

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 33

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO PUBLIC HEALTH; AMENDING SECTION 39-418, IDAHO CODE, TO PROVIDE  
2 FOR REVIEW OF A DISTRICT BOARD OF HEALTH'S ACTION, DECISION, OR ORDER  
3 AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 39-419, IDAHO  
4 CODE, TO PROVIDE THAT CERTAIN VIOLATIONS OF DISTRICT HEALTH LAWS SHALL  
5 BE INFRACTIONS, TO REVISE PROVISIONS REGARDING PENALTIES, AND TO MAKE  
6 TECHNICAL CORRECTIONS; AMENDING SECTION 56-1003, IDAHO CODE, TO PRO-  
7 VIDE THAT ORDERS OF ISOLATION OR QUARANTINE LASTING MORE THAN THIRTY  
8 DAYS MUST BE APPROVED BY CERTAIN GOVERNING BODIES, TO PROVIDE THAT CER-  
9 TAIN ORDERS OF ISOLATION OR QUARANTINE WILL BECOME INEFFECTIVE ON THE  
10 LATTER OF TWO DATES, AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN  
11 EMERGENCY.  
12

13 Be It Enacted by the Legislature of the State of Idaho:

14 SECTION 1. That Section 39-418, Idaho Code, be, and the same is hereby  
15 amended to read as follows:

16 39-418. ~~JUDICIAL REVIEW OF DISTRICT BOARD'S ACTION, DECISION, ORDER,~~  
17 ~~OR DETERMINATION -- EXCLUSIVE PROCEDURE.~~ (1) Any person adversely affected  
18 by an action, a decision, or an order of a district board of health may re-  
19 quest that the board of county commissioners of the county in which such per-  
20 son resides review the action, decision, or order. The board of county com-  
21 missioners, upon such request, may by majority vote either decline to fur-  
22 ther consider the request or, upon consideration, affirm or overturn the ac-  
23 tion, decision, or order.

24 (2) Judicial review of a final determination of the district board may  
25 be secured by any person adversely affected thereby by filing a petition for  
26 review as prescribed by chapter 52, title 67, Idaho Code, in the district  
27 court of the county wherein he lives within thirty (30) days after receipt of  
28 notice of the district board's final determination. The petition for review  
29 shall be served upon the district health director and the director of the de-  
30 partment of health and welfare of the state of Idaho. The director may appear  
31 in any such hearing as a matter of right. Such service shall be jurisdic-  
32 tional and the provisions of this section shall be the exclusive procedure  
33 for appeal or review.

34 ~~(2)~~ If no appeal or review is sought within the time prescribed in ~~(1)~~  
35 above ~~this subsection~~, the final determination of the district board shall  
36 be conclusive as to factual matters decided therein and not subject to col-  
37 lateral attack in any proceeding to enforce its provisions.

38 SECTION 2. That Section 39-419, Idaho Code, be, and the same is hereby  
39 amended to read as follows:

1           39-419. VIOLATION OF PUBLIC DISTRICT HEALTH LAWS -- INFRACTION -- MIS-  
 2 DEMEANOR -- CIVIL LIABILITY FOR EXPENSE. (1) It shall be unlawful for any  
 3 person, association, or corporation, and the officers ~~thereof~~ acting on be-  
 4 half of an association or a corporation, to willfully violate, disobey, or  
 5 disregard the provisions of the public district health laws or the terms of  
 6 any lawful notice, order, standard, rule, regulation, or ordinance issued  
 7 pursuant thereto; ~~or.~~

8           (2) Any person, association, or corporation, or the officers ~~thereof~~  
 9 acting on behalf of an association or a corporation, violating any of the  
 10 provisions of this chapter shall, on a first or second offense, be deemed  
 11 guilty of an infraction and shall be punished by a fine not exceeding fifty  
 12 dollars (\$50.00) for a person or three hundred dollars (\$300) for an asso-  
 13 ciation, a corporation, or an officer acting on behalf of such association  
 14 or corporation. A third or subsequent offense shall be a misdemeanor, and  
 15 upon conviction ~~thereof~~ such misdemeanor shall be punished by a fine not ex-  
 16 ceeding ~~three hundred~~ one thousand dollars (\$~~31,000~~), or by imprisonment in  
 17 the county jail for a term not exceeding six (6) months, or by both such fine  
 18 and imprisonment. In addition to fine and imprisonment, any person, asso-  
 19 ciation, or corporation, or the officers thereof acting on behalf of an as-  
 20 sociation or a corporation, found to be in violation of this ~~act~~ chapter or  
 21 the rules promulgated thereunder shall be liable for any expense incurred by  
 22 the district board of health in enforcing this ~~act~~ chapter, or in removing  
 23 or terminating any nuisance, source of filth, cause of sickness, or health  
 24 hazard. Conviction under the penalty provisions of this ~~act~~ chapter or any  
 25 other health law or rules promulgated thereunder shall not relieve any per-  
 26 son from any civil action in damages that may exist for any injury resulting  
 27 from any violation of the public district health laws or rules promulgated by  
 28 the district board of health.

