

Capitol Reflections



2016 Legislative Session

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Bill to Ban Cell Phones Dies

This week, Triple A of Idaho attempted to introduce a bill in the Senate Transportation Committee, which would have banned the use of cell phones in cars. Since the bill was introduced after February 15, which is the deadline to introduce new bills in the Senate, it had to receive support from the entire committee. When the unanimous consent request was made, Senator Steve Vick (R-Dalton Gardens) objected. He stated that this was a big issue that deserved to have more time to be discussed than is available this session. When the committee asked the sponsor why it was so late, he responded that they had considered several versions, including one where the ban would only apply to teenagers, which took additional time to consider. The bill is essentially dead for this session. Idaho Farm Bureau policy #159 opposes any legislation that would ban cell phone use in vehicles for voice communication. IFBF would have opposed this bill had it been introduced.

“The United States have no constitutional capacity to exercise municipal jurisdiction, sovereignty, or eminent domain, within the limits of a state or elsewhere except in cases in which it is expressly granted. . . . Whenever the United States shall have fully executed these trusts (disposing of the unappropriated lands), the municipal sovereignty of the new states will be complete, throughout their respective borders, and they, and the original states, will be upon an equal footing in all respects whatever. We, therefore think the United States hold the public lands within the new states by force of the deeds of cession, and the statutes connected with them, and not by any municipal sovereignty which it may be supposed they possess, or have reserved by compact with the new states, for that particular purpose. The provisions of the Constitution above referred to shows that no such power can be exercised by the United States within a state. Such a power is not only repugnant to the Constitution, but is inconsistent with the spirit and intention of the deeds of cession.” U.S. Supreme Court in Pollard v Hagen (44 U.S. 212 (1845)) as quoted in Legal Analysis prepared for the Utah Commission for the Stewardship of Public Lands, December 9, 2015

<http://le.utah.gov/interim/2015/pdf/00005590.pdf>

“Removal From Storage” Bill Heads to Senate Floor

This week, the Senate Local Government and Taxation Committee, Chaired by Senator Jeff Siddoway (R-Terreton), approved a Farm Bureau sponsored bill with a unanimous “do pass” recommendation. H386 addresses the Idaho Tax Commission’s recent efforts to tax farm equipment used primarily to remove farm crops from storage.

Senator Jim Guthrie (R-Inkom) presented the bill and did a great job of explaining its purpose which is to provide a more clear line of where farming activities end and where other activities begin.

The portion of the production exemption which applies to farming operations states that equipment is

exempted from sales tax when it is “reasonably necessary to the operation of the total farming business.” The statute then goes on to provide some examples of farming activities such as planting, harvesting, and storage of crops. Unfortunately, since “removal from storage” was not included in the statute, the Tax Commission has determined that equipment used primarily for removal of crops from storage did not qualify.

The Idaho Farm Bureau has worked with the Tax Commission over the summer and has reached agreement on language that will resolve this issue. The bill has already passed the House and will now be heard by the full Senate. **IFBF supports H386.**



Idaho Farm Bureau's Governmental Affairs Report

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Big Game Depredation Hearing

A hearing about big game depredation was held in the Senate Resources & Environment Committee on Wednesday providing landowners an opportunity to express their insight and experience with the issue. With high snow levels, this year has been exceptionally difficult for many agriculture producers. Wyatt Prescott of the Idaho Cattle Association and Russ Hendricks of the Idaho Farm Bureau Federation started the hearing by providing an overview of the problem and a list of areas where producers are feeling a major impact on their operations. A video clip produced by Idaho Farm Bureau of the Lemhi County Farm Bureau meeting which addressed the increased depredation issue was also shared with the committee.

Deputy Director of Field Operations of the Department of Fish & Game, Ed Schreiber, addressed the committee and presented information regarding the depredation program and the department's efforts. Schreiber explained

to the committee the two-pronged approach of the program: prevention and compensation. The annual funding for the program is \$1,155,000, with \$900,000 used for preventative measures, and \$255,000 used for compensation. On average, the department responds to over 700 depredation and nuisance claims annually. This year it is expected that depredation claims will be higher, with over 236 depredation claims already having been filed this year as of February 12th. Schreiber reported that the department uses a number of means in an attempt to address the issues, some of those including the use of lure crops, hazing, kill permits, emergency depredation hunts, land-owner hunts, and compensation agreements.

