



CAPITOL REVIEW

A WEEKLY LEGISLATIVE REPORT

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A Weekly Legislative Report

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TRESPASS & POSTING REQUIREMENTS

H536 would change and update the current trespass statute. One of the critical reasons for the update is that the current penalties for trespass have been insufficient and do not push law enforcement to implement the law. The sponsors of H536 are both ranchers - Representative Judy Boyle and Senator Mark Harris.

The current trespass statute has not been substantially amended since 1976 and called for only a \$50 fine if a trespasser were successfully prosecuted. Currently there is a substantial burden on the landowner to mark private property. The landowner is required to place signs every 660 feet to put trespassers on notice.

H536 removes the substantial marking burden from the landowner and places the burden on the public to know whose property they are on. The legislation also creates a succinct definitional section outlining permission from the landowner and lands that would likely be on private property.

H536 was debated for over three hours in the House Ag Affairs Committee and a number of opponents claimed that the bill was created to swiftly with not enough time to synthesize better solutions. Some groups opposing the bill claimed that they had not been at the table when the bill was drafted and would have appreciated involvement.

Committee members questioned the severity of the penalties listed, feeling that a felony provision for the third offense was too severe, especially if the act were an innocent trespass. Many of those in favor pointed out that there may be innocent mistakes made, but **being convicted for a third trespass infraction clearly shows intent and a disregard for personal property rights.** Another interesting fact that came out in the hearing was that the felony provision has been in Idaho Fish and Game penalties since 1986. This leads to the question of why state property protection would be prioritized over personal property.

In the bill, the first offense would incur a \$500 fine; the second would be up to 6 months of jail time with a \$1,000 to \$3,000 fine and possible revocation of a hunting or fishing license; and the third offense would be a felony. Attorney Gary Allen stated that the trespass has to be 'willful and intentional' for the offender to be

prosecuted for trespassing in the first place. Innocent trespasses are not meant to be prosecuted because they would not have actual knowledge that they had not been permitted on the area which is the current practice already.

At the end of the debate, the committee voted to send H536 to the floor with a 'do pass' recommendation. Representative Boyle's closing remarks noted that this bill will benefit private property rights while persuading law enforcement to govern trespassers.

2018 AG ECON PUBLIC POLICY TOUR

Food Producers hosted fifteen students and three advisors from the University of Idaho College of Agricultural and Life Sciences for the annual Ag Econ Public Policy Tour sponsored by Food Producers of Idaho. The students and advisors participating in the tour included:

<u>Name</u>	<u>Hometown</u>
Joe Arkoosh	Gooding, Idaho
Dillon Blair	Kendrick, Idaho
Liz Bumstead	Pullman, WA
Ryan Bumstead	Pullman, WA
Caitlyn Choate	Castleford, ID
Ben Druffle	Genesee, ID
Landon Goolsby	Hagerman, ID
Natalie Martin	Emmett, ID
Chad Radloff	Nampa, ID
Janey Reeves	Melba, ID
Torre Sliman	Gooding, ID
Austin Whiting	Susanville, CA
Dr. Chris McIntosh	Moscow, ID, Faculty
Alex Maas	Moscow, ID, Faculty
Ashlee Westerhold	Twin Falls, ID, Faculty

The tour provided the students with the ability to experience different aspects of the legislative process. The students visited both, agriculture committees and observed the House and Senate during their deliberations. The tour included presentations from the Directors of Commerce and Idaho State Department of Agriculture. The students interacted with legislators and industry leader while in Boise.

AGRICULTURAL COMMODITY TRANSPORTATION

Transporting agricultural commodities in, around and out of the state is critical for producers and processors. Idaho is an area that grows a vast amount of agricultural products, but shipping those products has become a problem with the United States Department of Transportation and the Federal Motor Carrier Safety Administration's Electronic Logging Device (ELD) mandate. **SJM104 requests a permanent exemption from Congress for Idaho livestock and agriculture commodity transporters.** In 2017, seven national agricultural commodity organizations and other agriculture-related organizations received waivers for several months for a transition period. From the start, the regulation has been a problem for many different industries and there seems to be little to no workable solutions when transporting some commodities.

