



# CAPITOL REVIEW

## A WEEKLY LEGISLATIVE REPORT

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### A Weekly Legislative Report

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#### DOMESTIC WELL EXEMPTION

Current Idaho water law states that “no person shall divert any water from a natural watercourse or apply water to land without having obtained a valid water right to do so.” Idaho Code 42-201(2). A water right can be applied for in the agricultural world by diverting water and putting it to beneficial use. However, there is a domestic exemption under Idaho Code. It states that “the excavation and opening of wells and the withdrawal of water therefrom for domestic purposes shall not be subject to the permit requirement ...” Idaho Code 42-227. Domestic purposes is further outlined in Idaho Code as use for a “home, organization camps, public campgrounds, livestock and for any other purpose in connection therewith, including irrigation of up to one-half (1/2) acre of land, if the total use is not in excess of thirteen thousand (13,000) gallons per day,” or “(b) any other uses, if the total use does not exceed a diversion rate of four one-hundredths (0.04) cubic feet per second and a diversion volume of twenty-five hundred (2,500) gallons per day.”

S1083 would amend Idaho Code regarding the exemption for domestic use and the use of water in subdivisions. More specifically, it would amend Idaho Code to allow multiple exempt domestic uses to be combined into a single well. This would only apply to in-home water use. Next it would amend Idaho Code so that subdivisions within an area that has been designated as a Ground Water Management Area, Critical Ground Water Area, or Moratorium Area, would only allow the Domestic Use Exemption to be applied to in-home or stockwatering purposes. Any other use, including irrigation, would require a permit. S1083 would also provide a streamlined process to ensure compliance with domestic use exemption requirements. Finally, the legislation would require that community wells within municipal service areas or areas of impact be compatible with the municipal system and that surface water be used for irrigation

when available. This legislation is sponsored by Senator Kelly Anthon and Representative Mike Moyle.

#### RECREATIONAL TRESPASS

S1086 would add clarity in Idaho Code that when a public or private landowner allows recreational use of land subject to terms or limitations, and gives notice of those terms, and then the recreationist acts against or opposite to the terms of that permission, then the recreationist shall be eligible to be prosecuted per criminal trespass. Several examples were brought up in committee regarding the fact that if a landowner allows an individual to use a sole road to access a piece of public land on the other side of their property or a hunting area on their property, but then goes outside the scope of that permission, then the individual would be in violation of the proposed language. The bill is sponsored by Senator Mark Harris and passed out of committee this last week.

#### CORPORATE TRANSPARENCY ACT UPDATE

We wrote about a House Joint Memorial last week that is swirling inside the Idaho Legislature that is opposed to the Corporate Transparency Act. However, this week we learned some disheartening news about the status of the litigation. Since December 2024, the CTA has been subject to nationwide injunctions. Such deadlines are divided into two primary parts: the filing deadline for (i) reporting companies that were in existence prior to 1/1/2024 (“Pre-2024 Companies”) and (ii) reporting companies formed on or after 1/1/2024 (“New Companies”). Because the last of the injunctions has now been put on hold, FinCEN may immediately begin enforcing the CTA filing deadlines again, including for Pre-‘24 Companies. In response to the Smith v Treasury ruling, FinCEN announced on February 19, 2025 the following: with the February 18, 2025, decision by the U.S. District Court for the Eastern District of Texas in Smith, beneficial ownership information reporting requirements under the Corporate Transparency Act are once again back in

effect. However, because the Department of the Treasury recognizes that reporting companies may need additional time to comply with their BOI reporting obligations, FinCEN is generally extending the deadline 30 calendar days from February 19, 2025, for most companies. **For the vast majority of reporting companies, the new deadline to file an initial, updated or corrected BOI report is now March 21, 2025.**

### **PRODUCT WARNINGS, FOOD AND FIBER**

The legal system is being weaponized by trial attorneys to target regulated and approved products essential for growing food and fiber. Despite global health regulators deeming a widely used pesticide safe and non-carcinogenic, ongoing litigation is creating uncertainty about the future availability of American-made agricultural products. If this issue is not addressed, farmers, ranchers, and commercial users in Idaho will face significant challenges, including lower yields, financial hardship, and risks to our domestic food security.

To address this growing concern, a coalition of agricultural organizations has come together to draft **H303**. This legislation:

- Clarifies when a U.S. manufacturer or seller has fulfilled their common law duty to warn consumers and the public about potential risks associated with their products.
- Ensures legal recourse for consumers if they can provide **scientific evidence** that a product's warning was inadequate.
- Establishes **sound science** as the foundation for legal arguments against agricultural products, preventing frivolous lawsuits that threaten American jobs.
- Provides **certainty** for farmers by ensuring continued access to the U.S.-manufactured products they rely on to grow safe, reliable, and affordable food.

#### **What H303 Does Not Do:**

- It does **not** create immunity for manufacturers or sellers.
- It does **not** allow trial attorneys to continue exploiting the legal system to undermine U.S. agricultural products.

This legislation applies **only** to U.S.-manufactured products, reinforcing the integrity of American agriculture while ensuring that legal challenges are based on legitimate scientific evidence—not litigation tactics. HB303 is a critical step toward protecting Idaho's agricultural industry and securing the future of American food and fiber production. The legislation is sponsored by Representative Doug Pickett and Representative John Shirts.

### **AGRICULTURAL PROTECTION AREAS**

In 2024, the Idaho Legislature passed the Agricultural Protection Area (APA) Act, allowing landowners with at least five acres of actively farmed or forested land for the past three years to apply for a 20-year agricultural protection area. Upon the passage of the APA Act in 2024 counties began creating their APA ordinances with the help of stakeholders.

Current county APA ordinances restrict certain working landowners from applying to put their land into agricultural protection areas. The proposed legislation amends the current Agricultural Protection Areas Act and clarifies that nothing shall restrict an application from being able to apply for an agricultural protection area, regardless if the landowner is inside or outside of a city area of impact.

This legislation also includes the establishment of APA funds. This would be a voluntary fund administered by the Soil and Water Conservation Districts. The fund would accept private and public voluntary donations. The districts shall distribute 95% of all voluntary contributions made to the fund on a per acre basis to landowners who have approved APAs by the end of the fiscal year. The remaining funds are to be used for administrative costs and promotion of agriculture and soil and water conservation within the state. The proposed legislation does not have a bill number yet but is expected to be printed this upcoming week. Farmland preservation has long been a priority for agricultural groups, and we look forward to the outcomes of this legislative session, especially with these additions.

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