

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 140

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

1 RELATING TO MARIJUANA; AMENDING SECTION 37-2732, IDAHO CODE, TO PROVIDE CER-  
2 TAIN PENALTIES FOR MARIJUANA; AMENDING SECTION 18-7803, IDAHO CODE, TO  
3 PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 18-7804, IDAHO CODE,  
4 TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 18-8201, IDAHO  
5 CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 31-3201I,  
6 IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AND AMENDING SECTION  
7 37-2801, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES.  
8

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

10 SECTION 1. That Section 37-2732, Idaho Code, be, and the same is hereby  
11 amended to read as follows:

12 37-2732. PROHIBITED ACTS A -- PENALTIES. (a) Except as authorized by  
13 this chapter, it is unlawful for any person to manufacture or deliver, or  
14 possess with intent to manufacture or deliver, a controlled substance.

15 (1) Any person who violates this subsection with respect to:

16 (A) A controlled substance classified in schedule I which is a  
17 narcotic drug or a controlled substance classified in schedule II,  
18 except as provided for in section 37-2732B(a) (3), Idaho Code, is  
19 guilty of a felony and upon conviction may be imprisoned for a term  
20 of years not to exceed life imprisonment, or fined not more than  
21 twenty-five thousand dollars (\$25,000), or both;

22 (B) Any other controlled substance which is a nonnarcotic drug  
23 classified in schedule I, or a controlled substance classified in  
24 schedule III, is guilty of a felony and upon conviction may be im-  
25 prisoned for not more than five (5) years, fined not more than fif-  
26 teen thousand dollars (\$15,000), or both;

27 (C) A substance classified in schedule IV, is guilty of a felony  
28 and upon conviction may be imprisoned for not more than three (3)  
29 years, fined not more than ten thousand dollars (\$10,000), or  
30 both;

31 (D) A substance classified in schedules V and VI, is guilty of  
32 a misdemeanor and upon conviction may be imprisoned for not more  
33 than one (1) year, fined not more than five thousand dollars  
34 (\$5,000), or both.

35 (b) Except as authorized by this chapter, it is unlawful for any per-  
36 son to create, deliver, or possess with intent to deliver, a counterfeit sub-  
37 stance.

38 (1) Any person who violates this subsection with respect to:

39 (A) A counterfeit substance classified in schedule I which is a  
40 narcotic drug, or a counterfeit substance classified in schedule  
41 II, is guilty of a felony and upon conviction may be imprisoned for

1 not more than fifteen (15) years, fined not more than twenty-five  
2 thousand dollars (\$25,000), or both;

3 (B) Any other counterfeit substance classified in schedule I  
4 which is a nonnarcotic drug contained in schedule I or a counter-  
5 feit substance contained in schedule III, is guilty of a felony and  
6 upon conviction may be imprisoned for not more than five (5) years,  
7 fined not more than fifteen thousand dollars (\$15,000), or both;

8 (C) A counterfeit substance classified in schedule IV, is guilty  
9 of a felony and upon conviction may be imprisoned for not more  
10 than three (3) years, fined not more than ten thousand dollars  
11 (\$10,000), or both;

12 (D) A counterfeit substance classified in schedules V and VI or a  
13 noncontrolled counterfeit substance, is guilty of a misdemeanor  
14 and upon conviction may be imprisoned for not more than one (1)  
15 year, fined not more than five thousand dollars (\$5,000), or both.

16 (c) It is unlawful for any person to possess a controlled substance un-  
17 less the substance was obtained directly from, or pursuant to, a valid pre-  
18 scription or order of a practitioner while acting in the course of his pro-  
19 fessional practice, or except as otherwise authorized by this chapter.

20 (1) Any person who violates this subsection and has in his possession  
21 a controlled substance classified in schedule I which is a narcotic  
22 drug or a controlled substance classified in schedule II, is guilty of  
23 a felony and upon conviction may be imprisoned for not more than seven  
24 (7) years, or fined not more than fifteen thousand dollars (\$15,000), or  
25 both.

26 (2) Any person who violates this subsection and has in his possession  
27 lysergic acid diethylamide is guilty of a felony and upon conviction may  
28 be imprisoned for not more than three (3) years, or fined not more than  
29 five thousand dollars (\$5,000), or both.

