

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 519

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO UNIFORM CONTROLLED SUBSTANCES; AMENDING SECTION 18-1502C, IDAHO
2 CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 37-2701,
3 IDAHO CODE, TO DEFINE A TERM, TO PROVIDE CORRECT CODE REFERENCES AND
4 TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 37-2732, IDAHO CODE,
5 TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS;
6 AND AMENDING SECTION 72-208, IDAHO CODE, TO PROVIDE A CORRECT CODE
7 REFERENCE AND TO MAKE TECHNICAL CORRECTIONS.
8

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

10 SECTION 1. That Section 18-1502C, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 18-1502C. POSSESSION OF MARIJUANA OR DRUG PARAPHERNALIA BY A MINOR --
13 USE OF CONTROLLED SUBSTANCES -- FINES. (1) Any person under eighteen (18)
14 years of age who shall have in his possession any marijuana as defined in
15 section 37-2701(~~st~~), Idaho Code, which would constitute a misdemeanor for an
16 adult so charged, or who shall have in his possession any drug paraphernalia
17 as defined in section 37-2701(n), Idaho Code, or who shall unlawfully
18 use or be under the influence of controlled substances in violation of
19 the provisions of section 37-2732C, Idaho Code, shall be guilty of a
20 misdemeanor, and upon conviction, may be punished by a fine not in excess of
21 one thousand dollars (\$1,000) or by ninety (90) days in a juvenile detention
22 facility or by both or may be subject to the provisions of chapter 5, title
23 20, Idaho Code. If the juvenile is adjudicated under the provisions of
24 chapter 5, title 20, Idaho Code, for a violation of this section he shall be
25 sentenced in accordance with the provisions of chapter 5, title 20, Idaho
26 Code. The juvenile shall be adjudicated under chapter 5, title 20, Idaho
27 Code, for a violation of section 37-2732C, Idaho Code, unless the court finds
28 that adjudication under chapter 5, title 20, Idaho Code, is not appropriate
29 in the circumstances.

30 (2) A conviction under this section shall not be used as a factor or
31 considered in any manner for the purpose of establishing rates of motor
32 vehicle insurance charged by a casualty insurer, nor shall such conviction
33 be grounds for nonrenewal of any insurance policy as provided in section
34 41-2507, Idaho Code.

35 (3) Any person who pleads guilty or is found guilty of possession
36 of marijuana pursuant to this section, or any person under eighteen (18)
37 years of age who pleads guilty or is found guilty of a violation of section
38 37-2732C, Idaho Code, then in addition to the penalty provided in subsection
39 (1) of this section:

40 (a) The court shall suspend the person's driving privileges for a
41 period of not more than one (1) year. The person may request restricted
42 driving privileges during the period of suspension, which the court

1 may allow, if the person shows by a preponderance of the evidence that
2 driving privileges are necessary as deemed appropriate by the court.

3 (b) If the person's driving privileges have been previously suspended
4 under this section, the court shall suspend the person's driving
5 privileges for a period of not more than two (2) years. The person may
6 request restricted driving privileges during the period of suspension,
7 which the court may allow, if the person shows by a preponderance of the
8 evidence that driving privileges are necessary as deemed appropriate by
9 the court.

10 (c) The person shall surrender his license or permit to the court.

11 (d) The court shall notify the motor vehicle division of the Idaho
12 transportation department of all orders of suspension it issues
13 pursuant to this section.

14 (4) The court, in its discretion, may also order the person convicted
15 of possession of marijuana under subsection (1) of this section, or a person
16 under eighteen (18) years of age who has been convicted of using or being
17 under the influence of a controlled substance in violation of section
18 37-2732C, Idaho Code, to undergo and complete a substance abuse evaluation
19 and to complete a drug treatment program, as provided in section 37-2738,
20 Idaho Code.

21 SECTION 2. That Section 37-2701, Idaho Code, be, and the same is hereby
22 amended to read as follows:

23 37-2701. DEFINITIONS. As used in this act:

24 (a) "Administer" means the direct application of a controlled
25 substance whether by injection, inhalation, ingestion, or any other means,
26 to the body of a patient or research subject by:

27 (1) A practitioner (or, in his presence, by his authorized agent) ~~and~~ or

28 (2) The patient or research subject at the direction and in the presence
29 of the practitioner.