The ELD mandate was intended to help create a safer work environment for drivers and make it easier to accurately track, manage and share records. However, it has decreased efficiency and put agricultural producers in detrimental positions. Examples were cited of livestock haulers who could be near their destination to offload cattle, but due to the mandate they would be required to stop or risk being in violation. **This can lead to stressful and harmful situations for livestock and potential death if conditions are extreme.** Other examples were provided related to perishable products and the movement of live honey bees from Idaho to points for pollination.

EQUIPMENT DEALER

H526 seeks to add clarity to Idaho's Equipment Dealer Statute to ensure farm equipment dealers are on a level playing field with farm equipment manufacturers. As it stands today, equipment manufacturers have far greater bargaining strength compared to farm equipment dealers because of adhesion contracts dealers have to sign with the manufacturer in order to stay in business. **These contracts are take-it-or-leave-it, non-negotiable contracts where the dealership assumes the risk.**

This legislation clarifies that a farm equipment manufacturer is **not allowed to "substantially change an equipment dealer's competitive circumstances" without good cause or create a serious material or detrimental impact to a dealer.** H526 language would guard against an equipment manufacturer, who already has a contract with a dealer, to place another dealership within the existing dealers contracted of retail area. These circumstances could be used to put a dealer out of business. The legislation ultimately would set a standard of review for a court to consider whether or not a substantial change in a dealer's competitive circumstances took place, even if the contract of adhesion says it can. The application of this legislation would be for new contracts and contracts that are renewed on or after July 1, 2018. H526 has passed the House Business Committee and will be debated on the House floor next week.

WATER BILLS UPDATE

H370, H371 and H372 all passed the House and have been sent to the Senate. **H370** amends Idaho Code to lengthen the time-frame that state water districts have to hold their annual meetings. **H371** would mandate that the director of the Department of Water Resources cannot curtail an irrigator that has an approved water management plan within a critical ground water area. Finally, **H372** enacts a flat fee of \$50 per water right for a transfer application. All three of the bills passed the House without opposition.

EDUCATOR LOAN ASSISTANCE PROGRAM

Representative Sally Toone is sponsoring legislation that is meant to persuade teachers with college loan debt to consider rural teaching positions. **H504** is an opportunity to address the teacher shortage in rural education. In Idaho, 3 out of 4 public or charter schools are categorized as rural. **Currently, in rural schools about 20% of the students do not complete high school.** Further, an estimated half of rural students do not go on to college which is lower than the statewide average of 60%. Compounding the problem is the fact that since 2011, there has been an estimated increase of 14,000 students in Idaho schools with 400 fewer instructors.

H504 would give **up to \$3,000 a year to qualified teachers with student loan debt.** Qualified teachers could apply each year and if chosen, only participate for a total of four years. This would **max out their loan forgiveness at \$12,000.** If a teacher applies for the assistance and does not receive it during a certain year they would still be eligible to apply until they receive four years' worth of assistance. It would also require teachers to be employed in rural, Title 1 school districts. The fiscal impact to the state would be limited to \$1.5 million each year due to the cap of 500 teachers being able to participate in an individual year.

PRODUCE SAFETY LAW

Food and safety inspections fall within the jurisdiction of the federal Food and Drug Administration (FDA) whose job it is to inspect food processors. Presently, the FDA contracts some of these inspections and food safety procedures out to the State of Idaho and with the Idaho Department of Health and Welfare. Part of H537 would transition the contract with Health and Welfare to the Idaho Department of Agriculture (ISDA). The other portion of **H537 would allow the Idaho State Department of Agriculture to administer the Food Safety Modernization Act (FSMA)** to the extent that it does not exceed the federal standards. ISDA has already been the lead agency in Idaho on FSMA and has been working with growers, associations and processors to help them through some of the major changes the act contains.

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