30 (3) Any person who violates this subsection and has in his possession a  
31 controlled substance which is a nonnarcotic drug classified in schedule  
32 I except lysergic acid diethylamide, or a controlled substance classi-  
33 fied in schedules III, IV, V and VI is guilty of a misdemeanor and upon  
34 conviction thereof may be imprisoned for not more than one (1) year, or  
35 fined not more than one thousand dollars (\$1,000), or both.

36 (d) It shall be unlawful for any person to be present at or on premises  
37 of any place where he knows illegal controlled substances are being manufac-  
38 tured or cultivated, or are being held for distribution, transportation, de-  
39 livery, administration, use, or to be given away. A violation of this sec-  
40 tion shall deem those persons guilty of a misdemeanor and upon conviction  
41 shall be punished by a fine of not more than three hundred dollars (\$300) and  
42 not more than ninety (90) days in the county jail, or both.

43 (e) If any person is found to possess marijuana, which for the purposes  
44 of this subsection shall be restricted to all parts of the plants of the  
45 genus Cannabis, including the extract or any preparation of cannabis which  
46 contains tetrahydrocannabinol, in an amount greater than three (3) ounces  
47 net weight, it shall be a felony and upon conviction may be imprisoned for  
48 not more than five (5) years, or fined not more than ten thousand dollars  
49 (\$10,000), or both.

1        (f) (1) If any person is found to possess marijuana, which for the pur-  
 2 poses of this subsection shall be restricted to all parts of the plants  
 3 of the genus Cannabis, including the extract or any preparation of  
 4 cannabis which contains tetrahydrocannabinol, in an amount equal to or  
 5 less than three (3) ounces net weight, the charge shall be a misdemeanor  
 6 and upon conviction thereof, the person may be imprisoned for no more  
 7 than one (1) year, or fined no more than one thousand dollars (\$1,000),  
 8 or both.

9        (2) For any person who is convicted of violating paragraph (1) of this  
 10 subsection who has no prior conviction for a drug-related offense, the  
 11 conviction shall be reduced to an infraction if the person possessed  
 12 marijuana in a quantity of one-half (1/2) ounce net weight or less, and  
 13 the person pays a fine of two hundred fifty dollars (\$250) or performs  
 14 eight (8) hours of community service, and completes four (4) hours of  
 15 drug abuse education approved by the court. Proof of eligibility under  
 16 this paragraph shall be provided to the court as described in paragraph  
 17 (3) of this subsection.

18        (3) Upon application of the defendant and upon satisfactory showing  
 19 that the defendant has:

20            (i) No prior conviction for a drug-related offense;

21            (ii) Paid a two hundred fifty dollar (\$250) fine or performed  
 22 eight (8) hours of community service; and

23            (iii) Completed four (4) hours of court-approved drug abuse educa-  
 24 tion;

25        the court shall reduce the conviction from a misdemeanor to an infrac-  
 26 tion and terminate any probation ordered as part of the misdemeanor  
 27 conviction. This termination of probation shall be notwithstanding any  
 28 provision of section 37-2738(5), Idaho Code.

29        (g) If two (2) or more persons conspire to commit any offense defined  
 30 in this act, said persons shall be punishable by a fine or imprisonment, or  
 31 both, which may not exceed the maximum punishment prescribed for the of-  
 32 fense, the commission of which was the object of the conspiracy.

33        (~~g~~h) (1) It is unlawful for any person to manufacture or distribute a  
 34 "simulated controlled substance," or to possess with intent to distrib-  
 35 ute, a "simulated controlled substance." Any person who violates this  
 36 subsection shall, upon conviction, be guilty of a misdemeanor and upon  
 37 conviction thereof shall be punished by a fine of not more than one thou-  
 38 sand dollars (\$1,000) and not more than one (1) year in the county jail,  
 39 or both.

40        (2) It is unlawful for any person to possess a "simulated controlled  
 41 substance." Any person who violates this subsection shall, upon convic-  
 42 tion, be guilty of a misdemeanor and upon conviction thereof shall be  
 43 punished by a fine of not more than three hundred dollars (\$300) and not  
 44 more than six (6) months in the county jail, or both.

45        (~~h~~i) It is unlawful for any person to cause to be placed in any news-  
 46 paper, magazine, handbill, or other publication, or to post or distribute  
 47 in any public place, any advertisement or solicitation offering for sale  
 48 simulated controlled substances. Any person who violates this subsection  
 49 is guilty of a misdemeanor and shall be punished in the same manner as pre-  
 50 scribed in subsection (~~g~~h) of this section.