30 (b) "Agent" means an authorized person who acts on behalf of or at
31 the direction of a manufacturer, distributor, or dispenser. It does not
32 include a common or contract carrier, public warehouseman, or employee of
33 the carrier or warehouseman.

34 (c) "Board" means the state board of pharmacy created in chapter 17,
35 title 54, Idaho Code, or its successor agency.

36 (d) "Bureau" means the Bureau of Narcotic and Dangerous Drugs, United
37 States Department of Justice, or its successor agency.

38 (e) "Controlled substance" means a drug, substance, or immediate
39 precursor in schedules I through V of article II of this act.

40 (f) "Counterfeit substance" means a controlled substance which, or the
41 container or labeling of which, without authorization, bears the trademark,
42 trade name, or other identifying mark, imprint, number or device, or any
43 likeness thereof, of a manufacturer, distributor, or dispenser other
44 than the person who in fact manufactured, distributed, or dispensed the
45 substance.

46 (g) "Deliver" or "delivery" means the actual, constructive, or
47 attempted transfer from one (1) person to another of a controlled substance,
48 whether or not there is an agency relationship.

49 (h) "Director" means the director of the Idaho state police.

1 (i) "Dispense" means to deliver a controlled substance to an
2 ultimate user or research subject by or pursuant to the lawful order of
3 a practitioner, including the prescribing, administering, packaging,
4 labeling, or compounding necessary to prepare the substance for that
5 delivery.

6 (j) "Dispenser" means a practitioner who dispenses.

7 (k) "Distribute" means to deliver other than by administering or
8 dispensing a controlled substance.

9 (l) "Distributor" means a person who distributes.

10 (m) "Drug" means (1) substances recognized as drugs in the official
11 United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the
12 United States, or official National Formulary, or any supplement to any of
13 them; (2) substances intended for use in the diagnosis, cure, mitigation,
14 treatment or prevention of disease in man or animals; (3) substances (other
15 than food) intended to affect the structure or any function of the body of man
16 or animals; and (4) substances intended for use as a component of any article
17 specified in clause (1), (2), or (3) of this subsection. It does not include
18 devices or their components, parts, or accessories.

19 (n) "Drug paraphernalia" means all equipment, products and materials
20 of any kind which are used, intended for use, or designed for use, in
21 planting, propagating, cultivating, growing, harvesting, manufacturing,
22 compounding, converting, producing, processing, preparing, testing,
23 analyzing, packaging, repackaging, storing, containing, concealing,
24 injecting, ingesting, inhaling, or otherwise introducing into the human
25 body a controlled substance in violation of this act. It includes, but is not
26 limited to:

27 (1) Kits used, intended for use, or designed for use in planting,
28 propagating, cultivating, growing or harvesting of any species of plant
29 which is a controlled substance or from which a controlled substance can
30 be derived;

31 (2) Kits used, intended for use, or designed for use in manufacturing,
32 compounding, converting, producing, processing, or preparing
33 controlled substances;

34 (3) Isomerization devices used, intended for use, or designed for use
35 in increasing the potency of any species of plant which is a controlled
36 substance;

37 (4) Testing equipment used, intended for use, or designed for use in
38 identifying, or in analyzing the strength, effectiveness or purity of
39 controlled substances;

40 (5) Scales and balances used, intended for use, or designed for use in
41 weighing or measuring controlled substances;

42 (6) Diluents and adulterants, such as quinine hydrochloride, mannitol,
43 mannite, dextrose and lactose, used, intended for use, or designed for
44 use in cutting controlled substances;

45 (7) Separation gins and sifters used, intended for use, or designed
46 for use in removing twigs and seeds from, or in otherwise cleaning or
47 refining, marijuana;

48 (8) Blenders, bowls, containers, spoons and mixing devices used,
49 intended for use, or designed for use in compounding controlled
50 substances;

1 (9) Capsules, balloons, envelopes and other containers used, intended
 2 for use, or designed for use in packaging small quantities of controlled
 3 substances;

4 (10) Containers and other objects used, intended for use, or designed
 5 for use in storing or concealing controlled substances;

6 (11) Hypodermic syringes, needles and other objects used, intended
 7 for use, or designed for use in parenterally injecting controlled
 8 substances into the human body;