A number of landowners submitted written testimonies to be considered by the committee while five other individuals representing themselves and several other agriculture producers traveled to Boise and shared their

concerns. Two of those who spoke were Tom Mosman, Clearwater/Lewis County Farm Bureau President and James Whittaker, Lemhi County Farm Bureau President. All who spoke shared personal accounts of the challenges that big game depredation has presented to their farming and ranching operations. Each expressed frustration with the situation and the process of filing depredation claims. Many stated that the process of filing claims and their settlements were too burdensome and ineffective to provide a viable solution to the problem. All parties recognized the complexity of the situation, and a desire to reach a more reasonable solution was repeatedly expressed. Idaho Farm Bureau appreciates Senator Steve Bair, Chairman of the Senate Resources Committee, for providing the opportunity to shed light on this important and growing issue.

Upcoming Bills for Irrigation Districts & Water Issues

The Senate Resources & Environment Committee will hear five bills regarding irrigation districts and water issues in the upcoming week. Below is a brief description of each:

S1240 – This legislation increases the maximum administrative fee that may be charged by a canal company, in order to bring the user fee to a level that more closely approximates the actual administrative costs to the canal company. The bill would change the maximum assessment fee from \$10 to \$50.

S1241 – This legislation clarifies that irrigation district assessment payments are timely when postmarked or received on the due date and that payments due on a weekend are timely if postmarked or received the next business day.

S1242 – This legislation clarifies that an irrigation district is not required to issue tax certificates for delinquencies and that the district has discretion in deciding whether to do so.

S1278 – This legislation clarifies that an entity operating a canal or conduit for irrigation or other beneficial use is not required to obtain an additional water right to generate hydropower in the same canal or conduit, using the same water, under certain conditions.

S1304 – This legislation clarifies that an irrigation district is not required to conduct an election or confirmation proceeding when construction of a hydroelectric plant does not involve any indebtedness.

Bees and Beehives

Senator Abby Lee (R-Fruitland) is sponsoring legislation that would include bees and beehives to the list of claims that can be made to the Department of Fish & Game to receive compensation funding from the Expendable Big Game Depredation Fund. Currently only honey is included in Idaho Code. The Idaho Honey Industry and the Fish & Game Commission have joined the Idaho Farm Bureau in supporting this bill. The bill is scheduled to be presented to the Senate Resources & Environment Committee on Friday afternoon and expected to move forward with a do-pass recommendation. Idaho Farm Bureau Policy #83 supports adding bees and beehives to the animal damage compensation list. **IFBF supports S1340**

Reduce Annual Property Tax Shift Heavy Truck Bill

H431 was approved this week by the Senate Local Government and Taxation Committee, Chaired by Senator Jeff Siddoway (R-Terretton). H431 would not change the Idaho Homeowner's Exemption of 50 percent of the home's value, but would remove the indexing feature that adjusts the maximum amount of the exemption each year. H431 would also raise the maximum exemption allowed from the current \$94,745 to \$100,000 beginning on January 1, 2017.

The homeowner's exemption began in 1982, and it originally provided an exemption of 50 percent of the home's value up to a maximum of \$50,000. Then in 2006, after 24 years, the cap was increased to \$75,000. Also, at the last minute, an index was added, over objections from the Idaho Farm Bureau and many others, as a way to automatically adjust the cap.

Because local government property tax collections are budget driven, they always collect enough tax to cover their budget, no matter what the economy is doing or what happens with exemptions. Therefore, each time the exemption cap changes, it does not reduce or even affect the total amount of property tax collected. It does, however,

shift the exempted amount of property taxes to other classes of property that do not receive the exemption. Each year for the past seven years there has been a shift of between \$153 and \$179 million dollars. That is a huge tax shift each year!

Not only are commercial, industrial, agricultural and non-owner occupied residential landowners upset about the constant shifting of taxes, but residential property owners are upset as well. Homeowners got stuck with higher taxes during the recession as home prices declined. Most homeowners thought that lower home prices would mean lower taxes, but it did not due to the unanticipated effects of the declining index.

H431 would resolve these issues by removing the troublesome indexing feature and setting the exemption cap at a fixed maximum amount of \$100,000.

The Committee sent H431 to the floor with a "do pass" recommendation after hearing from the Idaho Realtor's Association, and Idaho Farm Bureau testify in favor of the bill. Idaho Farm Bureau policy #116 supports removing the index from the homeowner's exemption. **IFBF supports H431**

Aquaculture and Pesticide Commissions

Two agriculture commissions have decided to cease operation and asked the Idaho Legislature to repeal their sections of Idaho Code.

H383 terminates the Aquaculture Commission and was requested by members of the aquaculture industry. The bill is sponsored by Rep. Donna Pence (D-Gooding). The commission formed *"for the protection, promotion, study, research, analysis and development of markets relating the growing and marketing of Idaho aquaculture products and Idaho aquaculture byproducts"* provided both opt-out and refund provisions for industry members.