1           (±j) No civil or criminal liability shall be imposed by virtue of this  
2 chapter on any person registered under the Uniform Controlled Substances  
3 Act who manufactures, distributes, or possesses an imitation controlled  
4 substance for use as a placebo or other use by a registered practitioner, as  
5 defined in section 37-2701(aa), Idaho Code, in the course of professional  
6 practice or research.

7           (jk) No prosecution under this chapter shall be dismissed solely by  
8 reason of the fact that the dosage units were contained in a bottle or other  
9 container with a label accurately describing the ingredients of the imi-  
10 tation controlled substance dosage units. The good faith of the defendant  
11 shall be an issue of fact for the trier of fact.

12           (\*l) Upon conviction of a felony or misdemeanor violation under this  
13 chapter or upon conviction of a felony pursuant to the "racketeering act,"  
14 section 18-7804, Idaho Code, or the money laundering and illegal investment  
15 provisions of section 18-8201, Idaho Code, the court may order restitution  
16 for costs incurred by law enforcement agencies in investigating the viola-  
17 tion. Law enforcement agencies shall include, but not be limited to, the  
18 Idaho state police, county and city law enforcement agencies, the office  
19 of the attorney general and county and city prosecuting attorney offices.  
20 Costs shall include, but not be limited to, those incurred for the purchase  
21 of evidence, travel and per diem for law enforcement officers and witnesses  
22 throughout the course of the investigation, hearings and trials, and any  
23 other investigative or prosecution expenses actually incurred, including  
24 regular salaries of employees. In the case of reimbursement to the Idaho  
25 state police, those moneys shall be paid to the Idaho state police for  
26 deposit into the drug and driving while under the influence enforcement  
27 donation fund created in section 57-816, Idaho Code. In the case of reim-  
28 bursement to the office of the attorney general, those moneys shall be paid  
29 to the general fund. A conviction for the purposes of this section means that  
30 the person has pled guilty or has been found guilty, notwithstanding the form  
31 of the judgment(s) or withheld judgment(s).

32           SECTION 2. That Section 18-7803, Idaho Code, be, and the same is hereby  
33 amended to read as follows:

34           18-7803. DEFINITIONS. As used in this chapter, (a) "Racketeering"  
35 means any act which is chargeable or indictable under the following sections  
36 of the Idaho Code or which are equivalent acts chargeable or indictable as  
37 equivalent crimes under the laws of any other jurisdiction:

38           (1) Homicide (section 18-4001, Idaho Code);

39           (2) Robbery, burglary, theft, forgery, counterfeiting, and related  
40 crimes (sections 18-1401, 18-1405, 18-2403, 18-2407, 18-3123, 18-3124,  
41 18-3125, 18-3601, 18-3602, 18-3603, 18-3605, 18-3606, 18-3607,  
42 18-3609, 18-3610, 18-3614, 18-3615, 18-4630, 18-6501 and 49-518, Idaho  
43 Code);

44           (3) Kidnapping (section 18-4501, Idaho Code);

45           (4) Prostitution (sections 18-5601, 18-5602, 18-5603, 18-5604,  
46 18-5605, 18-5606, 18-5608 and 18-5609, Idaho Code);

47           (5) Arson (sections 18-801, 18-802, 18-803, 18-804 and 18-805, Idaho  
48 Code);

49           (6) Assault (sections 18-908 and 18-4015, Idaho Code);

1 (7) Lotteries and gambling (sections 18-3801, 18-3802, 18-3809,  
2 18-4902, 18-4903, 18-4904, 18-4905, 18-4906 and 18-4908, Idaho Code);

3 (8) Indecency and obscenity (sections 18-1515, 18-1518, 18-4103,  
4 18-4103A, 18-4104, 18-4105, 18-4105A and 18-4107, Idaho Code);

5 (9) Poisoning (sections 18-4014 and 18-5501, Idaho Code);

6 (10) Fraudulent practices, false pretenses, insurance fraud, finan-  
7 cial transaction card crimes and fraud generally (sections 18-2403,  
8 18-2706, 18-3002, 18-3101, 18-3124, 18-3125, 18-3126, 18-6713, 41-293,  
9 41-294 and 41-1306, Idaho Code);