9 (12) Objects used, intended for use, or designed for use in ingesting,
 10 inhaling, or otherwise introducing marijuana, cocaine, hashish, or
 11 hashish oil into the human body, such as:

12 (~~a~~i) Metal, wooden, acrylic, glass, stone, plastic, or ceramic
 13 pipes with or without screens, permanent screens, hashish heads,
 14 or punctured metal bowls;

15 (~~b~~ii) Water pipes;

16 (~~c~~iii) Carburetion tubes and devices;

17 (~~d~~iv) Smoking and carburetion masks;

18 (~~e~~v) Roach clips: meaning objects used to hold burning material,
 19 such as a marijuana cigarette, that has become too small or too
 20 short to be held in the hand;

21 (~~f~~vi) Miniature cocaine spoons, and cocaine vials;

22 (~~g~~vii) Chamber pipes;

23 (~~h~~viii) Carburetor pipes;

24 (~~i~~ix) Electric pipes;

25 (~~j~~x) Air-driven pipes;

26 (~~k~~xi) Chillums;

27 (~~l~~xii) Bongos;

28 (~~m~~xiii) Ice pipes or chillers;

29 In determining whether an object is drug paraphernalia, a court or other
 30 authority should consider, in addition to all other logically relevant
 31 factors, the following:

32 1. Statements by an owner or by anyone in control of the object
 33 concerning its use;

34 2. Prior convictions, if any, of an owner, or of anyone in control of
 35 the object, under any state or federal law relating to any controlled
 36 substance;

37 3. The proximity of the object, in time and space, to a direct violation
 38 of this act;

39 4. The proximity of the object to controlled substances;

40 5. The existence of any residue of controlled substances on the object;

41 6. Direct or circumstantial evidence of the intent of an owner, or of
 42 anyone in control of the object, to deliver it to persons whom he knows,
 43 or should reasonably know, intend to use the object to facilitate a
 44 violation of this act; the innocence of an owner, or of anyone in control
 45 of the object, as to a direct violation of this act shall not prevent a
 46 finding that the object is intended for use, or designed for use as drug
 47 paraphernalia;

48 7. Instructions, oral or written, provided with the object concerning
 49 its use;

1 8. Descriptive materials accompanying the object which explain or
2 depict its use;

3 9. National and local advertising concerning its use;

4 10. The manner in which the object is displayed for sale;

5 11. Whether the owner, or anyone in control of the object, is a
6 legitimate supplier of like or related items to the community, such as a
7 licensed distributor or dealer of tobacco products;

8 12. Direct or circumstantial evidence of the ratio of sales of the
9 object(s) to the total sales of the business enterprise;

10 13. The existence and scope of legitimate uses for the object in the
11 community;

12 14. Expert testimony concerning its use.

13 (o) "Financial institution" means any bank, trust company, savings and
14 loan association, savings bank, mutual savings bank, credit union, or loan
15 company under the jurisdiction of the state or under the jurisdiction of an
16 agency of the United States.

17 (p) "Immediate precursor" means a substance which the board has found
18 to be and by rule designates as being the principal compound commonly used or
19 produced primarily for use, and which is an immediate chemical intermediary
20 used or likely to be used in the manufacture of a controlled substance, the
21 control of which is necessary to prevent, curtail, or limit manufacture.

22 (q) "Isomer" means the optical isomer, except as used in section
23 37-2705(d), Idaho Code.

24 (r) "Law enforcement agency" means a governmental unit of one (1) or
25 more persons employed full-time or part-time by the state or a political
26 subdivision of the state for the purpose of preventing and detecting crime
27 and enforcing state laws or local ordinances, employees of which unit are
28 authorized to make arrests for crimes while acting within the scope of their
29 authority.

30 (~~s~~) "Manufacture" means the production, preparation, propagation,
31 compounding, conversion or processing of a controlled substance, and
32 includes extraction, directly or indirectly, from substances of natural
33 origin, or independently by means of chemical synthesis, or by a combination
34 of extraction and chemical synthesis, and includes any packaging or
35 repackaging of the substance or labeling or relabeling of its container,
36 except that this term does not include the preparation or compounding of a
37 controlled substance:

38 (1) By a practitioner as an incident to his administering or dispensing
39 of a controlled substance in the course of his professional practice~~r~~
40 or

41 (2) By a practitioner, or by his authorized agent under his
42 supervision, for the purpose of, or as an incident to, research,
43 teaching, or chemical analysis and not for delivery.

