

IN THE SENATE

SENATE BILL NO. 1241

BY LOCAL GOVERNMENT AND TAXATION COMMITTEE

AN ACT

1 RELATING TO TRESPASS; AMENDING SECTION 18-7008, IDAHO CODE, TO REVISE TRES-  
2 PASS POSTING PROVISIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING  
3 SECTION 18-7011, IDAHO CODE, TO REVISE TRESPASS POSTING PROVISIONS;  
4 AND AMENDING SECTION 36-1603, IDAHO CODE, TO REVISE TRESPASS POSTING  
5 PROVISIONS.  
6

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

8 SECTION 1. That Section 18-7008, Idaho Code, be, and the same is hereby  
9 amended to read as follows:

10 18-7008. TRESPASS -- ACTS CONSTITUTING. A. Every person who willfully  
11 commits any trespass, by either:

12 1. Cutting down, destroying or injuring any kind of wood or timber be-  
13 longing to another, standing or growing upon the lands of another; or

14 2. Carrying away any kind of wood or timber lying on such lands; or

15 3. Maliciously injuring or severing from the freehold of another, any-  
16 thing attached thereto, or the produce thereof; or

17 4. Digging, taking, or carrying away from any lot situated within the  
18 limits of any incorporated city, without the license of the owner or le-  
19 gal occupant thereof, any earth, soil or stone; or

20 5. Digging, taking, or carrying away from any land in any of the cities  
21 of the state, laid down on the map or plan of such city, or otherwise rec-  
22 ognized or established as a street, alley, avenue, or park, without the  
23 license of the proper authorities, any earth, soil or stone; or

24 6. Willfully opening, tearing down, or otherwise destroying any fence  
25 on the enclosed land of another, or opening any gate, bar, or fence of  
26 another and willfully leaving it open, or using the corral or corrals of  
27 another without the permission of the owner; or

28 7. Willfully covering up or encumbering in any manner, the land or city  
29 lot of another, without written permission from the owner or custodian  
30 thereof; or

31 8. Every person, except under landlord-tenant relationship, who, being  
32 first notified in writing, or verbally by the owner or authorized agent  
33 of the owner of real property, to immediately depart from the same and  
34 who refuses to so depart, or who, without permission or invitation, re-  
35 turns and enters said property within a year, after being so notified;  
36 or

37 9. Entering without permission of the owner or the owner's agent, upon  
38 the real property of another person which ~~real property~~:

39 (a) Iis posted with "No Trespassing" signs;

40 (b) Iis posted with a minimum of one hundred (100) square inches  
41 of fluorescent orange, bright orange, blaze orange, safety orange  
42 or any similar high visibility shade of orange colored paint ex-

cept that when metal fence posts are used, a minimum of eighteen (18) inches of the top of the post must be painted a high visibility shade of orange, ~~or;~~

(c) Is posted with other notices of like meaning, spaced at intervals of not less than one (1) sign, paint area or notice per six hundred sixty (660) feet along such real property; provided that where the geographical configuration of the real property is such that entry can reasonably be made only at certain points of access, such property is posted sufficiently for all purposes of this section if said signs, paint or notices are posted at such points of access; or

(d) Is posted with a conspicuous sign where a public road enters the real property, through which or along which road the public has a right-of-way, stating words substantially similar to "PRIVATE PROPERTY, NO TRESPASSING OFF (fill in relevant compass direction(s)) SIDE OF ROAD NEXT (fill in the distance) MILES," and which is posted with a conspicuous sign where the public road exits the real property stating words substantially similar to "LEAVING PRIVATE PROPERTY." The postings shall be placed on the private real property. In lieu of posting the compass direction(s), a map depicting the area of private property may be displayed on the sign; or

10. Entering the property of another and, being unprovoked, intentionally and without the consent of the animal's owner, kills or injures a domestic animal not his own:

Is guilty of a misdemeanor.