29           (3) A violator of any law or rule within the jurisdiction of the dis-  
 30 trict shall be liable in an amount not in excess of the limits prescribed in  
 31 section 39-108, Idaho Code. The district board may seek recovery by commencing  
 32 an action in the district court of the county wherein the violation oc-  
 33 curred. Amounts recovered shall be deposited as required by the provisions  
 34 of section 39-414(5), Idaho Code.

35           SECTION 3. That Section 56-1003, Idaho Code, be, and the same is hereby  
 36 amended to read as follows:

37           56-1003. POWERS AND DUTIES OF THE DIRECTOR. The director shall have  
 38 the following powers and duties:

39           (1) All of the powers and duties of the department of public health, the  
 40 department of health, the board of health and all nonenvironmental protec-  
 41 tion duties of the department of health and welfare are hereby vested to the  
 42 director of the department of health and welfare. Provided, however, that  
 43 oversight of the department and rulemaking and hearing functions relating  
 44 to public health and licensure and certification standards shall be vested  
 45 in the board of health and welfare. Except when the authority is vested in  
 46 the board of health and welfare under law, the director shall have all such  
 47 powers and duties as may have been or could have been exercised by his pre-  
 48 decessors in law, including the authority to adopt, promulgate, and enforce  
 49 rules, and shall be the successor in law to all contractual obligations en-

1 tered into by predecessors in law. All rulemaking proceedings and hearings  
2 of the director shall be governed by the provisions of chapter 52, title 67,  
3 Idaho Code.

4 (2) The director shall, pursuant and subject to the provisions of ~~the~~  
5 Idaho Code, and the provisions of this chapter, formulate and recommend to  
6 the board rules, codes and standards, as may be necessary to deal with prob-  
7 lems related to personal health, and licensure and certification require-  
8 ments pertinent thereto, which shall, upon adoption by the board, have the  
9 force of law relating to any purpose ~~which that~~ which may be necessary and feasible  
10 for enforcing the provisions of this chapter, including, but not limited to,  
11 the maintenance and protection of personal health. Any such rule or stan-  
12 dard may be of general application throughout the state or may be limited as  
13 to times, places, circumstances or conditions in order to make due allowance  
14 for variations therein.

15 (3) The director, under the rules, codes or standards adopted by him,  
16 shall have the general supervision of the promotion and protection of the  
17 life, health and mental health of the people of this state. The powers and  
18 duties of the director shall include, but not be limited to, the following:

19 (a) The issuance of licenses and permits as prescribed by law and by the  
20 rules of the board;

21 (b) The supervision and administration of laboratories and the super-  
22 vision and administration of standards of tests for environmental pol-  
23 lution, chemical analyses and communicable diseases. The director may  
24 require that laboratories operated by any city, county, institution,  
25 person, firm or corporation for health or environmental purposes con-  
26 form to standards set by the board of health and welfare and the board of  
27 environmental quality;

28 (c) The supervision and administration of a mental health program,  
29 which shall include services for the evaluation, screening, custody and  
30 treatment of the mentally ill and those persons suffering from a mental  
31 defect or mental defects, and services for the prevention of suicide;

32 (d) The enforcement of minimum standards of health, safety and sanita-  
33 tion for all public swimming pools within the state;

34 (e) The supervision and administration of the various schools, hos-  
35 pitals and institutions that were the responsibility of the board of  
36 health;

37 (f) The supervision and administration of services dealing with the  
38 problems of alcoholism, including, but not limited to, the care and re-  
39 habilitation of persons suffering from alcoholism;

40 (g) The establishment of liaison with other governmental departments,  
41 agencies and boards in order to effectively assist other governmental  
42 entities with the planning for the control of or abatement of health  
43 problems. All of the rules and standards adopted by the board shall  
44 apply to state institutions;

45 (h) The supervision and administration of an emergency medical service  
46 program, including, but not limited to, assisting other governmental  
47 agencies and local governmental units, in providing first aid emergency  
48 medical services and for transportation of the sick and injured;

49 (i) The supervision and administration of administrative units whose  
50 responsibility shall be to assist and encourage counties, cities, other

1 governmental units, and industries in the control of and/or abatement  
2 of health problems; and

3 (j) The enforcement of all laws, rules, codes and standards relating to  
4 health.

