

IN THE SENATE

SENATE BILL NO. 1345

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO PRIVATE PROPERTY; PROVIDING LEGISLATIVE INTENT; AMENDING CHAP-
2 TER 1, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-117,
3 IDAHO CODE, TO PROHIBIT ENTRY ONTO PRIVATE PROPERTY BY LAW ENFORCEMENT
4 UNLESS CERTAIN CONDITIONS ARE MET; AMENDING CHAPTER 13, TITLE 36, IDAHO
5 CODE, BY THE ADDITION OF A NEW SECTION 36-1306, IDAHO CODE, TO PROHIBIT
6 ENTRY ONTO PRIVATE PROPERTY BY CONSERVATION OFFICERS UNLESS CERTAIN
7 CONDITIONS ARE MET; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFEC-
8 TIVE DATE.
9

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

11 SECTION 1. LEGISLATIVE INTENT. (1) Several state supreme courts have
12 found that their state constitutions provide additional protection against
13 unreasonable search and seizure above and beyond the protection that the
14 fourth amendment to the United States Constitution provides.

15 (2) Washington, Oregon, and Montana, amongst others, have each de-
16 clared that allowing law enforcement officers to intrude onto private land
17 at any time, regardless of steps taken by its occupant to keep it private,
18 would be a significant limitation on the occupant's right to be free from
19 government scrutiny.

20 (3) These states have held that when landowners fence or post "No Tres-
21 passing" signs on their private property or, by some other means, indicate
22 unmistakably that entry is not permitted, the expectation that their privacy
23 rights will be respected and that they will be free from unwanted intrusions
24 is reasonable.

25 (4) Therefore, several states now require law enforcement to secure
26 permission from the landowner, or obtain a search warrant, prior to entry
27 onto private property that is not open to the public, unless there is an ex-
28igent circumstance.

29 (5) The Legislature finds that it is in the public interest to protect
30 the rights of citizens by ensuring that private property rights and privacy
31 rights are protected and respected. This legislation will codify the find-
32 ings of multiple state supreme courts across the nation.

33 SECTION 2. That Chapter 1, Title 18, Idaho Code, be, and the same is
34 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
35 ignated as Section 18-117, Idaho Code, and to read as follows:

36 18-117. ENTRY ONTO PRIVATE PROPERTY BY LAW ENFORCEMENT. No law en-
37 forcement officer may, in the course of performing the duties of a law
38 enforcement officer, enter onto any private property that is not open to the
39 public unless the officer has a warrant or has explicit permission from the
40 landowner or lessee. However, any officer may enter onto private property
41 without permission:

1 (1) If probable cause exists that a violation of a law that the officer
2 is authorized to enforce has been, is being, or is about to be committed on
3 the private property;

4 (2) To respond to emergency situations, accidents, or other imminent or
5 immediate threats to public safety occurring on the private property; or

6 (3) During the course and scope of fulfilling his lawful duties, such as
7 serving notice or evicting tenants.

8 SECTION 3. That Chapter 13, Title 36, Idaho Code, be, and the same is
9 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
10 ignated as Section 36-1306, Idaho Code, and to read as follows:

11 36-1306. ENTRY ONTO PRIVATE PROPERTY BY CONSERVATION OFFICERS. No
12 conservation officer may, in the course of performing the duties of a con-
13 servation officer, enter onto any private property that is not open to the
14 public unless the officer has a warrant or has explicit permission from the
15 landowner or lessee. However, any conservation officer may enter onto pri-
16 vate property without permission:

17 (1) If probable cause exists that a violation of a law that the conser-
18 vation officer is authorized to enforce has been, is being, or is about to be
19 committed on the private property;

20 (2) To dispatch crippled wildlife on the private property that the con-
21 servation officer has personally and lawfully observed prior to entering;

22 (3) To respond to emergency situations, accidents, or other imminent or
23 immediate threats to public safety occurring on the private property; or

24 (4) During the course and scope of fulfilling his lawful duties, such as
25 serving notice.

26 SECTION 4. An emergency existing therefor, which emergency is hereby
27 declared to exist, this act shall be in full force and effect on and after
28 July 1, 2024.