44 (~~t~~) "Marijuana" means all parts of the plant of the genus Cannabis,
45 regardless of species, and whether growing or not; the seeds thereof;
46 the resin extracted from any part of such plant; and every compound,
47 manufacture, salt, derivative, mixture, or preparation of such plant, its
48 seeds or resin. It does not include the mature stalks of the plant unless
49 the same are intermixed with prohibited parts thereof, fiber produced from
50 the stalks, oil or cake made from the seeds or the achene of such plant, any

1 other compound, manufacture, salt, derivative, mixture, or preparation of
 2 the mature stalks (except the resin extracted therefrom or where the same
 3 are intermixed with prohibited parts of such plant), fiber, oil, or cake,
 4 or the sterilized seed of such plant which is incapable of germination.
 5 Evidence that any plant material or the resin or any derivative thereof,
 6 regardless of form, contains any of the chemical substances classified as
 7 tetrahydrocannabinols shall create a presumption that such material is
 8 "marijuana" as defined and prohibited herein.

9 (~~t~~u) "Narcotic drug" means any of the following, whether produced
 10 directly or indirectly by extraction from substances of vegetable origin,
 11 or independently by means of chemical synthesis, or by a combination of
 12 extraction and chemical synthesis:

13 (1) Opium and opiate, and any salt, compound, derivative, or
 14 preparation of opium or opiate.

15 (2) Any salt, compound, isomer, derivative, or preparation thereof
 16 which is chemically equivalent or identical with any of the substances
 17 referred to in clause 1, but not including the isoquinoline alkaloids of
 18 opium.

19 (3) Opium poppy and poppy straw.

20 (4) Coca leaves and any salt, compound, derivative, or preparation of
 21 coca leaves, and any salt, compound, isomer, derivative, or preparation
 22 thereof which is chemically equivalent or identical with any of these
 23 substances, but not including decocainized coca leaves or extractions
 24 of coca leaves which do not contain cocaine or ecgonine.

25 (~~v~~u) "Opiate" means any substance having an addiction-forming or
 26 addiction-sustaining liability similar to morphine or being capable of
 27 conversion into a drug having addiction-forming or addiction-sustaining
 28 liability. It does not include, unless specifically designated as
 29 controlled under section 37-2702, Idaho Code, the dextrorotatory isomer
 30 of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does
 31 include its racemic and levorotatory forms.

32 (~~w~~v) "Opium poppy" means the plant of the species *Papaver somniferum*
 33 L., except its seeds.

34 (~~x~~u) "Peace officer" means any duly appointed officer or agent of a law
 35 enforcement agency, as defined herein, including, but not limited to, a duly
 36 appointed investigator or agent of the Idaho state police, an officer or
 37 employee of the board of pharmacy, who is authorized by the board to enforce
 38 this act, an officer of the Idaho state police, a sheriff or deputy sheriff of
 39 a county, or a marshal or policeman of any city.

40 (~~y~~u) "Person" means individual, corporation, government, or
 41 governmental subdivision or agency, business trust, estate, trust,
 42 partnership or association, or any other legal entity.

43 (~~z~~u) "Poppy straw" means all parts, except the seeds, of the opium
 44 poppy, after mowing.

45 (~~aa~~u) "Practitioner" means:

46 (1) A physician, dentist, veterinarian, scientific investigator,
 47 or other person licensed, registered or otherwise permitted to
 48 distribute, dispense, conduct research with respect to or to administer
 49 a controlled substance in the course of his professional practice or
 50 research in this state;

1 (2) A pharmacy, hospital, or other institution licensed, registered,
2 or otherwise permitted to distribute, dispense, conduct research with
3 respect to or to administer a controlled substance in the course of
4 their professional practice or research in this state.

5 (~~aabb~~) "Production" includes the manufacture, planting, cultivation,
6 growing, or harvesting of a controlled substance.

