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States' Recreational Use Statutes

State of Idaho

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States' Recreational Use Statutes

STATE OF IDAHO

I.C. § 36-1601 to § 36-1604

Current through (2010) Chs. 1-359 and HJR's 4, 5 and 7 that are effective on or before April 12, 2010

§ 36-1601. Public waters--Highways for recreation

(a) Navigable Streams Defined. Any stream which, in its natural state, during normal high water, will float cut timber having a diameter in excess of six (6) inches or any other commercial or floatable commodity or is capable of being navigated by oar or motor propelled small craft for pleasure or commercial purposes is navigable.

(b) Recreational Use Authorized. Navigable rivers, sloughs or streams within the meander lines or, when not meandered, between the flow lines of ordinary high water thereof, and all rivers, sloughs and streams flowing through any public lands of the state shall be open to public use as a public highway for travel and passage, up or downstream, for business or pleasure, and to exercise the incidents of navigation -- boating, swimming, fishing, hunting and all recreational purposes.

(c) Access Limited to Navigable Stream. Nothing herein contained shall authorize the entering on or crossing over private land at any point other than within the high water lines of navigable streams except that where irrigation dams or other obstructions interfere with the navigability of a stream, members of the public may remove themselves and their boats, floats, canoes or other floating crafts from the stream and walk or portage such crafts around said obstruction re-entering the stream immediately below such obstruction at the nearest point where it is safe to do so.

§ 36-1602. Hunting on cultivated, posted, or enclosed lands without permission

No person shall hunt with a dog or weapon upon lands of another that are cultivated, posted, or enclosed by fences of any description sufficient to show the boundaries of the land enclosed without first obtaining permission from the owner or occupant thereof or his agent. Any person so hunting shall be responsible to the owner of said lands for all damages. Any person or persons violating the provisions of this section resulting in injuring or killing any livestock on said lands shall be found guilty in accordance with section 36- 1401, Idaho Code.

§ 36-1603. Trespassing on cultivated lands or in violation of warning signs--Posting of public lands

(a) No person shall enter the real property of another and shoot any weapon or enter such property for the purposes of hunting, retrieving wildlife, fishing or trapping, without the permission of the owner or person in charge of the property, which property is either cultivated or posted with legible "No Trespassing" signs, is posted with a minimum of one hundred (100) square inches of fluorescent orange paint except that when metal fence posts are used, the entire post must be painted fluorescent orange, or other notices of like meaning, placed in a conspicuous manner on or near all boundaries at intervals of not less than one (1) sign, paint area or notice per six hundred sixty (660) feet provided that where the geographical configuration of the real property is such that entry can reasonably be made only at certain points of access, such property is posted sufficiently for all purposes of this subsection if said signs, paint areas or notices are posted at such points of access. For the purposes of this section, "cultivated" shall mean soil that is being or has been prepared by loosening or breaking up for the raising of crops, or used for the raising of crops, or artificially irrigated pasturage. No person shall fail to depart immediately from the real property of another after being notified in writing or orally by the owner of the real property or the owner's authorized agent.

(b) No person shall post, sign, or indicate that any public lands within this state, not held under an exclusive control lease, are privately owned lands.

§ 36-1604. Limitation of liability of landowner

(a) Statement of Purpose. The purpose of this section is to encourage owners of land to make land, airstrips and water areas available to the public without charge for recreational purposes by limiting their liability toward persons entering thereon for such purposes.

(b) Definitions. As used in this section:

1. "Airstrips" means either improved or unimproved landing areas used by pilots to land, park, take off, unload, load and taxi aircraft. Airstrips shall not include landing areas which are or may become eligible to receive federal funding pursuant to the federal airport and airway improvement act of 1982 and subsequent amendments thereto.
2. "Land" means private or public land, roads, airstrips, trails, water, watercourses, irrigation dams, water control structures, headgates, private or public ways and buildings, structures, and machinery or equipment when attached to or used on the realty.
3. "Owner" means the possessor of a fee interest, a tenant, lessee, occupant or person in control of the premises.
4. "Recreational purposes" includes, but is not limited to, any of the following activities or any combination thereof: hunting, fishing, swimming, boating, rafting, tubing, camping, picnicking, hiking, pleasure driving, the flying of aircraft, bicycling, running, playing on playground

equipment, skateboarding, athletic competition, nature study, water skiing, animal riding, motorcycling, snowmobiling, recreational vehicles, winter sports, and viewing or enjoying historical, archeological, scenic, geological or scientific sites, when done without charge of the owner.

(c) Owner Exempt from Warning. An owner of land owes no duty of care to keep the premises safe for entry by others for recreational purposes, or to give any warning of a dangerous condition, use, structure, or activity on such premises to persons entering for such purposes. Neither the installation of a sign or other form of warning of a dangerous condition, use, structure, or activity, nor any modification made for the purpose of improving the safety of others, nor the failure to maintain or keep in place any sign, other form of warning, or modification made to improve safety, shall create liability on the part of an owner of land where there is no other basis for such liability.

(d) Owner Assumes No Liability. An owner of land or equipment who either directly or indirectly invites or permits without charge any person to use such property for recreational purposes does not thereby:

1. Extend any assurance that the premises are safe for any purpose.
2. Confer upon such person the legal status of an invitee or licensee to whom a duty of care is owed.
3. Assume responsibility for or incur liability for any injury to person or property caused by an act of omission of such persons.

(e) Provisions Apply to Leased Public Land. Unless otherwise agreed in writing, the provisions of this section shall be deemed applicable to the duties and liability of an owner of land leased to the state or any subdivision thereof for recreational purposes.

(f) Provisions Apply to Land Subject to a Conservation Easement. Unless otherwise agreed in writing, the provisions of this section shall be deemed applicable to the duties and liability of an owner of land subject to a conservation easement to any governmental entity or nonprofit organization.

(g) Owner Not Required to Keep Land Safe. Nothing in this section shall be construed to:

1. Create a duty of care or ground of liability for injury to persons or property.
2. Relieve any person using the land of another for recreational purposes from any obligation which he may have in the absence of this section to exercise care in his use of such land and in his activities thereon, or from legal consequences or failure to employ such care.
3. Apply to any person or persons who for compensation permit the land to be used for recreational purposes.

(h) User Liable for Damages. Any person using the land of another for recreational purposes, with or without permission, shall be liable for any damage to property, livestock or crops which he may cause while on said property.