

# Capitol Reflections

2018 LEGISLATIVE SESSION

“Inalienable Rights of Man – All men are by nature free and equal, and have certain inalienable rights, among which are enjoying and defending life and liberty; **acquiring, possessing and protecting property**; pursuing happiness and securing safety.”

-Idaho Constitution, Article I, Section I

## TRESPASS BILL ADVANCES

This week, H536 was approved by the House Agricultural Affairs Committee by a vote of 14-1. The lone vote in opposition was Reps Matt Erpelding (D-Boise). To his credit, Rep Erpelding was quite vocal that he was convinced something needed to be done to strengthen Idaho’s trespass laws and better protect property owners. However, he just couldn’t quite vote for this bill.

There were several Farm Bureau members who testified at the hearing. President Bryan Searle, Cody Chandler, Neal Ward, Tom Billington, Brett Ricks, Darren Taber, Rick Brune and Tracy Walton, all did excellent jobs of sharing their experiences with trespassers. Each have had multiple trespass instances on their property; many with significant vandalism or other damage and unfortunately, they have typically received little to no help from law enforcement. There were a number of other landowners and organizations who also spoke in favor of H536. There were a few representatives of “sportsmen” and other interests who spoke in opposition to the bill, largely using tactics that the bill is too large, too complex and moving too quickly, or they were not at the table. However, this is a landowner bill, and all groups representing landowners were at the table and have signed-on to support the bill.

The committee seemed to get hung up on the provision in the bill which provides for a felony upon a third-time

### IN THIS ISSUE

TRESPASS BILL ADVANCES..... P1  
 ELECTRONIC LOGGING DEVICES CAUSE HARDSHIP FOR ALL SMALL TRUCKERS..... P2  
 NOTICE TO WATER DELIVERY ENTITIES..... Pp2-3  
 MORE OPTIONS FOR TAX RELIEF SURFACE..... P3  
 SEVERAL OTHER BILLS OF INTEREST..... P4

conviction for trespass within a ten-year period. This penalty already exists in the recreational trespass code and has been there since 1986. Nobody has complained about it before. H536 simply includes the very same penalty in the criminal trespass section that has existed for 30 years. If someone is convicted by a court of law for the same offense three separate times, they are a serial offender and should have some serious consequences. This also prevents defendants from pleading out of one section of code with stricter penalties for another section of code with lighter penalties.

After the sponsors explained about a dozen times that the penalty already has existed in Idaho Code for 30 years and this is nothing new, the few on the committee who had expressed doubts recognized the need to strengthen the laws and enhance protections for private property owners. H536 will now go to the House floor for approval by the entire body. There are more than 30 organizations in support of H536 including agriculture, mining, utilities, retailers, general business and others. **IFBF supports H536.**



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## ELECTRONIC LOGGING DEVICES CAUSE HARDSHIP FOR ALL SMALL TRUCKERS

This week the Senate Transportation Committee printed Senate Joint Memorial 104, a message to Congress that opposes the United States Department of Transportation (USDOT) Federal Motor Carrier Safety Administration (FMCSA) mandate requiring electronic logging devices in all commercial trucks model year 2000 and newer. Senator Mark Harris (R-Soda Springs) is the sponsor.

SJM 104 asks Congress for a permanent ag commodity/livestock hauler exemption from the ELD mandate. A 90-day waiver for agriculture and livestock transporters was granted in December 2017 and expires March 18, 2018. Language in the FY '18 Transportation, Housing and Urban Development (THUD) approps bill allows for a 1-year waiver and Rep. Kevin Brady (R-TX) introduced HR 3282 in June 2017. There has been no action on either bill to this point.

The mandate originated as part of MAP-21, the federal transportation bill passed in 2015. A subsequent rule mandated ELD use by December 18, 2017. ELDs were intended to replace handwritten driver logbooks, provide more accurate records and increase safety and efficiency. ELDs, along with Hours of Service (HOS) rules allowing no more than 11 hours driving during a 14 hour "on-duty" day have proven to impose a regulatory and economic burden on small, independent truckers, and especially, livestock haulers.



ELDs record "on-duty" time whenever the truck's engine is running and do not take into account the long waiting times when unloading or loading commodities or livestock. Handwritten logbooks allow a driver to distinguish between on-duty and off-duty time.

Significant nationwide resistance to the rule developed throughout 2016 and 2017 as small, independent truckers realized the economic and regulatory ramifications of the rule. Large, over-the-road firms did not have issue with the mandate as their business conforms to a more conventional schedule and these companies often run newer equipment and already use ELDs.

The ELD mandate and HOS rule can often require overnight stays or the addition of another driver on even relatively short trips. Heavy equipment repair technicians often drive a few hours round trip to a job, but work long hours making a repair and then have to stay overnight because they will exceed the HOS requirement by only a fraction of an hour. The other alternative is to send a second individual on the job.

Under the ELD mandate, livestock haulers might have to load and unload cattle to comply. Even if the infrastructure to perform this operation existed, there is no positive benefit to the cattle. Live animals are the most perishable and fragile of all commodities. Additional transit time results in added stress, weight loss, biohazard exposure, increased mortality and additional expense.