5 (4) The director, when so designated by the governor, shall have the  
6 power to apply for, receive on behalf of the state, and utilize any federal  
7 aid, grants, gifts, gratuities, or moneys made available through the federal  
8 government.

9 (5) The director shall have the power to enter into and make contracts  
10 and agreements with any public agencies or municipal corporations for fa-  
11 cilities, land, and equipment when such use will have a beneficial, recre-  
12 ational, or therapeutic effect or be in the best interest in carrying out the  
13 duties imposed upon the department.

14 The director shall also have the power to enter into contracts for the expen-  
15 diture of state matching funds for local purposes. This subsection will con-  
16 stitute the authority for public agencies or municipal corporations to enter  
17 into such contracts and expend money for the purposes delineated in such con-  
18 tracts.

19 (6) The director is authorized to adopt an official seal to be used on  
20 appropriate occasions, in connection with the functions of the department or  
21 the board, and such seal shall be judicially noticed. Copies of any books,  
22 records, papers and other documents in the department shall be admitted in  
23 evidence equally with the originals thereof when authenticated under such  
24 seal.

25 (7) The director, under rules adopted by the board of health and wel-  
26 fare, shall have the power to impose and enforce orders of isolation and  
27 quarantine for up to thirty (30) days to protect the public from the spread  
28 of infectious or communicable diseases or from contamination from chemical  
29 or biological agents, whether naturally occurring or propagated by criminal  
30 or terrorist act.

31 (a) For an order of isolation or quarantine to be effective longer than  
32 thirty (30) days, such order must be approved by:

33 (i) The board of county commissioners of a county affected by the  
34 order; or

35 (ii) If the order applies only to a city or a portion of the city,  
36 the city council.

37 (b) An order of isolation or quarantine in effect as of the effective  
38 date of this paragraph shall be deemed ineffective on the effective date  
39 of this paragraph or thirty (30) days after the order of isolation or  
40 quarantine was issued, whichever is later.

41 (c) An order of isolation or quarantine issued pursuant to this section  
42 shall be a final agency action for purposes of judicial review. How-  
43 ever, this shall not prevent the director from reconsidering, amend-  
44 ing, or withdrawing the order. Judicial review of orders of isolation  
45 or quarantine shall be de novo. The court may affirm, reverse, or modify  
46 the order and shall affirm the order if it appears by a preponderance of  
47 the evidence that the order is reasonably necessary to protect the pub-  
48 lic from a substantial and immediate danger of the spread of an infec-  
49 tious or a communicable disease or from contamination by a chemical or  
50 biological agent.

1           (~~b~~d) If the director has reasonable cause to believe a chemical or bi-  
2           ological agent has been released in an identifiable place, including a  
3           building or structure, an order of quarantine may be imposed to prevent  
4           the movement of persons into or out of that place, for a limited period  
5           of time, for the purpose of determining whether a person or persons at  
6           that place have been contaminated with a chemical or biological agent  
7           ~~which~~ that may create a substantial and immediate danger to the public.

8           (~~ee~~) Any person who violates an order of isolation or quarantine shall  
9           be guilty of a misdemeanor.

10           (8) The director shall develop safeguards necessary to ensure the secu-  
11           rity of nonpublic personal information in the department's possession and to  
12           prevent undue disclosure of such information. The director shall establish  
13           a process to authenticate requests made by a person, entity or jurisdiction  
14           arising under the 2007 Hague ~~C~~onvention on the ~~I~~nternational ~~R~~ecovery of  
15           ~~C~~hild ~~S~~upport and ~~O~~ther ~~F~~orms of ~~F~~amily ~~M~~aintenance. In the event the  
16           department becomes aware of any improper disclosure, the director shall take  
17           all actions required under section 28-51-105, Idaho Code.

18           SECTION 4. An emergency existing therefor, which emergency is hereby  
19           declared to exist, this act shall be in full force and effect on and after its  
20           passage and approval.