

TITLE 38
FORESTRY, FOREST PRODUCTS AND STUMPAGE DISTRICTS

CHAPTER 8
FLOATING TIMBER

38-801. DEFINITION OF TIMBER. The word "timber" is used in this chapter to designate all logs, boards, planks, lumber, railroad ties, poles, rails, posts, cordwood or beams, and whether in rafts or otherwise, but does not include the sort of wood commonly called driftwood.

[(38-801) R.S., sec. 830; reen. R.C. & C.L., sec. 867; C.S., sec. 1295; I.C.A., sec. 37-301.]

38-802. RECLAMATION BY OWNER. Whenever any timber drifts upon any island in any of the waters of this state, or upon the bank of any such waters, the owner of the timber may remove it on paying or tendering to the owner or occupant of the land the amount of damages which he has sustained by reason thereof, and which may accrue in its removal; and if the parties can not agree as to the amount of such damages, either party may have the same appraised by two (2) disinterested citizens of the county, who may hear the proofs and determine the same at the expense of the owner of the timber.

[(38-802) 1885, p. 177, sec. 1; R.S., sec. 831; reen. R.C. & C.L., sec. 868; C.S., sec. 1296; I.C.A., sec. 37-302.]

38-803. SALE BY SHERIFF. If the owner of such timber does not, within three months from the time it was so drifted, take the same away, the owner or occupant of the land must deliver a bill of his charges and appraisal of damages, together with the timber, to the sheriff of the county, and thereafter the sheriff must sell the same after three (3) days' notice posted in three (3) public places of the precinct.

[(38-803) R.S., sec. 832; reen. R.C. & C.L., sec. 869; C.S., sec. 1297; I.C.A., sec. 37-303.]

38-804. APPLICATION OF PROCEEDS. When sold, the proceeds of the timber must be applied, first, to the payment of the charges of the sale, and in liquidation of the expenses and damages awarded to the person entitled thereto; and the residue must be paid to the county treasurer, to be by him paid over to the owner, or his representative or assigns, on the production of satisfactory proof of ownership to the magistrate judge, and on his order therefor made within one (1) year after its receipt.

[(38-804) R.S., sec. 833; reen. R.C. & C.L., sec. 870; C.S., sec. 1298; I.C.A., sec. 37-304; am. 2012, ch. 20, sec. 19, p. 71.]

38-805. REJECTION OF CLAIMANT'S RIGHT -- DISPOSITION OF PROCEEDS. The rejection by the magistrate judge of any claimant's right to such proceeds is conclusive, unless, within six (6) months thereafter, he commences action therefor. In case no claim is made or sustained to such proceeds, the same must, by the county treasurer, be placed in the common school fund of the county.

[(38-805) R.S., sec. 834; reen. R.C. & C.L., sec. 871; C.S., sec. 1299; I.C.A., sec. 37-305; am. 2012, ch. 20, sec. 20, p. 71.]

38-806. DAMS AND BOOMS -- LIMITATION ON CONSTRUCTION. No dam or boom must be hereafter constructed or permitted on any creek or river, unless said dam or boom has connected therewith a sluiceway, lock or fixture sufficient and so arranged as to permit timber to pass around, through or over said dam or boom without unreasonable delay or hindrance.

[(38-806) 1885, p. 177, sec. 6; R.S., sec. 835; reen. R.C. & C.L., sec. 872; C.S., sec. 1300; I.C.A., sec. 37-306.]

38-807. BOOMS AND WEIRS AS NUISANCES -- ABATEMENT -- LIABILITY OF OWNER. Any boom or weir in or over any creek or river so constructed as to prevent the passage of logs or lumber, is a public nuisance, which may be abated unless a suitable sluiceway, lock or passage be made thereon, within thirty (30) days after written notice given by any person interested, and any person owning, holding or occupying such boom or weir is liable to pay five dollars (\$5.00) for every day the same remains in or over said creek or river, after thirty (30) days' notice to remove the same, and is liable for any damages sustained by individuals by reason of said boom or weir.

[(38-807) 1885, p. 177, sec. 7; am. R.S., sec. 836; reen. R.C. & C.L., sec. 873; C.S., sec. 1301; I.C.A., sec. 37-307.]

38-808. RECORDING LOG BRANDS -- PENALTY. (1) Definitions:

(a) "Person" includes the plural and all corporations, foreign and domestic, copartnerships, firms and associations of persons.

(b) "Forest products." For the purposes of this section only, "forest products" means all products derived from trees including, but not limited to, saw logs, veneer logs, poles, cedar products, pulp logs, fence posts and every form into which a fallen tree may be cut before it is manufactured into lumber or run through a processing mill or cut into cordwood, stove wood or hewn ties.

(c) "Log brand" means a unique symbol or mark placed on or in forest products for the purpose of identifying ownership.