## S1306—NOTICE TO WATER DELIVERY ENTITIES

On Monday, the Senate Resource and Conservation Committee voted to introduce legislation that would allow water delivery entities to become aware of proposed developments and zoning changes in their service areas. The bill, S1306, is a Farm Bureau proposal and will have a full hearing on Monday.

S1306 amends Idaho Code 67-6519 to require planning and zoning authorities (*cities and counties*) to notify those water delivery entities who have requested notice in writing of any proposed rezoning, subdivision, or any other site-specific land development proposals. The bill allows for notice to

be provided by email, if agreed upon by both parties. This notice is to be provided at least 15 days prior to the public hearing date concerning the proposed development, so water users can review the project proposal and raise any potential concerns.

As towns and cities expand, rezoning occurs, and developments take place. There are times when project proposals fail to fully consider easements, rights-of-way and infrastructure owned or operated by water delivery entities. Idaho law protects water rights from being injured or impaired by development projects. This legislation will aid in assuring that water delivery infrastructure, easements, and rights-of-way are not encroached upon as

development occurs, and the rights of water users are not injured.

The Farm Bureau worked closely with the Idaho Water Users Association, the Association of Idaho Cities, and the Idaho Association of Counties on the language of this bill. All parties are supportive of the bill.

IFBF Policy #138 states, "Water-right holders or recipients of water delivered through property that is proposed to be rezoned should receive the same notification of public hearings as surrounding landowners." **IFBF supports S1306**

## MORE OPTIONS FOR TAX RELIEF SURFACE

This week two more tax relief proposals were introduced in the House Revenue & Taxation Committee which is chaired by Rep Gary Collins (R-Nampa). The first was introduced by Rep Vito Barbieri (R-Dalton Gardens). His bill would reduce state income taxes at all brackets by .5%, slightly more than the Governor's proposal, and would also eliminate the \$100 per person state grocery tax credit, while removing sales tax from groceries. His proposal would also provide a significant reduction of the corporate income tax of 2.4% so the new rate would be 5%. To offset this reduction, the investment tax credit, which allows corporations to deduct up to 3% of capitol investments, would be eliminated. The twist in this bill is that it does not conform with the federal tax changes, so that would need to be done in a trailer bill. The fiscal note for H557 indicates it would result in \$265 million in tax reductions.

The second alternative was presented by Senator Jeff Siddoway (R-Terretton), on behalf of Senator Dan Johnson (R-Lewiston), who could not attend that day due to another commitment. Senator Johnson's proposal would reduce state income taxes on each bracket by .3%, slightly less than the Governor's proposal, but would also restore the dependent tax

exemption of \$4,150 per dependent on Idaho taxes in place of the child tax credit which was proposed by the Governor. By his calculations, this would result in a greater tax savings to those with dependents, while perhaps not as much for those without. It also requires Idaho businesses who can deduct 20% of their operating expenses from federal income taxes under section 199A, to add them back into their Idaho adjusted gross income. The fiscal note for H558 indicates it would result in about \$193 million in total tax relief, but with conformity to federal taxes included in the bill, the net reduction in tax revenues to the state would be just under \$96 million.

The Governor's tax relief package has cleared the House and is now awaiting a hearing in the Senate Local Government and Tax Committee. The word in the Capitol is that it will not receive a hearing until Senator Dan Johnson's bill receives a hearing in the House Revenue and Taxation Committee. It is still unclear which of the bills has the support in the Senate to move forward, or whether it will be some combination. The good news is that just about all legislators agree there is a need for a minimum of \$200 million in tax relief. **IFBF supports reductions in income tax rates and conformance with the federal tax reforms.**

SEVERAL OTHER BILLS OF INTEREST

There was a flurry of bill introductions this week as this is the last week to introduce bills except through a privileged committee. Here are a few of the bills that were introduced into the House Revenue and Taxation Committee. All three also received a hearing this week and were passed through the committee and will now be heard on the House floor for a vote.

H556 would allow any county to voluntarily grant an exemption from paying personal property tax to all businesses who still do so within the county. This is another step forward in completely eliminating the personal property tax. Currently, under Idaho law, all businesses are allowed to exempt the first \$100,000 of personal property located within the county from property tax. There are some counties that therefore track and tax very little personal property. Others are still quite reliant on this antiquated and outdated tax. H556 would give the option to those counties who would prefer to simply exempt all remaining personal property in their county from taxation, so they no longer have to administer it. **IFBF supports H556.**

H560 would require a statement in the ballot for any bond measure which would clearly tell voters how much the bond will cost them per \$100,000 of value and for how long. Currently, this information is only required to be made available prior to the election,



but it does not appear on the ballot. **IFBF supports H560.**

H561 is an effort to continue to reduce the Idaho personal and corporate income tax over time as state tax revenues continue to grow. It proposes to reduce the corporate and individual income tax by .1% on each bracket in every year when state general fund revenues grow by 6% or more over the previous year. This mechanism would expire after the top individual income tax bracket is reduced to 6%. **IFBF supports reducing state income tax rates.**

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