10 (11) Alcoholic beverages (sections 23-602, 23-606, 23-610, 23-703,  
11 23-905, 23-914, 23-928, 23-934 and 23-938, Idaho Code);

12 (12) Cigarette taxes (sections 63-2505 and 63-2512(b), Idaho Code);

13 (13) Securities (sections 30-14-401, 30-14-402, 30-14-403, 30-14-404,  
14 30-14-501, 30-14-502, 30-14-505 and 30-14-506, Idaho Code);

15 (14) Horseracing (section 54-2512, Idaho Code);

16 (15) Interest and usurious practices (sections 28-45-401 and 28-45-  
17 402, Idaho Code);

18 (16) Corporations (sections 18-1901, 18-1902, 18-1903, 18-1904,  
19 18-1905, 18-1906 and 30-1510, Idaho Code);

20 (17) Perjury (sections 18-5401 and 18-5410, Idaho Code);

21 (18) Bribery and corrupt influence (sections 18-1352 and 18-1353, Idaho  
22 Code);

23 (19) Controlled substances (sections 37-2732(a), (b), (c), (e) and  
24 (~~g~~), 37-2732B, 37-2734 and 37-2734B, Idaho Code);

25 (20) Motor vehicles (sections 49-228, 49-231, 49-232 and 49-518, Idaho  
26 Code);

27 (21) Terrorism (section 18-8103, Idaho Code).

28 (b) "Person" means any individual or entity capable of holding a legal  
29 or beneficial interest in property;

30 (c) "Enterprise" means any sole proprietorship, partnership, corpora-  
31 tion, business, labor union, association or other legal entity or any group  
32 of individuals associated in fact although not a legal entity, and includes  
33 illicit as well as licit entities; and

34 (d) "Pattern of racketeering activity" means engaging in at least two  
35 (2) incidents of racketeering conduct that have the same or similar in-  
36 tents, results, accomplices, victims or methods of commission, or otherwise  
37 are interrelated by distinguishing characteristics and are not isolated  
38 incidents, provided at least one (1) of such incidents occurred after the ef-  
39 fective date of this act and that the last of such incidents occurred within  
40 five (5) years after a prior incident of racketeering conduct.

41 SECTION 3. That Section 18-7804, Idaho Code, be, and the same is hereby  
42 amended to read as follows:

43 18-7804. PROHIBITED ACTIVITIES -- PENALTIES. (a) It is unlawful for  
44 any person who has received any proceeds derived directly or indirectly from  
45 a pattern of racketeering activity in which the person has participated, to  
46 use or invest, directly or indirectly, any part of the proceeds or the pro-  
47 ceeds derived from the investment or use thereof in the acquisition of any  
48 interest in, or the establishment or operation of, any enterprise or real  
49 property. Whoever violates this subsection is guilty of a felony.

1 (b) It is unlawful for any person to engage in a pattern of racketeering  
2 activity in order to acquire or maintain, directly or indirectly, any inter-  
3 est in or control of any enterprise or real property. Whoever violates this  
4 subsection is guilty of a felony.

5 (c) It is unlawful for any person employed by or associated with any en-  
6 terprise to conduct or participate, directly or indirectly, in the conduct  
7 of the affairs of such enterprise by engaging in a pattern of racketeering  
8 activity. Whoever violates the provisions of this subsection is guilty of a  
9 felony.

10 (d) It is unlawful for any person to conspire to violate any of the pro-  
11 visions of subsections (a) through (c) of this section. Whoever violates the  
12 provisions of this subsection is guilty of a felony.

13 (e) Whoever violates the provisions of this act is punishable by a fine  
14 not to exceed twenty-five thousand dollars (\$25,000) and/or imprisonment  
15 not to exceed a term of fourteen (14) years in the Idaho state penitentiary.

16 (f) Upon a conviction of a violation under the provisions of this chap-  
17 ter, the court may order restitution for all costs and expenses of prosecu-  
18 tion and investigation, pursuant to the terms and conditions set forth in  
19 section 37-2732(~~k~~l), Idaho Code.

20 (g) In addition to any other penalties prescribed by law, whoever vio-  
21 lates any provisions of this act shall forfeit to the state of Idaho:

22 (1) Any interest acquired or maintained in violation of the racketeer-  
23 ing act; and

24 (2) Any interest in, security of, claim against or property or contrac-  
25 tual right of any kind affording a source of influence over any enter-  
26 prise which he has established, operated, controlled, conducted or par-  
27 ticipated in the conduct of in violation of the provisions of the racke-  
28 teering act.