7 (~~bbcc~~) "Simulated controlled substance" means a substance that is not
8 a controlled substance, but which by appearance or representation would
9 lead a reasonable person to believe that the substance is a controlled
10 substance. Appearance includes, but is not limited to, color, shape, size,
11 and markings of the dosage unit. Representation includes, but is not limited
12 to, representations or factors of the following nature:

13 (1) Statements made by an owner or by anyone else in control of the
14 substance concerning the nature of the substance, or its use or effect;

15 (2) Statements made to the recipient that the substance may be resold
16 for inordinate profit; or

17 (3) Whether the substance is packaged in a manner normally used for
18 illicit controlled substances.

19 (~~eedd~~) "State," when applied to a part of the United States, includes
20 any state, district, commonwealth, territory, insular possession thereof,
21 and any area subject to the legal authority of the United States of America.

22 (~~edee~~) "Ultimate user" means a person who lawfully possesses a
23 controlled substance for his own use or for the use of a member of his
24 household or for administering to an animal owned by him or by a member of his
25 household.

26 (~~eeff~~) "Utility" means any person, association, partnership
27 or corporation providing telephone and/or communication services,
28 electricity, natural gas or water to the public.

29 SECTION 3. That Section 37-2732, Idaho Code, be, and the same is hereby
30 amended to read as follows:

31 37-2732. PROHIBITED ACTS A -- PENALTIES. (a) Except as authorized by
32 this chapter, it is unlawful for any person to manufacture or deliver, or
33 possess with intent to manufacture or deliver, a controlled substance.

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

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

41 (B) ~~a~~Any other controlled substance which is a nonnarcotic drug
42 classified in schedule I, or a controlled substance classified
43 in schedule III, is guilty of a felony and upon conviction may be
44 imprisoned for not more than five (5) years, fined not more than
45 fifteen thousand dollars (\$15,000), or both;

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

1 (D) ~~a~~A substance classified in schedules V and VI, is guilty
2 of a misdemeanor and upon conviction may be imprisoned for not
3 more than one (1) year, fined not more than five thousand dollars
4 (\$5,000), or both.

5 (b) Except as authorized by this chapter, it is unlawful for any
6 person to create, deliver, or possess with intent to deliver, a counterfeit
7 substance.

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

9 (A) ~~a~~A counterfeit substance classified in schedule I which is a
10 narcotic drug, or a counterfeit substance classified in schedule
11 II, is guilty of a felony and upon conviction may be imprisoned for
12 not more than fifteen (15) years, fined not more than twenty-five
13 thousand dollars (\$25,000), or both;

14 (B) ~~a~~Any other counterfeit substance classified in schedule
15 I which is a nonnarcotic drug contained in schedule I or a
16 counterfeit substance contained in schedule III, is guilty of a
17 felony and upon conviction may be imprisoned for not more than five
18 (5) years, fined not more than fifteen thousand dollars (\$15,000),
19 or both;

20 (C) ~~a~~A counterfeit substance classified in schedule IV, is guilty
21 of a felony and upon conviction may be imprisoned for not more
22 than three (3) years, fined not more than ten thousand dollars
23 (\$10,000), or both;

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

28 (c) It is unlawful for any person to possess a controlled substance
29 unless the substance was obtained directly from, or pursuant to, a valid
30 prescription or order of a practitioner while acting in the course of his
31 professional practice, or except as otherwise authorized by this chapter.

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

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

42 (3) Any person who violates this subsection and has in his possession
43 a controlled substance which is a nonnarcotic drug classified in
44 schedule I except lysergic acid diethylamide, or a controlled substance
45 classified in schedules III, IV, V and VI is guilty of a misdemeanor
46 and upon conviction thereof may be imprisoned for not more than one (1)
47 year, or fined not more than one thousand dollars (\$1,000), or both.

48 (d) It shall be unlawful for any person to be present at or on
49 premises of any place where he knows illegal controlled substances are
50 being manufactured or cultivated, or are being held for distribution,

1 transportation, delivery, administration, use, or to be given away. A
2 violation of this section shall deem those persons guilty of a misdemeanor
3 and upon conviction shall be punished by a fine of not more than three hundred
4 dollars (\$300) and not more than ninety (90) days in the county jail, or both.

5 (e) If any person is found to possess marijuana, which for the purposes
6 of this subsection shall be restricted to all parts of the plants of the
7 genus Cannabis, including the extract or any preparation of cannabis which
8 contains tetrahydrocannabinol, in an amount greater than three (3) ounces
9 net weight, it shall be a felony and upon conviction may be imprisoned for
10 not more than five (5) years, or fined not more than ten thousand dollars
11 (\$10,000), or both.

