

LEGISLATURE OF THE STATE OF IDAHO
Sixty-third Legislature First Regular Session - 2015

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 121

BY JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE

AN ACT

RELATING TO CRIMINAL PROCEDURE; AMENDING SECTION 18-113A, IDAHO CODE, TO REMOVE A PROVISION RELATING TO THE PENALTY IMPOSED WHEN CERTAIN LANGUAGE IS USED AND TO REMOVE A CODE REFERENCE; AMENDING SECTION 18-3908, IDAHO CODE, TO REVISE TERMINOLOGY AND TO REVISE THE PENALTY FOR FLOODING A HIGHWAY; AND AMENDING SECTION 39-5507, IDAHO CODE, TO REVISE THE PENALTY FOR CERTAIN SMOKING VIOLATIONS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 18-113A, Idaho Code, be, and the same is hereby amended to read as follows:

18-113A. PUNISHMENT FOR INFRACTION. Every offense declared to be an infraction is punishable only by a penalty not exceeding three hundred dollars (\$300) as provided in this section and no imprisonment. The penalty for an infraction shall be:

(1) The amount set by statute;

(2) Subject to subsection (1) of this section, the amount set as a fixed penalty for that infraction as of January 1, 2014, by the Idaho supreme court infraction rule 9, excepting subsection (38) of infraction rule 9 for "other infractions";

(3) The amount set by city or county ordinance for which the city or county has authority to impose a penalty and which is not otherwise set under subsection (1) or (2) of this section; or

~~(4) An amount set by the sentencing court in its discretion where the statute or ordinance authorizing the penalty for a specific infraction violation sets an upper penalty limit using language such as "not to exceed" or "not more than" a specific amount; or~~

~~(5) Fifteen dollars and fifty cents (\$15.50) for an infraction without a specific penalty set under subsection (1), (2) or (3) of this section, or having no specific upper limit for which the sentencing court has discretion under subsection (4) of this section.~~

SECTION 2. That Section 18-3908, Idaho Code, be, and the same is hereby amended to read as follows:

18-3908. FLOODING HIGHWAYS. Any person who runs water either by flooding or sprinkler irrigation across any public highway, road or street, without first constructing a good and sufficient ditch or ditches to convey the same, or who fails to bridge such ditch or ditches, or to keep such bridge or ditches in good repair, or to ensure that the flow from the sprinkler does not flood the public highway, road or street and all persons, companies or corporations who suffer any water used by them for the purpose of irriga-

tion, or any other purposes, to flow into or upon any public highway, road or street, in any other manner than that authorized by law, are guilty of an infraction on the first offense, and shall be guilty of a misdemeanor for each offense thereafter per calendar year, and upon conviction thereof ~~must shall~~ be fined in any sum not less than one dollar (\$1.00) nor more than fifty dollars (\$50.00), ~~together with the costs of suit,~~ and for a second offense, double said fine and costs; and it is hereby made the duty of all road supervisors, constables and marshals, to make complaint before the proper court, for violations of this section, whenever notified or having knowledge thereof. A person may not be charged under the provisions of this chapter if the flooding from a sprinkler or other water conveyance system is a result of mechanical failure, wind or other climatic condition, or other circumstances outside of the control of the person.

SECTION 3. That Section 39-5507, Idaho Code, be, and the same is hereby amended to read as follows:

39-5507. VIOLATIONS. An employer, or other person in charge of a public place or ~~publicly-owned~~ publicly owned building, or the agent or employee of such person, who observes a person smoking in apparent violation of this chapter shall ask the person to extinguish all lighted tobacco products. If the person persists in violating this chapter, the employer, person in charge, agent or employee shall ask the person to leave the premises. Any person who refuses to either extinguish all lighted tobacco products or leave the premises is guilty of an infraction and is subject to a fine ~~not to exceed fifty of seventeen~~ dollars and fifty cents (\$50.00 17.50). Any violation may be reported to a law enforcement officer.