

# Idaho Statutes

## TITLE 18

### CRIMES AND PUNISHMENTS

#### CHAPTER 70

##### TRESPASS AND MALICIOUS INJURIES TO PROPERTY

18-7008. CRIMINAL TRESPASS — DEFINITIONS AND ACTS CONSTITUTING.

(1) Definitions. As used in this section:

(a) "Crops" means field crops including, but not limited to, grains, feed crops, legumes, fruits and vegetables.

(b) "Cultivated land" means:

(i) Land whose soil is loosened or broken up for the raising of crops;

(ii) Land used for the raising of crops; or

(iii) Pasturage that is artificially irrigated.

(c) "Damage" means any injury or damage to real or personal property and includes, but is not limited to, any of the following actions, when conducted without lawful authority, the consent of the landowner or his agent, or a valid license:

(i) Cutting down or carrying off any wood, underbrush, tree or timber, or girdling or otherwise injuring any tree or timber on the land of another;

(ii) Severing from the property of another anything attached thereto, or the produce thereof;

(iii) Digging, taking or carrying away any earth, soil or stone from the property of another;

(iv) Tearing down or otherwise damaging any fence on the land of another person, or opening any gate, bar or fence of another person and leaving it open, or using the corral or corrals of another person;

(v) Dumping trash or covering up in any manner the property of another person;

(vi) The unprovoked, intentional killing or injuring of a domestic animal of another on his property;

(vii) Removing, mutilating, damaging or destroying any "no trespassing" signs or markers of similar meaning;

(viii) Going through or driving a motor vehicle, as defined in sections [49-114](#) and [49-123](#), Idaho Code, into, upon, over or through any cultivated lands; or

(ix) Injuring livestock.

(d) "Enter" or "enters" means going upon or over real property either in person or by causing any object, substance or force to go upon or over real property.

(e) "Navigable streams" shall have the meaning set forth in section [36-1601](#), Idaho Code.

(f) "Permission" means written authorization from the owner or his agent to enter upon private land, which shall include the signature of the owner or his agent, the name of the person being given permission, the appropriate dates that the permission is valid and a general description of the property; or another form of permission or invitation recognized by law.

(g) "Remains" means to fail to depart from the real property of another immediately when notified to do so by the owner or his agent.

(2) Acts constituting criminal trespass.

(a) A person commits criminal trespass and is guilty of a misdemeanor, except as provided in subsection (3)(a)(i) of this section, when he enters or remains on the real property of another without permission, knowing or with reason to know that his presence is not permitted. A person has reason to know his presence is not permitted when, except under a landlord-tenant relationship, he fails to depart immediately from the real property of another after being notified by the owner or his agent to do so, or he returns without permission or invitation within one (1) year, unless a longer period of time is designated by the owner or his agent. In addition, a person has reason to know that his presence is not permitted on real property that meets any of the following descriptions:

(i) The property is reasonably associated with a residence or place of business;

(ii) The property is cultivated;

(iii) The property is fenced or otherwise enclosed in a manner that a reasonable person would recognize as delineating a private property boundary. Provided, however, if the property adjoins or is contained within public lands, the fence line adjacent to public land is posted with conspicuous "no trespassing" signs or bright orange or fluorescent paint at the corners of the fence adjoining public land and at all navigable streams, roads, gates and rights-of-way entering the private land from the public land, and is posted in a manner that a reasonable person would be put on notice that it is private land; or

(iv) The property is unfenced and uncultivated but is posted with conspicuous "no trespassing" signs or bright orange or fluorescent paint at all property corners and boundaries where the property intersects navigable streams, roads, gates and rights-of-way entering the land, and is posted in a manner that a reasonable person would be put on notice that it is private land.

(b) Every person who commits a criminal trespass as provided by this section and who causes damage to real or personal property in excess of one thousand dollars (\$1,000) while trespassing is guilty of criminal trespass with damage and is guilty of a misdemeanor, except as provided in subsection (3)(b)(iii) of this section.

(3) Penalties.

(a) Penalties for criminal trespass.

(i) Any person who pleads guilty to or is found guilty of a violation of subsection (2)(a) of this section for the first time:

1. If no damage of any kind was committed during the trespass and the person accused does not remain if ordered to depart by the owner of the real property or his agent, then the person shall be guilty of an infraction and fined in the amount of three hundred dollars (\$300); or

2. Except as provided in subparagraph (i)1. of this paragraph, the person may be sentenced to jail for a period of no more than six (6) months and shall be fined in an amount no less than five hundred dollars (\$500) and no more than one thousand dollars (\$1,000).

(ii) Any person who pleads guilty to or is found guilty of a violation of subsection (2)(a) of this section for a second time within five (5) years:

1. May be sentenced to jail for a period of no more than six (6) months;

2. Shall be fined in an amount no less than one thousand five hundred dollars (\$1,500) and no more than three thousand dollars (\$3,000); and

3. If the trespass can be reasonably construed to have been committed in a manner described in section [36-1603](#)(a), Idaho Code, shall have any license issued

pursuant to [chapter 3, title 36](#), Idaho Code, suspended for a period of one (1) year.