(2) Any owner of forest products in the state of Idaho may use thereon any log brand, which may be applied as a stamped symbol, log brand or affixed tag, not currently registered by any other person in the state; but before any such log brand shall be used, it shall be the duty of such owner intending to use the same to cause a diagram, and a full and complete written description of his log brand, signed by him, to be submitted on "Registration of Log Brands" forms to the office of the Idaho board of scaling practices, who shall record the same upon receipt of a payment of twenty-five dollars (\$25.00), provided the log brand is different from any other log brand currently registered in that office. It shall be the duty of the person in charge of the Idaho board of scaling practices office to keep a record of all registered log brands, which record shall at all reasonable times be open to public inspection.

(3) All applications for log brands and/or renewals shall be submitted to and approved by the Idaho board of scaling practices prior to use. Such application shall be made on duplicate log brand registration forms and shall include a diagram or an impression of the log brand stamped on the form, a written description of the log brand and be signed by the person or the

agent of the person. The Idaho board of scaling practices may refuse to approve any log brand which is identical to or closely resembles a currently registered log brand. If approval is denied, the applicant will select another log brand. No person shall brand any prize log.

(4) The expiration date for all log brands registered prior to January 1, 1981, shall be February 28, 1994; the expiration date for all log brands registered from January 1, 1981, through December 31, 1985, shall be February 28, 1995; the expiration date for all log brands registered from January 1, 1986 through December 31, 1989, shall be February 28, 1996; the expiration date for all log brands registered from January 1, 1990, through December 31, 1992, shall be February 28, 1997. Beginning January 1, 1993, renewals or newly approved registrations shall expire on February 28, five (5) years after the year of registration or renewal. Notification of expiration will be sent during the month of September of the year preceding the expiration date. A renewal fee of twenty-five dollars (\$25.00) shall be charged each time a log brand is renewed by the same person.

(5) To assign ownership of a currently registered log brand, the current registered owner of the log brand shall file with the Idaho board of scaling practices a signed and duly notarized instrument on forms provided by the board. Such forms shall specify the effective date of transfer, the assignee and the log brand to be assigned. A fee of twenty-five dollars (\$25.00) shall be charged for each transfer. The transferred log brand will be issued a new registration number and shall expire February 28, five (5) years after the year of the transfer.

Any failure to renew a log brand as required by law shall be deemed an abandonment of same. Abandoned or canceled log brands shall not be reissued for a period of one (1) year unless the Idaho board of scaling practices so authorizes for cause. Any other person may be at liberty to adopt or use the abandoned log brand; but the other person shall not claim or use it until after it has been registered in the other person's own name as provided by this section.

(6) Failure to comply with the provisions of this section shall be deemed a violation of the log brand law. Upon request of the Idaho board of scaling practices or its chairperson, it shall be the duty of the attorney general to institute and prosecute civil enforcement actions. In addition, when deemed by the board to be necessary, the board may retain private counsel to institute and prosecute civil enforcement actions. Any person who has been determined to have violated the provisions of this chapter shall be liable for any expense, including reasonable attorney's fees, incurred by the state in enforcing the provisions of this chapter. Any violation of this section shall be deemed a misdemeanor and any person, upon conviction, shall be sentenced to pay a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500).

[38-808, added 1973, ch. 198, sec. 1, p. 449; am. 1993, ch. 92, sec. 1, p. 219; am. 1995, ch. 177, sec. 1, p. 660; am. 2008, ch. 200, sec. 2, p. 646.]

38-809. PRIZE LOGS -- SALE AT PUBLIC AUCTION. All logs or timbers suitable for manufacture into lumber, ties, poles, or other timber products, not bearing a legally recorded mark or marks, which shall be placed aboard a transport vehicle for land transportation or placed afloat on a waterway, or permitted to be afloat upon any of the public waters of this state, not confined in booms or rafts, and all such logs or timbers bearing a legally

recorded mark or marks not claimed within one (1) year after being placed in transit or afloat shall be prize logs, and no evidence of any private ownership thereof shall be admissible in any proceeding. Prize logs shall be sold by or under the direction of the Idaho board of scaling practices, and the proceeds of such sale, after deducting the expense of the sale and transportation or other charges incurred in getting said logs to the sale site shall go into the state scaling fund. Such sale shall be at public auction after publication of notice of time and place thereof for not less than three (3) consecutive weeks in a newspaper of general circulation printed and published in the county in which the sale is to be held. It shall be the duty of every person having custody or possession of prize logs to deliver them to the Idaho board of scaling practices upon demand.

[38-809, added 1973, ch. 198, sec. 2, p. 449; am. 2008, ch. 200, sec. 3, p. 647.]

CHAPTER 9
INSPECTION OF LUMBER -- [REPEALED]