

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 173

BY TRANSPORTATION AND DEFENSE COMMITTEE

AN ACT

1
2 RELATING TO FLOODING HIGHWAYS; AMENDING SECTION 18-3908, IDAHO CODE, TO RE-
3 VISE THE OFFENSE OF FLOODING HIGHWAYS AND TO REVISE PROCEDURES, PENAL-
4 TIES AND MITIGATING FACTORS.

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

6 SECTION 1. That Section 18-3908, Idaho Code, be, and the same is hereby
7 amended to read as follows:

8 18-3908. FLOODING HIGHWAYS. Any person who runs water either by flood-
9 ing or sprinkler irrigation across or upon any public highway, road or
10 street, without first constructing a good and sufficient ditch or ditches
11 to convey the same, or who fails to bridge such ditch or ditches, or to keep
12 such bridge or ditches in good repair, or to ensure that the flow from the
13 sprinkler does not flood the public highway, road or street and all persons,
14 companies or corporations who suffer any water used by them for the purpose
15 of irrigation, or any other purposes, to flow into or upon any public high-
16 way, road or street, in any other manner than that authorized by law, are
17 guilty of an infraction on the first offense, and shall be guilty of a mis-
18 demeanor for each offense thereafter per calendar year, and upon conviction
19 thereof must be fined in any sum not less than one hundred dollars (\$~~100.00~~)
20 nor more than two hundred fifty dollars (~~\$250.00~~), together with the court
21 costs of suit, and for a second offense, double said fine and costs; and
22 it is hereby made the duty of all directors of highways, road supervisors,
23 ~~constables and marshals~~ and other persons, to make complaint before the
24 ~~proper court~~ a peace officer and, in the case of an infraction, sign a citizen
25 citation witnessed and endorsed by a peace officer, for violations of the
26 provisions of this section, whenever notified or having knowledge thereof.
27 Nothing in this chapter shall be construed to limit a highway district or
28 other political subdivision's powers under section 40-2319, Idaho Code. A
29 person who is reasonably inspecting and maintaining irrigation facilities
30 may not be charged under the provisions of this chapter if the flooding from
31 a sprinkler or other water conveyance system is a result of undiscovered
32 recent mechanical failure, wind or other unexpected climatic condition, or
33 other circumstances outside of the control of the person.