(iii) Any person who pleads guilty to or is found guilty of a violation of subsection (2)(a) of this section, who previously has been found guilty of or has pled guilty to two (2) or more violations of the provisions of subsection (2) of this section within ten (10) years, notwithstanding the form of the judgments or withheld judgments:

1. May be sentenced to jail for a period no more than one (1) year;
2. Shall be fined an amount no less than five thousand dollars (\$5,000) and no more than ten thousand dollars (\$10,000); and
3. If the trespass can be reasonably construed to have been committed in a manner described in section [36-1603](#)(a), Idaho Code, shall have any license issued pursuant to [chapter 3, title 36](#), Idaho Code, suspended for a period of no more than five (5) years.

(b) Penalties for criminal trespass with damage.

(i) Any person who pleads guilty to or is found guilty of a violation of subsection (2)(b) of this section for the first time:

1. May be sentenced to jail for a period of no more than six (6) months; and
2. Shall be fined in an amount no less than one thousand five hundred dollars (\$1,500) and no more than five thousand dollars (\$5,000).

(ii) Any person who pleads guilty to or is found guilty of a violation of subsection (2)(b) of this section for a second time within five (5) years:

1. May be sentenced to jail for a period of no more than six (6) months;
2. Shall be fined in an amount no less than five thousand dollars (\$5,000) and no more than ten thousand dollars (\$10,000); and
3. If the trespass can be reasonably construed to have been committed in a manner described in section [36-1603](#)(a), Idaho Code, shall have any license issued pursuant to [chapter 3, title 36](#), Idaho Code, suspended for a period of one (1) year.

(iii) Any person who pleads guilty to or is found guilty of a violation of subsection (2)(b) of this section, who previously has been found guilty of or has pled guilty to two (2) or more violations of the provisions of subsection (2) of this section within ten (10) years, notwithstanding the form of the judgments or withheld judgments, is guilty of a felony and:

1. Shall be sentenced to the custody of the state board of correction for a period of no less than one (1) year and no more than five (5) years;
2. Shall be fined in an amount no less than fifteen thousand dollars (\$15,000) and no more than fifty thousand dollars (\$50,000); and
3. If the trespass can be reasonably construed to have been committed in a manner described in section [36-1603](#)(a), Idaho Code, shall have any license issued pursuant to [chapter 3, title 36](#), Idaho Code, suspended for a period of no less than five (5) years.

(c) In addition to any other penalty prescribed by law, a court shall, for any violation of subsection (2) of this section, order restitution in accordance with section [19-5304](#), Idaho Code.

(4) Posting of navigable streams shall not prohibit access to navigable streams below the high-water mark pursuant to section [36-1601](#), Idaho Code.

(5) Subject to any rights or authorities described in subsection (6) of this section, a landowner or his agent may revoke permission granted under this section to another to enter or remain upon his property at any time, for any reason, orally, in writing, or by any other form of notice reasonably apparent to the permitted person or persons.

(6) A person shall not be guilty of trespass under this section for entering or remaining upon real property if the person entered or remained on the property pursuant to any of the following rights or authorities:

(a) An established right of entry or occupancy of the real property in question, including, but not limited to:

(i) An invitation, whether express or implied, to enter or remain on real property including, but not limited to, the right to enter property that is, at the time, open to the public, if the person is in compliance with lawful conditions imposed on access;

(ii) A license to enter or remain on real property; or

(iii) A lease, easement, contract, privilege or other legal right to enter, remain upon, possess or use the real property;

(b) A lawful authority to enter onto or remain upon the real property in question, including, but not limited to:

(i) Any law enforcement officer during the course and scope of fulfilling his lawful duties;

(ii) Any paramedic, firefighter or other emergency personnel during the course and scope of fulfilling his lawful duties; or

(iii) Any licensed professional otherwise authorized to enter or remain on the real property during the course and scope of fulfilling his lawful duties; or

(c) Any other person with a legally prescribed right to enter or remain upon the real property in question.

(7) Examples of the exclusions in subsection (6) of this section include, but are not limited to: a customer entering and remaining in a store during business hours who has not been asked to depart by the property owner or his agent; a person knocking on a front door of a property that is not posted; a meter reader during the scope and course of his employment; a postal employee delivering mail or packages; power company personnel fixing downed power lines; a bail bondsman arresting a person who is in violation of a bail contract; a tenant pursuant to a valid lease; and the owner or operator of any right-of-way or easement for any ditch, canal or other conduit, acting pursuant to the provisions of chapter 11 or [chapter 12, title 42](#), Idaho Code.

(8) The exclusions set forth in this section shall not relieve any person of civil or criminal liability pursuant to other applicable law for causing damage while entering or remaining on the property in question.

History:

[18-7008, added 2018, ch. 350, sec. 6, p. 828.]

<https://legislature.idaho.gov/statutesrules/idstat/Title18/T18CH70/SECT18-7008/>