12 (f) If two (2) or more persons conspire to commit any offense defined
13 in this act, said persons shall be punishable by a fine or imprisonment,
14 or both, which may not exceed the maximum punishment prescribed for the
15 offense, the commission of which was the object of the conspiracy.

16 (g) (1) It is unlawful for any person to manufacture or distribute
17 a "simulated controlled substance," or to possess with intent to
18 distribute, a "simulated controlled substance." Any person who
19 violates this subsection shall, upon conviction, be guilty of a
20 misdemeanor and upon conviction thereof shall be punished by a fine of
21 not more than one thousand dollars (\$1,000) and not more than one (1)
22 year in the county jail, or both.

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

28 (h) It is unlawful for any person to cause to be placed in any newspaper,
29 magazine, handbill, or other publication, or to post or distribute in any
30 public place, any advertisement or solicitation offering for sale simulated
31 controlled substances. Any person who violates this subsection is guilty
32 of a misdemeanor and shall be punished in the same manner as prescribed in
33 subsection (g) of this section.

34 (i) No civil or criminal liability shall be imposed by virtue of this
35 chapter on any person registered under the Uniform Controlled Substances
36 Act who manufactures, distributes, or possesses an imitation controlled
37 substance for use as a placebo or other use by a registered practitioner, as
38 defined in section 37-2701 (~~z~~aa), Idaho Code, in the course of professional
39 practice or research.

40 (j) No prosecution under this chapter shall be dismissed solely by
41 reason of the fact that the dosage units were contained in a bottle or
42 other container with a label accurately describing the ingredients of
43 the imitation controlled substance dosage units. The good faith of the
44 defendant shall be an issue of fact for the trier of fact.

45 (k) Upon conviction of a felony or misdemeanor violation under this
46 chapter or upon conviction of a felony pursuant to the "racketeering
47 act," section 18-7804, Idaho Code, or the money laundering and illegal
48 investment provisions of section 18-8201, Idaho Code, the court may order
49 restitution for costs incurred by law enforcement agencies in investigating
50 the violation. Law enforcement agencies shall include, but not be limited

1 to, the Idaho state police, county and city law enforcement agencies, the
2 office of the attorney general and county and city prosecuting attorney
3 offices. Costs shall include, but not be limited to, those incurred for the
4 purchase of evidence, travel and per diem for law enforcement officers and
5 witnesses throughout the course of the investigation, hearings and trials,
6 and any other investigative or prosecution expenses actually incurred,
7 including regular salaries of employees. In the case of reimbursement
8 to the Idaho state police, those moneys shall be paid to the Idaho state
9 police for deposit into the drug and driving while under the influence
10 enforcement donation fund created in section 57-816, Idaho Code. In the case
11 of reimbursement to the office of the attorney general, those moneys shall be
12 paid to the general fund. A conviction for the purposes of this section means
13 that the person has pled guilty or has been found guilty, notwithstanding the
14 form of the judgment(s) or withheld judgment(s).

15 SECTION 4. That Section 72-208, Idaho Code, be, and the same is hereby
16 amended to read as follows:

17 72-208. INJURIES NOT COVERED -- ~~WILFUL~~ WILLFUL INTENTION --
18 INTOXICATION. (1) No compensation shall be allowed to an employee for
19 injury proximately caused by the employee's ~~wilful~~ willful intention to
20 injure himself or to injure another.

21 (2) If intoxication is a reasonable and substantial cause of an injury,
22 no income benefits shall be paid, except where the intoxicants causing the
23 employee's intoxication were furnished by the employer or where the employer
24 permits the employee to remain at work with knowledge by the employer or his
25 supervising agent that the employee is intoxicated.

26 (3) "Intoxication" as used in this section means being under the
27 influence of alcohol or of controlled substances, as defined in section
28 37-2701 ~~(e)~~, Idaho Code. Provided, however, that this definition shall not
29 include an employee's use of a controlled substance for which a prescription
30 has been issued authorizing such substance to be dispensed to the employee,
31 or when such substance is dispensed directly by a physician to the employee,
32 and where the employee's use of the controlled substance is in accordance
33 with the instructions for use of the controlled substance.