

December 1, 2023

The Honorable Brad Little
Governor of the State of Idaho
Boise, Idaho 83702
STATEHOUSE MAIL

Re: Defects in the Laws

Dear Governor Little:

Under article V, section 25 of the Idaho Constitution, on or before December 1st of each year, the Supreme Court shall submit to the Governor, for transmission to the Legislature, such defects and omissions in the laws as the Court may find to exist. In keeping with this constitutional provision, I submit the following defects in the law found by the Court or submitted to the Court by the trial bench.

1. Consider aligning the processing of convenience fees paid for credit and debit card payments to the courts with the industry standard (I.C. § 31-3221).

I.C. § 31-3221 requires the assessment of an electronic payment convenience fee when a debt owed to the court is paid with a debit or credit card. Per industry practice and as a matter of efficiency, electronic payment processing vendors normally retain most convenience fees as payment for their services. However, I.C. § 31-3221 currently directs that these convenience fees be deposited into the court technology fund created by I.C. § 1-1623. Routing the fee through the fund, only to then direct the fee back to the vendor, fails to align with standard industry practice and creates an inefficient process for both the courts and vendors. As a result, I.C. § 31-3221's requirement to deposit the convenience fee into the court technology fund should be stricken.

2. Suggest clarifying the ignition interlock requirement for first time DUI offenses (I.C. § 18-8005):

I.C. § 18-8005(1) sets forth the penalties for first time DUI offenses. Specifically, I.C. § 18-8005(1)(d) requires the court to suspend an offender's driving privileges for thirty (30) days and prohibits the granting of driving privileges of any kind during this period of absolute suspension. This subsection also mandates that, at the conclusion of the thirty (30) day period of absolute suspension, the court must suspend the offender's driving privileges for an additional sixty (60) to one hundred fifty (150) days and allows the court to grant restricted driving privileges during this additional period of suspension. I.C. § 18-8005(1)(e) then requires the offender to have an ignition interlock system installed on all vehicles operated by him within ten (10) days following the end of the "mandatory" suspension. Since this statute

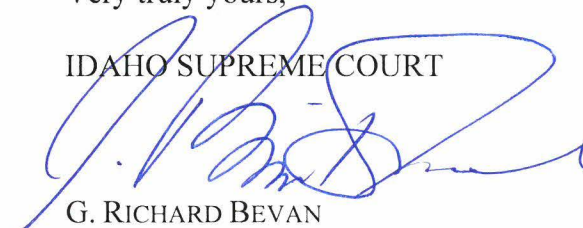
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mandates both an absolute thirty (30) day suspension and an additional sixty (60) to one hundred fifty (150) day suspension, the ignition interlock requirement is interpreted and applied differently throughout the state. Accordingly, the statute should be amended to clarify what the Legislature intends by subsection (e)'s reference to the end of the "mandatory" suspension.

Finally, we note that amending this statute to fix the defect necessarily involves a policy choice. Since policy decisions such as these are properly the province of the Legislature, we make no recommendation regarding the particular manner in which this defect should be addressed.

Very truly yours,

IDAHO SUPREME COURT



G. RICHARD BEVAN
Chief Justice

Cc: President *Pro Tem*
Speaker of the House
Administrative Director of the Courts