B. Every person who while committing any trespass, intentionally and without consent of the animal's owner kills or injures a domestic animal of another, not including upland game birds or birds of any species not protected by law, shall be guilty of a misdemeanor. In addition to any other sentence of jail or a criminal fine imposed, a court may, for violation of this subsection or subsection A.10. of this section, impose a civil penalty in an amount up to double the value of the animal or for injuries sustained and payable to the owner of the animal.

SECTION 2. That Section 18-7011, Idaho Code, be, and the same is hereby amended to read as follows:

18-7011. CRIMINAL TRESPASS -- DEFINITION AND PUNISHMENT. (1) Any person who, without consent of the owner or person in charge of any lands which are inclosed by fences of any description sufficient to show the boundaries of the land inclosed, shall go upon such lands and shall leave open any gates on or about said premises, or who shall tear down or lay down any fencing, or who shall willfully remove, mutilate, damage or destroy any "No Trespassing" signs or markers, or who shall go through cultivated crops that have not been harvested, or who shall damage any property thereon, or who without permission of the owner or the owner's agent enters the real property of another person where such real property: ~~is posted with "No Trespassing" signs or other notices of like meaning spaced at intervals of not less than one (1) notice per six hundred sixty (660) feet along such real property,~~

(a) Is posted with "No Trespassing" signs;

1        (b) Is posted with a minimum of one hundred (100) square inches of fluo-  
 2        rescent orange, bright orange, blaze orange, safety orange or any simi-  
 3        lar high visibility shade of orange colored paint except that when metal  
 4        fence posts are used, a minimum of eighteen (18) inches of the top of the  
 5        post must be painted a high visibility shade of orange;

6        (c) Is posted with other notices of like meaning, spaced at intervals  
 7        of not less than one (1) sign, paint area or notice per six hundred sixty  
 8        (660) feet along such real property; provided that where the geographi-  
 9        cal configuration of the real property is such that entry can reasonably  
 10       be made only at certain points of access, such property is posted suffi-  
 11       ciently for all purposes of this section if said signs, paint or notices  
 12       are posted at such points of access; or

13       (d) Is posted with a conspicuous sign where a public road enters the  
 14       real property, through which or along which road the public has a  
 15       right-of-way, stating words substantially similar to "PRIVATE PROP-  
 16       ERTY, NO TRESPASSING OFF (fill in relevant compass direction(s)) SIDE  
 17       OF ROAD NEXT (fill in the distance) MILES," and which is posted with a  
 18       conspicuous sign where the public road exits the real property stating  
 19       words substantially similar to "LEAVING PRIVATE PROPERTY." The post-  
 20       ings shall be placed on the private real property. In lieu of posting  
 21       the compass direction(s), a map depicting the area of private property  
 22       may be displayed on the sign;

23 is guilty of a misdemeanor and on conviction thereof shall be punished by im-  
 24 prisonment in a county jail not exceeding six (6) months or by a fine of not  
 25 less than twenty-five dollars (\$25.00) and not more than one thousand dol-  
 26 lars (\$1,000) or by both such fine and imprisonment. ~~Where the geographi-~~  
 27 ~~eal configuration of the real property is such that entry can reasonably be~~  
 28 ~~made only at certain points of access, such property is posted sufficiently~~  
 29 ~~for all purposes of this section if said signs or notices are posted at such~~  
 30 ~~points of access.~~

31        As used in this subsection and in section 18-7008, Idaho Code: "en-  
 32        ters," "entry" and "entering" mean going upon or over real property either  
 33        in person or by causing any object, substance or force to go upon or over real  
 34        property.