Since its inception, activities have been small. As part of the termination of the Commission, industry members

have requested remaining funds be turned over to the Idaho Aquaculture Association, which also conducts promotion and education for the industry. H383 has passed the House and is currently assigned to the Senate Agriculture Committee awaiting a hearing. **IFBF supports H383**

S1215 repeals the section of Idaho Code authorizing the Pesticide Management Commission. Sponsors are Sen. Jim Rice (R-Caldwell), Chairman of the Senate Ag Affairs Committee and Darrell Bolz (R-Caldwell), former Representative from Caldwell and Extension Professor Emeritus- University of Idaho.

The Pesticide Management Commission was established in

Senate Transportation Chairman, Sen. Bert Brackett's (R-Rogerson) S1229, a bill allowing 129,000-pound trucks on I-15, I-84, I-90 and I-184 is on the House 3rd reading calendar.

The bill is the culmination of 20 years' effort by a number of interests to allow 129,000-pound trucks on designated Idaho roads. The specially configured trucks present a lighter footprint on the highway because of the increased number of axles and better braking capability. There are fewer trucks on the road because load capability is increased by 20 percent.

Late in 2015, Congressman Mike Simpson (R-Idaho) put language in the omnibus spending bill which allowed for the 129,000-pound trucks on Idaho's interstate highway system. Chairman Brackett's bill designates and codifies those highways for use by heavy trucks.

Idaho Farm Bureau has been a supporter of heavy trucks since the early days of designated pilot project routes and was an original member of the "Right Truck" coalition. S1229 conforms with Idaho Farm Bureau policy #192 which says in part ". . . We support any current and potential 129,000 pound Idaho weight limit pilot projects on our state and federal highways. We support of the future legalization of this weight limit becoming permanent law on all state and federal roadways." **IFBF supports S1229.**

2002 and was intended to operate solely on private funding. Private funding proved inadequate, and the Commission was unable to perform its primary functions of chemical registrations and registration of chemical for use on minor crops. These activities are now being performed by other organizations. Remaining Commission funds will be transferred to the University of Idaho's Unrestricted Revenue Fund for use in pesticide management related activities. S1215 has passed both Houses of the Legislature, has been returned to the Senate and will be sent to the Governor for his signature. **IFBF supports S1215.**

Dyed Fuel Enforcement Alternatives Discussed

Idaho Farm Bureau and a number of other organizations have been considering dyed fuel enforcement (DFE) over the past few weeks. A joint report released early in the legislative session by the Idaho Tax Commission, Idaho State Police, and Idaho Transportation Department outlined some enforcement alternatives as well as how other states conduct dyed fuel enforcement. 2015's H312a, the bill which raised the fuel tax and license fees, also mandated the Tax Commission to make a DFE recommendation to the 2016 Legislature. As part of its information gathering process, the Tax Commission contacted all 50 states and received responses from 29.

The report outlines nine different enforcement options. Some, such as no dyed fuel use in Idaho or establishing a licensed seller/licensed buyer system were obvious non-starters. The first four alternatives of the joint report are the options under consideration, and the Tax Commission said their recommendation consists of one or a combination of the following:

Allow inspection of main vehicle

supply tanks by ISP or its designee (tank dipping).

Create dedicated fuel tax investigation and prosecution units.

Clarify that the violation is on the driver, vehicle owner or both. Increase the fines for violations. The violation is on the person who would reasonably know of this violation.

Enhance the dyed diesel referral program to include a Web page and reward fund.

Idaho Farm Bureau has seriously studied DFE since the passage of H312a and has compiled a list of considerations important to the general business community as well as Farm Bureau members. The following is a short list of some of those:

Enforcement actions (EAs) must be based on probable cause. We oppose implied consent.

The State of Idaho must have sole jurisdiction over the DFE program.

We oppose joint jurisdiction of a DFE program with the Internal Revenue Service. The Tax Commission's report indicates that of the surrounding states

with DFE programs, only Washington, and California share jurisdiction with the IRS.

EAs should be limited to a single incident, individual vehicle occurrence. A dyed fuel violation should not provide probable cause to inspect other diesel-powered vehicles owned by the company or individual or the bulk storage tank(s) from which the dyed fuel may have originated.

All licensed passenger cars and other diesel-powered vehicles shall be subject to any DFE program.

Dyed fuel offenses should be classified as secondary offenses, similar to seat belt violations.

Sen. Brackett has introduced S1310, a bill that would allow limited fuel testing without establishing a full DFE program. The bill has started a discussion among the potentially regulated community. Idaho Farm Bureau and other organizations are continuing discussions with Senator Brackett about ways to craft a solution workable for Idaho's agriculture and business communities.

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