34 (a) Records otherwise deemed to be public records not exempt from dis-
35 closure pursuant to this chapter; and

36 (b) Inspection reports, determinations of compliance or noncompli-
37 ance, and all other records created by the director or his designee
38 pursuant to section 25-3806, Idaho Code.

39 (18) All data and information collected by the division of animal indus-
40 tries or the state brand board pursuant to the provisions of section 25-207B,
41 Idaho Code, or rules promulgated thereunder.

42 (19) Records disclosed to a county official by the state tax commission
43 pursuant to subsection (4) (c) of section 63-3029B, Idaho Code.

44 (20) Records, data, information and materials collected, developed,
45 generated, ascertained, or discovered during the course of academic re-
46 search at public institutions of higher education if the disclosure of such
47 could reasonably affect the conduct or outcome of the research, or the abil-
48 ity of the public institution of higher education to patent or copyright the
49 research or protect intellectual property.

1 (21) Records, data, information, and materials collected or utilized
2 during the course of academic research at public institutions of higher edu-
3 cation provided by any person or entity other than the public institution of
4 higher education or a public agency.

5 (22) The exemptions from disclosure provided in subsections (20) and
6 (21) of this section shall apply only until the academic research is pub-
7 licly released, copyrighted, or patented, or until the academic research
8 is completed or terminated. At such time, the records, data, information,
9 and materials shall be subject to public disclosure, unless: (a) another
10 exemption in this chapter applies; (b) such information was provided to the
11 institution subject to a written agreement of confidentiality; or (c) public
12 disclosure would pose a danger to persons or property.

13 (23) The exemptions from disclosure provided in subsections (20) and
14 (21) of this section do not include basic information about a particular
15 research project that is otherwise subject to public disclosure, such as the
16 nature of the academic research, the name of the researcher, and the amount
17 and source of the funding provided for the project.

18 (24) Records of a county assessor, the state tax commission, a county
19 board of equalization, or the state board of tax appeals containing the fol-
20 lowing information: (i) lists of personal property required to be filed pur-
21 suant to section 63-302, Idaho Code, and operating statements required to
22 be filed pursuant to section 63-404, Idaho Code; and (ii) confidential com-
23 mercial or financial information, including trade secrets. Except with re-
24 spect to lists of personal property required to be filed pursuant to section
25 63-302, Idaho Code, and the operator statements required to be filed pur-
26 suant to section 63-404, Idaho Code, it shall be the responsibility of the
27 taxpayer to give notice of its claim to exemption by stamping or marking each
28 page or the first page of each portion of documents so claimed. No records
29 that are exempt pursuant to this subsection shall be disclosed without the
30 consent of the taxpayer except as follows:

31 (a) To any officer, employee, or authorized representative of the state
32 or the United States, under a continuing claim of confidentiality, as
33 necessary to carry out the provisions of state or federal law or when
34 relevant to any proceeding thereunder.

35 (b) In the publication of statistics or reports as long as the statis-
36 tics or reports do not reasonably lead to the identification of the spe-
37 cific taxpayer or information submitted by taxpayers exempt pursuant to
38 this subsection.

39 (c) To the board of tax appeals or the district court as evidence or
40 otherwise in connection with an appeal of the taxpayer's property tax
41 assessment, but only if the board or the court, as applicable, has en-
42 tered a protective order specifying that the taxpayer information may
43 not be disclosed by any person conducting or participating in the action
44 or proceeding, except as authorized by the board or the court in accor-
45 dance with applicable law.

46 (d) Nothing in this subsection shall prevent disclosure of the follow-
47 ing information:

48 (i) Name and mailing address of the property owner;

49 (ii) A parcel number;

50 (iii) A legal description of real property;

- 1 (iv) The square footage and acreage of real property;
- 2 (v) The assessed value of taxable property;
- 3 (vi) The tax district and the tax rate; and
- 4 (vii) The total property tax assessed.

5 (25) Results of laboratory tests ~~which~~ that have no known adverse im-
6 pacts to human health conducted by the Idaho state department of agricul-
7 ture animal health laboratory, related to diagnosis of animal diseases of
8 individual animals or herds, on samples submitted by veterinarians or animal
9 owners unless:

10 (a) The laboratory test results indicate the presence of a state or fed-
11 erally reportable or regulated disease in animals;

12 (b) The release of the test results is required by state or federal law;
13 or

14 (c) The test result is identified as representing a threat to animal or
15 human health or to the livestock industry by the Idaho state department
16 of agriculture or the United States department of agriculture. Nothing
17 in this subsection shall limit the use ~~which~~ that can be made, or avail-
18 ability of such information if used, for regulatory purposes or its ad-
19 missibility in any enforcement proceeding, or the duty of any person to
20 report contagious or infectious diseases as required by state or fed-
21 eral law.

22 (26) Results of laboratory tests conducted by the Idaho state depart-
23 ment of agriculture seed laboratory on samples submitted by seed producers
24 or seed companies. Nothing in this subsection shall limit the use ~~which~~ that
25 can be made, or availability of such information pursuant to the provisions
26 of subsections (9) and (10) of section 22-418, Idaho Code.

27 (27) For policies that are owned by private persons, and not by a pub-
28 lic agency of the state of Idaho, records of policies, endorsements, affi-
29 davits, and any records that discuss policies, endorsements, and affidavits
30 that may be required to be filed with or by a surplus line association pur-
31 suant to chapter 12, title 41, Idaho Code.

32 (28) Individual financial statements of a postsecondary educational
33 institution or a proprietary school submitted to the state board of educa-
34 tion, its director, or a representative thereof, for the purpose of reg-
35 istering the postsecondary educational institution or proprietary school
36 pursuant to section 33-2402 or 33-2403, Idaho Code, or provided pursuant to
37 an administrative rule of the board adopted pursuant to such sections.

38 (29) Information submitted by insurance companies pursuant to section
39 41-612(17), Idaho Code.

40 (30) Documents, materials, or other information submitted to the direc-
41 tor of the department of insurance as provided in chapter 64, title 41, Idaho
42 Code.

43 (31) Reports, information, and other materials exempted by chapter 63,
44 title 41, Idaho Code.

45 (32) Records that identify the method by which the Idaho state tax com-
46 mission selects tax returns for audit review.

47 (33) Records that identify the method by which the administrator of the
48 unclaimed property law set forth in chapter 5, title 14, Idaho Code, selects
49 reports for audit review or conducts audit review of such reports and the
50 identity of individuals or entities under audit.

1 (34) Underwriting and claims records of the Idaho petroleum clean wa-
2 ter trust fund obtained pursuant to section 41-4905, 41-4909, 41-4911A,
3 41-4912, or 41-4912A, Idaho Code. Provided, however, that this subsection
4 shall not prevent the Idaho petroleum clean water trust fund's submittal to
5 the Idaho department of environmental quality or other regulatory agencies
6 of information necessary to satisfy an insured's corrective action require-
7 ment under applicable federal or state standards in the event of a release
8 into the environment from a petroleum storage tank; and provided further
9 that nothing in this subsection shall prevent the Idaho petroleum clean wa-
10 ter trust fund from providing auditing, reporting, or actuarial information
11 as otherwise required of it pursuant to section 41-4919, 41-4925A, 41-4928,
12 41-4930, 41-4932, 41-4937, or 41-4938, Idaho Code.

13 (35) Records required to be kept pursuant to chapter 2, title 37, Idaho
14 Code.

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