35        (2) No motor vehicle shall be willfully or intentionally driven into,  
 36        upon, over or through any private land actively devoted to cultivated crops  
 37        without the consent of the owner of the land or the tenant, lessee or agent of  
 38        the owner of the land actively devoted to cultivated crops. Violation of the  
 39        provisions of this section shall be a misdemeanor. For the purpose of this  
 40        subsection, motor vehicle shall be defined as set forth in sections 49-114  
 41        and 49-123, Idaho Code. Land actively devoted to cultivated crops shall be  
 42        defined as land that is used to produce field crops including, but not lim-  
 43        ited to, grains, feed crops, legumes, fruits and vegetables.

44        SECTION 3. That Section 36-1603, Idaho Code, be, and the same is hereby  
 45        amended to read as follows:

46        36-1603. TRESPASSING ON CULTIVATED LANDS OR IN VIOLATION OF WARNING  
 47        SIGNS -- POSTING OF PUBLIC LANDS. (a) No person shall enter the real property  
 48        of another and shoot any weapon or enter such property for the purposes of  
 49        hunting, retrieving wildlife, fishing or trapping, without the permission

1 of the owner or person in charge of the property, which property is either  
 2 cultivated or: ~~posted with legible "No Trespassing" signs, is posted with~~  
 3 ~~a minimum of one hundred (100) square inches of fluorescent orange, bright~~  
 4 ~~orange, blaze orange, safety orange or any similar high visibility shade of~~  
 5 ~~orange colored paint except that when metal fence posts are used, a minimum~~  
 6 ~~of eighteen (18) inches of the top of the post must be painted a high visi-~~  
 7 ~~bility shade of orange, or other notices of like meaning, placed in a con-~~  
 8 ~~spicuous manner on or near all boundaries at intervals of not less than one~~  
 9 ~~(1) sign, paint area or notice per six hundred sixty (660) feet provided that~~  
 10 ~~where the geographical configuration of the real property is such that en-~~  
 11 ~~try can reasonably be made only at certain points of access, such property is~~  
 12 ~~posted sufficiently for all purposes of this subsection if said signs, paint~~  
 13 ~~areas or notices are posted at such points of access.~~

14 (1) Is posted with "No Trespassing" signs;

15 (2) Is posted with a minimum of one hundred (100) square inches of fluo-  
 16 rescent orange, bright orange, blaze orange, safety orange or any simi-  
 17 lar high visibility shade of orange colored paint except that when metal  
 18 fence posts are used, a minimum of eighteen (18) inches of the top of the  
 19 post must be painted a high visibility shade of orange;

20 (3) Is posted with other notices of like meaning, spaced at intervals  
 21 of not less than one (1) sign, paint area or notice per six hundred sixty  
 22 (660) feet along such real property; provided that where the geographi-  
 23 cal configuration of the real property is such that entry can reasonably  
 24 be made only at certain points of access, such property is posted suffi-  
 25 ciently for all purposes of this section if said signs, paint or notices  
 26 are posted at such points of access; or

27 (4) Is posted with a conspicuous sign where a public road enters the  
 28 real property, through which or along which road the public has a  
 29 right-of-way, stating words substantially similar to "PRIVATE PROP-  
 30 ERTY, NO TRESPASSING OFF (fill in relevant compass direction(s)) SIDE  
 31 OF ROAD NEXT (fill in the distance) MILES," and which is posted with a  
 32 conspicuous sign where the public road exits the real property stating  
 33 words substantially similar to "LEAVING PRIVATE PROPERTY." The post-  
 34 ings shall be placed on the private real property. In lieu of posting  
 35 the compass direction(s), a map depicting the area of private property  
 36 may be displayed on the sign;

37 For the purposes of this section, "cultivated" shall mean soil that is being  
 38 or has been prepared by loosening or breaking up for the raising of crops, or  
 39 used for the raising of crops, or artificially irrigated pasturage. No per-  
 40 son shall fail to depart immediately from the real property of another after  
 41 being notified in writing or orally by the owner of the real property or the  
 42 owner's authorized agent.

43 (b) No person shall post, sign, or indicate that any public lands within  
 44 this state, not held under an exclusive control lease, are privately owned  
 45 lands.