29 (h) In any action brought by the state under the racketeering act, the  
30 district court shall have jurisdiction to enter such restraining orders or  
31 prohibitions, or to take such other actions, including, but not limited to,  
32 the acceptance of satisfactory performance bonds, in connection with any  
33 property or other interest subject to forfeiture under the provisions of  
34 this section, as it shall deem proper.

35 (i) Upon conviction of a person under the provisions of this section,  
36 the court shall authorize the attorney general or the proper prosecuting at-  
37 torney to seize all property or other interest declared forfeited under the  
38 provisions of this section upon such terms and conditions as the court shall  
39 deem proper, making due provision for the rights of innocent persons. If  
40 a property right or other interest is not exercisable or transferable for  
41 value by the convicted person, it shall expire and shall not revert to the  
42 convicted person.

43 SECTION 4. That Section 18-8201, Idaho Code, be, and the same is hereby  
44 amended to read as follows:

45 18-8201. MONEY LAUNDERING AND ILLEGAL INVESTMENT -- PENALTY -- RESTI-  
46 TUTION. (1) It is unlawful for any person to knowingly or intentionally give,  
47 sell, transfer, trade, invest, conceal, transport, or make available any-  
48 thing of value that the person knows is intended to be used to commit or fur-  
49 ther a pattern of racketeering activity as defined in section 18-7803(d),

1 Idaho Code, or a violation of the provisions of chapter 27, title 37, Idaho  
2 Code.

3 (2) It is unlawful for any person to knowingly or intentionally direct,  
4 plan, organize, initiate, finance, manage, supervise, or facilitate the  
5 transportation or transfer of proceeds known by that person to be derived  
6 from a pattern of racketeering activity as defined in section 18-7803(d),  
7 Idaho Code, or a violation of the provisions of chapter 27, title 37, Idaho  
8 Code.

9 (3) It is unlawful for any person to knowingly or intentionally con-  
10 duct a financial transaction involving proceeds known by that person to  
11 be derived from a pattern of racketeering activity as defined in section  
12 18-7803(d), Idaho Code, or a violation of the provisions of chapter 27,  
13 title 37, Idaho Code, if the transaction is designed in whole or in part to  
14 conceal or disguise the nature, location, source, ownership, or control of  
15 the proceeds, or to avoid a transaction reporting requirement under state or  
16 federal law.

17 (4) A person who violates the provisions of this section is guilty of a  
18 felony and upon conviction may be fined not more than two hundred fifty thou-  
19 sand dollars (\$250,000) or twice the value of the property involved in the  
20 transaction, whichever is greater, or be imprisoned for not more than ten  
21 (10) years, or be both so fined and imprisoned.

22 (5) Upon a conviction of a violation under the provisions of this chap-  
23 ter, the court may order restitution for all costs and expenses of prosecu-  
24 tion and investigation, pursuant to the terms and conditions set forth in  
25 section 37-2732(~~k~~l), Idaho Code.

26 SECTION 5. That Section 31-3201I, Idaho Code, be, and the same is hereby  
27 amended to read as follows:

28 31-3201I. DISTRIBUTION OF PAYMENTS IN CRIMINAL CASES. When ordered by  
29 the court to make one (1) of the following payments in a criminal case, a de-  
30 fendant shall make the payment to the clerk of the court in which the judg-  
31 ment was entered. The judgment shall be satisfied accordingly by entry in  
32 the electronic docket of the court, and the clerk of the court shall remit  
33 daily all such payments to the county auditor who shall, at least monthly,  
34 distribute the payments received as required by statute. The distributions  
35 shall first completely satisfy the amounts due in the following order before  
36 distribution of payments for any other amounts owed to the court:

37 (1) Fees for each felony, misdemeanor and infraction paid pursuant to  
38 section 31-3201A(2), Idaho Code;

39 (2) Fines or reimbursements paid for the crime victims compensation ac-  
40 count pursuant to section 72-1025, Idaho Code;

41 (3) Misdemeanor probation supervision fees paid pursuant to section  
42 31-3201D, Idaho Code;

43 (4) County drug and mental health fund fees paid pursuant to section  
44 31-3201E, Idaho Code;

45 (5) Fines paid for the peace officer and detention officer temporary  
46 disability fund pursuant to section 72-1105, Idaho Code;

47 (6) Restitution to victims of crime paid pursuant to section 19-5304,  
48 Idaho Code, if paid through the clerk of the court;

- 1 (7) Community service fees paid pursuant to section 31-3201C, Idaho  
2 Code;
- 3 (8) Victim notification fund fees paid pursuant to section 31-3204,  
4 Idaho Code;
- 5 (9) Court technology fees paid pursuant to section 31-3201(5), Idaho  
6 Code;
- 7 (10) Surcharge fees paid pursuant to section 31-3201H, Idaho Code;
- 8 (11) Peace officers standards and training fees paid pursuant to sec-  
9 tion 31-3201B, Idaho Code;
- 10 (12) Domestic violence court fees paid pursuant to section 32-1410,  
11 Idaho Code;
- 12 (13) Criminal fines;
- 13 (14) Reimbursement for public defender costs paid pursuant to section  
14 19-854(7), Idaho Code;
- 15 (15) Costs of prosecution ordered as a condition of probation and paid  
16 pursuant to section 19-2601, Idaho Code, and Idaho criminal rule 33(d) (2);
- 17 (16) Domestic violence fines for the domestic violence project account  
18 paid pursuant to section 39-6312, Idaho Code;
- 19 (17) Drug hotline fees paid pursuant to section 37-2735A, Idaho Code;
- 20 (18) Additional fish and game fines for the search and rescue account  
21 paid pursuant to section 36-1405, Idaho Code;
- 22 (19) County administrative surcharge fees paid pursuant to section  
23 31-3201(3), Idaho Code;
- 24 (20) Motor vehicle violation surcharge fees and ignition interlock and  
25 electronic monitoring fees paid pursuant to sections 18-8008 and 18-1810,  
26 Idaho Code;
- 27 (21) Costs for toxicology testing paid pursuant to section 37-2732C(g),  
28 Idaho Code;
- 29 (22) Costs incurred by law enforcement agencies in investigating vio-  
30 lations of the racketeering act or money laundering and illegal investment  
31 provisions paid pursuant to section 37-2732(\*1), Idaho Code;
- 32 (23) Restitution for the repair or replacement of simulated wildlife  
33 paid pursuant to section 36-1101(b) (8), Idaho Code; and
- 34 (24) Abandoned vehicle fees paid pursuant to section 31-3201F, Idaho  
35 Code.

36 SECTION 6. That Section 37-2801, Idaho Code, be, and the same is hereby  
37 amended to read as follows:

38 37-2801. PROPERTY SUBJECT TO CRIMINAL FORFEITURE. Any person who is  
39 found guilty of, who enters a plea of guilty, or who is convicted of a viola-  
40 tion of the uniform controlled substances act, chapter 27, title 37, Idaho  
41 Code, punishable by imprisonment for more than one (1) year, no matter the  
42 form of the judgment or order withholding judgment, shall forfeit to the  
43 state of Idaho:

44 (1) Any property constituting, or derived from, any proceeds the person  
45 obtained, directly or indirectly, as the result of such violation; and

46 (2) Any of the person's property used, or intended to be used, in any  
47 manner or part, to commit, or to facilitate the commission of such violation.  
48 The court, in imposing sentence on such person, shall order, in addition to  
49 any other sentence imposed pursuant to chapter 27, title 37, Idaho Code, that

1 the person forfeit to the state of Idaho all property described in this sec-  
2 tion. The provisions of this chapter shall not be construed or interpreted  
3 in any manner to prevent the state of Idaho, attorney general or the appro-  
4 priate prosecuting attorney from requesting restitution pursuant to section  
5 37-2732(~~\*1~~), Idaho Code; or, if appropriate, from pursuing civil forfeiture  
6 pursuant to section 37-2744 and/or section 37-2744A, Idaho Code. Nor shall  
7 an order of forfeiture pursuant to this chapter be used as an offset against,  
8 or in any manner be used to diminish the amount of, a restitution order under  
9 section 37-2732(~~\*1~~), Idaho Code. The issue of criminal forfeiture shall be  
10 for the court alone, without submission to a jury, as a part of the sentencing  
11 procedure within the criminal action.